

**ENCLOSURE 1**  
**PROPOSED 2020 NATIONWIDE PERMITS**  
**REGIONAL SPECIFIC AND GENERAL CONDITIONS FOR THE**  
**STATE OF WEST VIRGINIA**

**Nationwide Permit (NWP) Specific Regional Conditions**

1. **Aids to Navigation.** No regional conditions proposed.
2. **Structures in Artificial Canals.** No regional conditions proposed.
3. **Maintenance.**
  - PCN in accordance with NWP General Condition 32 is required for all regulated activities in the navigation channels of Section 10 navigable waters.
4. **Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities.** No regional conditions proposed.
5. **Scientific Measurement Devices.** No regional conditions proposed.
6. **Survey Activities.** No regional conditions proposed.
7. **Outfall Structures and Associated Intake Structures.** No regional conditions proposed.
8. **Oil and Gas Structures on the Outer Continental Shelf.** No regional conditions proposed.
9. **Structures in Fleeting and Anchorage Areas.** No regional conditions proposed.
10. **Mooring Buoys.** No regional conditions proposed.
11. **Temporary Recreational Structures.**
  - PCN in accordance with NWP General Condition 32 is required for all regulated activities in the navigation channels of Section 10 navigable waters.
12. **Utility Line Activities.**
  - PCN in accordance with NWP General Condition 32 is required for all permanent conversion of scrub/shrub and forested wetlands of greater

than 1/10 of an acre per each single and complete project.

- Should an inadvertent return of drilling mud occur during a directional drilling activity, and the clean-up of drilling muds results in a discharge of dredged and/or fill material into waters of the U.S. necessitates the use of NWP 12 the permittee must report to the Corps the location and circumstances of the clean-up after the work has been conducted unless a PCN is otherwise required.

**13. Bank Stabilization.**

- PCN in accordance with NWP General Condition 32 is required for all regulated activities proposed to be located within the area between the upstream and the downstream arrival points of any Corps of Engineers lock and dam, or within 1,500 feet of any federal-mooring cell at any lock, as shown on the navigation charts.

**14. Linear Transportation Projects.**

- PCN in accordance with NWP General Condition 32 is required for all regulated activities in navigation channels of Section 10 navigable waters.

**15. U.S. Coast Guard Approved Bridges.** No regional conditions proposed.

**16. Return Water From Upland Contained Disposal Areas.** No regional conditions proposed.

**17. Hydropower Projects.** No regional conditions proposed.

**18. Minor Discharges.** No regional conditions proposed.

**19. Minor Dredging.**

- PCN in accordance with NWP General Condition 32 is required for all regulated activities in Section 10 navigable waters.

**20. Response Operations for Oil and Hazardous Substances.** No regional conditions proposed.

**21. Surface Coal Mining Activities.** No regional conditions proposed.

**22. Removal of Vessels.** No regional conditions proposed.

**23. Approved Categorical Exclusions.** No regional conditions proposed.

24. **Indian Tribe or State Administered Section 404 Programs.** No regional conditions proposed.

25. **Structural Discharges.** No regional conditions proposed.

26. **Reserved.**

27. **Aquatic Habitat Restoration, Establishment, and Enhancement Activities.** No regional conditions proposed.

28. **Modification to Existing Marinas.** No regional conditions proposed.

29. **Residential Developments.** No regional conditions proposed.

30. **Moist Soil Management for Wildlife.** No regional conditions proposed.

31. **Maintenance of Existing Flood Control Facilities.** No regional conditions proposed.

32. **Completed Enforcement Actions.** No regional conditions proposed.

33. **Temporary Construction, Access, and Dewatering.**

- The applicant must submit a PCN to the Corps in accordance with NWP General Condition 32 whenever the work is conducted in a perennial stream or is expected to take more than one (1) year to complete to allow the Corps to consider the temporal effects of the regulated activity.

34. **Cranberry Production Activities.** No regional conditions proposed.

35. **Maintenance Dredging of Existing Basins.**

- PCN in accordance with NWP General Condition 32 is required for use of this NWP.

36. **Boat Ramps.**

- PCN in accordance with NWP General Condition 32 is required for use of this NWP for regulated activities located at a tributary confluence.
- PCN in accordance with NWP General Condition 32 is required for any boat ramp proposed to be located within the area between the upstream and the downstream arrival points of any Corps of Engineers lock and dam, or within 1,500 feet of any federal-mooring cell at any lock, as shown on the navigation charts.

