

1. Categories of Activities Covered by the Proposed Regional General Permit (RGP):

This proposed RGP would authorize activities in waters of the U.S. including work, structures, and filling (both temporary and permanent) associated with linear transportation projects and the maintenance of existing transportation infrastructure conducted by the Ohio Department of Transportation in the State of Ohio. Authorized activities would include:

A. Linear Transportation Projects: Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads and highways) in waters of the U.S. The discharge cannot cause the loss of greater than 1/2 acre of waters of the U.S. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project. Such modifications must be in the immediate vicinity of the project.

Examples of authorized activities include the discharge of fill material or structures into waters of the U.S. associated with new roadway alignments, roadway realignments, construction of roadway embankments and bridge abutments, installation of additional traffic lanes to existing roadways, intersection improvements, new bridges, bike paths, and roadway and railway grade separations.

Excluded activities include non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, and construction of staging, borrow, and disposal sites. Interior roadways for recreational facilities and residential, commercial, and institutional developments are not authorized by the proposed RGP.

This proposed RGP also authorizes discharges of fill material into waters of the U.S. associated with temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work and discharges into waters of the U.S., including cofferdams, are necessary for construction activities, access fill, or dewatering of constriction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Bridge demolition debris, with subsequent removal, may be used for temporary work/access pads provided it is composed of suitable material.

Notification: The permittee must submit a Pre-Construction Notification (PCN) to the District Engineer prior to commencing the activity if:

- (1) the loss of waters of the U.S. exceeds 1/10 acre;
- (2) there is a discharge in a special aquatic site, including wetlands;
- (3) the activity is in a Section 10 water;

- (4) the total discharge of fill into a stream is greater than 500 linear feet for combined ephemeral, intermittent and perennial streams or
- (5) the combined temporary and permanent discharges of fill into perennial and intermittent streams, for a single and complete crossing, is greater than 300 linear feet.
- (6) the project will involve the use of dredged material as temporary fill;
- (7) the removal of bridge demolition debris will exceed 72 hours from the time of placement into a surface water; or
- (8) any proposed temporary or permanent fill activity is located within the flowage easement of a flood control facility as defined in Section 5 of this proposed RGP.

Note: the discharge of fill shall be measured linearly from upstream to downstream, including the length of permanent or temporary stream impoundments, when calculating the total length of stream affected.

B. Maintenance:

(a) This proposed RGP authorizes the discharge of fill material into waters of the U.S. associated with the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This proposed RGP authorizes the repair rehabilitation, or replacement of those structures or fill destroyed or damaged by storms, floods, fire or other discrete events, provide the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes, or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) Excavation of accumulated sediments and debris does not require authorization from the Corps if there is no subsequent discharge of the dredged material into a water of the U.S., unless the dredging activity occurs in a Section 10 water. This proposed RGP authorizes the removal of accumulated sediments and debris from Section 10 waters in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap into waters of the U.S. to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend more than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance

dredging to remove accumulated sediments blocking or restricting outfall and intake structures or maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the District Engineer under separate authorization. The placement of new or additional riprap into waters of the U.S. must be the minimum necessary to protect the structure or to ensure the safety of the structure and cannot exceed 300 feet from the structure in either direction. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the District Engineer.

(c) This proposed RGP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills within waters of the U.S. must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Bridge demolition debris, with subsequent removal within 72 hours, may be used for temporary work/access pads provided it is composed of suitable material.

This proposed RGP does not authorize new stream channelization or stream relocation projects.

Note: This proposed RGP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance

Notification: The permittee must submit a PCN to the District Engineer prior to commencing if:

- (1) the activity is in a Section 10 water;
- (2) the activity is authorized by paragraph (b) of this proposed RGP. The PCN must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. **(Sections 10 and 404);**
- (3) the activity authorized by paragraph (b) is more than 300 feet from the existing structure
- (4) the activity requires the use of vertical sheet piling and closed structures in the special habitat waters of Lake Erie (See General Condition T - Designated Critical Resource Waters.);
- (5) the maximum length of temporary discharges of fill material into perennial and intermittent streams as measured upstream to downstream exceeds 300 feet;
- (6) the project will involve the use of dredged material as temporary fill;

(7) the removal of bridge demolition debris will exceed 72 hours from the time of placement into a water of the U.S.; or

(8) any proposed temporary fill is within the flowage easement of a flood control facility.