37. **Emergency Watershed Protection and Rehabilitation.** No regional conditions proposed.
38. **Cleanup of Hazardous and Toxic Waste.** No regional conditions proposed.
39. **Commercial and Institutional Developments.** No regional conditions proposed.
40. **Agricultural Activities.** No regional conditions proposed.
41. **Reshaping of Existing Drainage Ditches.** No regional conditions proposed.
42. **Recreational Facilities.** No regional conditions proposed.
43. **Stormwater Management Facilities.**
- PCN in accordance with NWP General Condition 32 is required for use of the NWP.
44. **Mining Activities.** No regional conditions proposed.
45. **Repair of Uplands Damaged by Discrete Events.** No regional conditions proposed.
46. **Discharges in Ditches.** No regional conditions proposed.
47. **[Reserved]**
48. **Commercial Shellfish Aquaculture Activities.** No regional conditions proposed.
49. **Coal Remining Activities.** No regional conditions proposed.
50. **Underground Coal Mining Activities.** No regional conditions proposed.
51. **Land-Based Renewable Energy Generation Facilities.** No regional conditions proposed.
52. **Water-Based Renewable Energy Generation Pilot Projects.** No regional conditions proposed.
53. **Removal of Low-Head Dams.** No proposed regional conditions.
54. **Living Shorelines.** Proposing to revoke for use in West Virginia.
- A. **Seaweed Mariculture Activities.** Proposing to revoke for use in West Virginia.

**B. Finfish Mariculture Activities.** Proposing to revoke for use in West Virginia.

**C. Electric Utility Lines and Telecommunication Activities**

- PCN in accordance with NWP General Condition 32 is required for all permanent conversion of scrub/shrub and forested wetlands of greater than 1/10 of an acre per each single and complete project.
- Should an inadvertent return of drilling mud occur during a directional drilling activity, and the clean-up of drilling muds results in a discharge of dredged and/or fill material into waters of the U.S. necessitates the use of NWP 12 the permittee must report to the Corps the location and circumstances of the clean-up after the work has been conducted unless a PCN is otherwise required.

**D. Utility Line Activities for Water and Other Substances**

- PCN in accordance with NWP General Condition 32 is required for all permanent conversion of scrub/shrub and forested wetlands of greater than 1/10 of an acre per each single and complete project.
- Should an inadvertent return of drilling mud occur during a directional drilling activity, and the clean-up of drilling muds results in a discharge of dredged and/or fill material into waters of the U.S. necessitates the use of NWP 12 the permittee must report to the Corps the location and circumstances of the clean-up after the work has been conducted unless a PCN is otherwise required.

**E. Water Relocation and Reuse Facilities** – Corps is seeking comment on proposed issuance of this new NWP.

**Regional General Conditions**

1. **U.S. Fish and Wildlife Service (USFWS):** The Endangered Species Act of 1973 (ESA) directs all federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the ESA, called "Interagency Cooperation," is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the continued existence of any federally or proposed federally listed species. Sufficient information must be provided in the PCN to determine the proposed activity's compliance with NWP General Condition 18. All relevant information obtained from the USFWS must be submitted with the PCN.
2. All regulated activities located in the waterways listed below require PCN in accordance with NWP General Condition 32:

- New River;
- Bluestone River from the upstream boundary of Pipestem Park to Bluestone Reservoir;
- Meadow River from an area near the US 19 Bridge to its junction with the Gauley River;
- All streams within the Monongahela National Forest designated as National Wild and Scenic Study Rivers;
- All streams and other bodies of water in State and National Forests and Recreation Areas (included are streams and bodies of water located within the Spruce Knob, Seneca Rocks and Gauley River National Recreation Areas); and
- Streams and their tributaries as contained within the boundaries of the designated National Wilderness Areas or the headwaters of such rivers and their tributaries; Cranberry River, Red Creek, Laurel Fork and Otter Creek.

The Corps will consult with National Park Service and/or the U.S. Forest Service upon receipt of the PCN.

3. Due to the ecological significance of the following waterways protection under the Natural Streams Preservation Act (WV Code Chapter 22 Article 13) of, all regulated activities located in these waterways require PCN in accordance with NWP General Condition 32:

- Greenbrier River from its confluence with Knapps Creek to its confluence with the New River;
- Anthony Creek from its headwaters to its confluence with the Greenbrier River;
- Cranberry River from its headwaters to its confluence with the Gauley River;
- Birch River from Cora Brown Bridge in Nicholas County to its confluence with the Elk River; and
- New River from its confluence with the Greenbrier River to its confluence with the Gauley River.