2. Regional General Conditions:

A. Fens and Bogs: The discharge of fill material into a bog or fen is prohibited.

B. ODNR In-Water Work Exclusion Dates: Any work associated with an RGP cannot take place during the restricted period of the ODNR, Division of Wildlife Statewide In-Water Work Restrictions unless the applicant notifies the District Engineer in accordance with RGP General Condition Z and receives written approval from the Corps:

<u>Location</u>	<u>Restricted Period</u>
Salmonid streams ¹	9/15 – 6/30
Percid streams ²	3/15 – 6/30
Other streams ³	4/15 – 6/30

(1) **Arcola Creek** (entire reach), **Ashtabula River** (Hadlock Rd. to mouth), **Ashtabula Harbor**, **Aurora Branch** of the Chagrin River (RM 0.38 to mouth), **Big Creek** ((Grand River drainage basin) Girdled Road to mouth), **Chagrin River** (Chagrin Falls to mouth), **Cold Creek** (entire reach), **Conneaut Creek** (entire reach), **Conneaut Harbor**, **Corporation Creek** ((Chagrin River RM 0.27) entire reach), **Cowles Creek** (entire reach), **Ellison Creek** ((Grand River drainage basin) entire reach), **Euclid Creek** (entire reach), **Grand River** (to dam at Harpersfield Covered Bridge Park just upstream of the S.R. 534 bridge to mouth)/**Fairport Harbor**, **Gulley Brook** ((Chagrin River RM 5.54) entire reach), **Indian Creek** (entire reach), **Kellogg Creek** (Grand River drainage basin) entire reach), **Mill Creek** ((Grand River drainage basin) entire reach), **Paine Creek** ((Grand River drainage basin) from Paine Falls to mouth), **Rocky River** (Cedar Point Rd. (East Branch/West Branch confluence) to mouth), **Smokey Run** ((Conneaut Creek RM 3.5) entire reach), **Turkey Creek** (entire reach), **Vermilion River** (dam at Wakeman upstream of the S.R. 20/60 bridge to mouth), **Ward Creek** ((Chagrin River RM 1.0) entire reach), **Wheeler Creek** (entire reach), **Whitman Creek** (entire reach).

(2) **Cuyahoga River** (dam below the S.R. 82 bridge east of Brecksville (Chippewa Rd.) to mouth), **Great Miami River** (dam south of New Baltimore to mouth), **Hocking River** (lower section), **Huron River** (from the East Branch/West Branch confluence to Lake Erie), **Little Miami River** (lower section), **Maumee River** (split dam at Mary Jane Thurston State Park and Providence Park in Grand Rapids to mouth), **Maumee Bay**, **Muskingum River** (to Devola Dam No. 2 off S.R. 60 north of Marietta to mouth), **Ohio River** (entire reach), **Portage River** (entire reach), **Sandusky River** (to Ballville Dam off River Road in Fremont to mouth), **Sandusky Bay**, **Scioto River** (lower section), **Toussaint River** (entire reach).

(3) **Class 3 primary headwater streams** (watershed ≤ 1 mi²), **EWH, CWH, WWH**, or streams **with T&E species**. Includes **Lake Erie & bays** not listed above. Special conditions (such as occurrence of T&E species) may mandate local variation of restrictions.

Note: This condition does not apply to Ohio Department of Transportation projects that are exempt under the “Memorandum of Agreement between Ohio Department of Transportation, Federal Highway Administration, Ohio Department of Natural Resources, and United States Fish and Wildlife Service For Interagency Coordination For Highway Projects Which Involve Stream Crossings, Bank Stabilization, and/or Minor Wetland Fills.

C. Waters of Special Concern: The permittee must notify the District Engineer in accordance with the PCN General Condition for activities in the following resources:

(1) **Category 3 Wetlands:** Notification is required for all temporary or permanent discharges of fill material into Category 3 wetlands as determined through use of the latest approved version of Ohio EPA’s Ohio Rapid Assessment Method (ORAM) for wetland evaluation **long form**.

(2) **Ohio Stream Designations:** Notification is required for all temporary or permanent discharges of fill material into Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation; or water bodies with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Waters as determined by Ohio EPA except for proposed RGP B. The current list of these streams can be found on the Ohio EPA web-site at: http://www.epa.ohio.gov/dsw/rules/3745_1.aspx. These designations can be found under the aquatic life use of the stream within its basin and under the “Anti-deg Rule #05.”