**4. Historic Properties:** The Corps is mandated by the National Historic Preservation Act (NHPA) to ensure no federal undertaking, including a Corps permit action, which may affect historic resources, is commenced before the impacts of such action are considered and the Advisory Council on Historic Preservation and the State Historic Preservation Office (SHPO) are provided an opportunity to comment as required by the NHPA, 36 CFR 800, and 33 CFR 325, Appendix C. Sufficient information must be provided in the PCN, consistent with General Condition 20, if the proposed undertaking might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. All relevant information obtained from the SHPO must be submitted with the PCN.

## HELPFUL INFORMATION

### **General Condition 1 (Navigation)**

#### ***List of Section 10 Navigable Waters of the United States:***

Huntington District –

<https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Pittsburgh District –

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/RegulatoryBoundaries/PN12-2.pdf>

#### ***Navigation Charts:***

Huntington District –

<https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Pittsburgh District –

<https://www.lrp.usace.army.mil/Missions/Navigation/Navigation-Charts/>

#### ***Locks and Dams:***

Huntington District

<https://www.lrh.usace.army.mil/Missions/Civil-Works/Locks-and-Dams/>

Pittsburgh District

<https://www.lrp.usace.army.mil/Missions/Navigation/Locks-and-Dams/#:~:text=Locks%20and%20Dams%20%20%20Allegheny%20River%20,Locks%20%26%20Dam%20%205%20more%20rows%20>

#### ***Notice to Navigation Interests Request Sheets:***

Huntington District

<https://www.lrh.usace.army.mil/Portals/38/docs/navigation/Notice%20Info%20sheet.pdf>

Pittsburgh District

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/NavNoticeRequestForm.pdf>

### **General Condition 3 (Spawning Areas)**

In stream work in designated warm water streams and their adjacent tributaries during the fish spawning season, April - June and trout waters and their adjacent tributaries during the trout water fish spawning season September 15 to March 31 requires a spawning season waiver from the West Virginia Division of Natural Resources

Coordination Unit, at (304) 637-0245. For information about specific stream designations contact West Virginia Department of Environmental Protection, Water Quality Standards Section at (304) 926-0495.

### **General Condition 5 (Shellfish Beds)**

Shellfish beds in West Virginia include concentrations of freshwater mussels. All mussels are protected in the State of West Virginia pursuant to West Virginia §20-2-4 and CSR 58-605.11. In addition, nine (9) federally endangered freshwater mussel species are known to occur in the state. These species are protected by the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). All streams that contain mussels or potential mussel habitat must be surveyed prior to any proposed streambed disturbance. Currently accepted protocol and supporting materials can be found at the West Virginia Division of Natural Resources' website:

<http://www.wvdnr.gov/Mussels/Main.shtm>

### **General Condition 7 (Water Supply Intakes)**

Locations of public water supply intakes can be found at the following link:

<http://gis.wvinfrastructure.com/>

### **General Condition 10 (Fills Within 100-year Floodplains)**

The following website provides a statewide listing of Floodplain Managers in West Virginia: <http://www.dhsem.wv.gov/MitigationRecovery/Pages/Floodplain-Management.aspx>

### **General Condition 16 (Wild and Scenic Rivers)**

The following website provides information on wild and scenic rivers within West Virginia:

<https://www.rivers.gov/west-virginia.php>

### **General Condition 18 (Endangered Species)**

To obtain the most up to date information on federally threatened and endangered species applicants are encouraged to utilize the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation System (IPaC) found at <https://ecos.fws.gov/ipac/>

Prior to the submittal of a PCN, applicants may also contact the USFWS, West Virginia Field Office, Ecological Services at:

Address: 6263 Appalachian Highway

Davis, West Virginia 26260

Email: [fw5\\_wvfo@fws.gov](mailto:fw5_wvfo@fws.gov)

The West Virginia Mussel Survey Protocol may be found at the following link:

<http://www.wvdnr.gov/Mussels/Main.shtm>

**General Condition 4 (Migratory Bird Breeding Areas) and General Condition 19 (Migratory Birds and Bald and Golden Eagles)**

Prior to the submittal of a PCN, information to assist in complying with NWP General Conditions 4 and 19 may be obtained from the USFWS, West Virginia Field Office, Ecological Services at:

Address: 6263 Appalachian Highway  
Davis, West Virginia 26260

Email: [fw5\\_wvfo@fws.gov](mailto:fw5_wvfo@fws.gov)

The West Virginia Division of Natural Resources Coordination Unit may be contacted at (304) 637-0245.

**General Condition 20 (Historic Properties)**

The West Virginia National Register of Historic Places can be found at the following link: <http://www.wvculture.org/shpo/nr/nr.html>

The West Virginia State Historic Preservation Office (SHPO) Interactive Map Viewer can be found at the following link: <https://mapwv.gov/shpo/>

When reviewing a PCN, the Corps will scope appropriate historic property identification efforts and if applicable work with the applicant to take into account the effect of the proposed activity on historic properties. In these instances, information and coordination may include:

- Requesting comments directly from the West Virginia Division of Culture and History SHPO on the effect the proposed regulated activity may have on historic properties. The West Virginia Division of Culture and History SHPO may be contacted at:

Address: 1900 Kanawha Blvd E  
Charleston, West Virginia 25305  
Phone: (304) 558-0220

- To identify potential historic properties that may be affected by a proposed project, the following information may be reviewed and/or provided with the PCN when applicable:
  - A detailed description of the project site in its current condition (i.e. prior to construction activities) including information on the terrain and topography of the site, the acreage of the site, the proximity of the site to major waterways, and any known disturbances within the site.
  - A detailed description of past land uses in the project site.
  - Photographs and mapping showing the site conditions and all buildings or structures within the project site and on adjacent parcels are useful. Photographs and maps supporting past land uses should be provided as available.
  - Information regarding any past cultural resource studies or coordination pertinent to the project area, if available.
  - United States Geological Survey (USGS) 7.5' series topographic maps;
  - West Virginia Division of Culture and history files including:
    - Historic Property Inventory Form;
    - Archaeological Site Forms;
    - Cemetery Inventory Forms;
    - National Register of Historic Places nomination forms including Historic Districts; and
    - County atlases, histories and historic USGS 15' series topographic map(s).
- When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the district engineer as part of the PCN.

### **General Condition 23 (Mitigation)**

Information pertaining to mitigation can be found at the following link:

<https://www.lrh.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

### **General Condition 25 (Water Quality)**

The West Virginia Department of Environmental Protection may be contacted at:

Address: 601 57th Street  
Charleston, West Virginia 25304

Phone: (304) 926-0440

Information pertaining to the West Virginia Department of Environmental Protection water quality certification (WQC) program, including the Section 401 Clean Water Act WQC application form, can be obtained at the following link:

<https://dep.wv.gov/WWE/Programs/Pages/401Certification.aspx>

### **General Condition 32 (Pre-Construction Notification)**

The nationwide permit pre-construction notification form (Form ENG 6082) may be obtained at the following link:

[https://www.publications.usace.army.mil/Portals/76/Eng\\_Form\\_6082\\_2019Oct.pdf?ver=2019-10-22-081550-710/](https://www.publications.usace.army.mil/Portals/76/Eng_Form_6082_2019Oct.pdf?ver=2019-10-22-081550-710/)

A checklist of information that must be provided in a pre-construction notification can be obtained at the following link:

<https://www.lrh.usace.army.mil/Missions/Regulatory/How-to-Apply-for-a-Permit/Nationwide-Permits/>

### ***Electronic Submittal:***

- PCNs should be saved as a PDF document, and then submitted as an attachment in an email to the appropriate Regulatory Office:  
  
Huntington District – LRH.permits@usace.army.mil  
Pittsburgh District – Regulatory.Permits@usace.army.mil
- Electronic documents must have sufficient resolution to show project details. The PCN and supporting documents submitted electronically must not exceed 10 megabytes (10MB) per email. Multiple emails may be required to transmit documents to ensure the 10MB limit is not exceeded. Alternatively, use of the Department of Defense Secure Access File Exchange (DoD SAFE) service to transfer large files may be requested in your email.
- For tracking and processing purposes, the email should include the following:
  - Email Subject Line: include the name of the applicant, type of NWP request, and location (County and State). Example: RE: Doe, John, NWP (or Pre-Construction Notification) and Section 401 WQC Request, Cabell County, West Virginia;

- Email Body: 1) Brief description of the proposed project, 2) contact information (phone number, mailing address, and email address) for the applicant and/or their agent, and 3) the project location: Address and Latitude/Longitude in decimal degrees (e.g. 42.92788°, -88.36257°).
- If you do not have internet access, information may be submitted through the U.S. Postal Service to the appropriate Regulatory Office:

U.S. Army Corps of Engineers, Huntington District  
ATTN: Regulatory Division  
502 Eighth Street  
Huntington, West Virginia 25701-2070  
Phone: (304) 399-5210  
Fax: (304) 399-5805

U.S. Army Corps of Engineers, Pittsburgh District  
ATTN: Regulatory Division  
William S. Moorhead Federal Building  
1000 Liberty Avenue  
Pittsburgh, Pennsylvania 15222-4186  
Phone: (412) 395-7155  
Fax: (412) 644-4211

**DISCLAIMER:** Contact the appropriate local, state, or federal agency for the most updated links to ensure compliance with the NWP General Conditions.