(3) **State Wild and Scenic Rivers:** A PCN is required for all activities in State Wild and Scenic Rivers. The following are **State Wild and Scenic Rivers**:

The Ashtabula River

- The Ashtabula River from the confluence of the East Branch and West Branch of the Ashtabula River at river mile 27.54, downstream to the East 24th Street bridge crossing at river mile 2.3.
- The East Branch of the Ashtabula River from Penline Fen at river mile 12.0, downstream to the mouth of the East Branch at river mile 0.0.
- The West Branch of the Ashtabula River from the North Richmond Road (Co. Rd. 302) bridge crossing at river mile 9.05, downstream to the mouth of the West Branch at river mile 0.0.
- Miles designated (approximate): Scenic 46

Big and Little Darby Creeks

- Big Darby Creek from the Champaign/Union County line downstream to the U.S. Rt. 40 bridge, from the northern boundary of Battelle-Darby Creek Metro Park to the confluence with the Little Darby Creek downstream to the Scioto River.

- Little Darby Creek from the Lafayette-Plain City Road bridge downstream to the confluence with Big Darby Creek.
- Miles designated (approximate): 84

Chagrin River

- Aurora Branch from St. Rt. 82 bridge downstream to confluence with the Chagrin River.
- Chagrin River from confluence with Aurora Branch downstream to U.S. Rt. 6 bridge.
- Chagrin River from Woodiebrook Road bridge crossing downstream to the confluence with Aurora Branch of the Chagrin River in Bentleyville.
- East Branch from Heath Road bridge downstream to confluence with the Chagrin River.
- Miles designated (approximate): Scenic 71

Conneaut Creek

- *Scenic Segment:* Creek Road bridge crossing to the Penn Central Railroad bridge crossing at river mile 2.0 in Conneaut.
- *Wild Segment:* Ohio/Pennsylvania border at river mile 23.83 to the Creek Road bridge crossing at river mile 7.39.
- Miles designated (approximate): Scenic 5.39, Wild 16.44, Total 21.83

Grand River

- *Wild segment* - from Harpersfield covered bridge downstream to Norfolk and Western Railroad trestle south of Painesville.
- *Scenic segment* - from U.S. Rt. 322 bridge in Ashtabula County downstream to Harpersfield covered bridge.
- Miles designated (approximate): Scenic 33, Wild 23, Total 56

Kokosing River

- Kokosing River from Knox/Morrow County line to confluence with Mohican River.
- North Branch of Kokosing from confluence with East Branch downstream to confluence with main stem.
- Miles designated (approximate): 48

Little Beaver Creek

- *Wild segments* - **West Fork** from 1/4 mile downstream from Twp. Rd. 914 to confluence with Middle Fork. **North Fork** from Twp. Rd. 952 to confluence with Little Beaver Creek. **Little Beaver** Creek from confluence of West and Middle Forks downstream to 3/4 mile north of Grimm's Bridge.
- *Scenic segments* - **North Fork** from Ohio-Pennsylvania line downstream to Jackman Road. **Middle Fork** from Elkton Road. (Twp. Rd. 901) downstream to confluence with West Fork. **Little**

Beaver Creek from 3/4 mile north of Grimm's Bridge downstream to the Ohio-Pennsylvania line.

- Miles designated (approximate): Wild 20, Scenic 16, Total 36

Little Miami River

- Clermont County line at Loveland to headwaters, including North Fork, Clermont County line at Loveland to confluence with East Fork and from the confluence with East Fork to Ohio River.
- Miles designated (approximate): 105

Maumee River

- *Scenic segment* - Ohio-Indiana line to St. Rt. 24 bridge west of Defiance.
- *Recreational segment* - St. Rt. 24 bridge west of Defiance to U.S. Rt. 25 bridge near Perrysburg.
- Miles designated (approximate): Scenic 43, Recreational 53

Mohican River

- The entire main stem of the Mohican River from the confluence of the Clear Fork to the confluence with the Kokosing State Scenic River.
- The Clear Fork of the Mohican River from the base of the Pleasant Hill Dam to the confluence with the Black Fork of the Mohican River.
- Miles designated (approximate): 32.3

Olentangy River

- Delaware Dam to Old Wilson Bridge Road in Worthington.
- Miles designated (approximate): 22

Sandusky River

- U.S. Rt. 30 in Upper Sandusky to Roger Young Memorial Park in Fremont.
- Miles designated (approximate): 65

Stillwater River System

- *Recreational segment* - Englewood dam to confluence with Great Miami River.
- *Scenic segments* - Stillwater River from Riffle Road bridge in Darke County to Englewood dam.
- Greenville Creek from the Ohio-Indiana state line to the confluence with the Stillwater.
- Miles designated (approximate): Scenic 83, Recreational 10

Upper Cuyahoga River

- Troy-Burton Township line in Geauga County to St. Rt. 14.
- Miles designated (approximate): Scenic 25

(4) **National Wild and Scenic Rivers:** A PCN is required for all discharges of fill material associated with activities in the National Wild and Scenic River System. The following are components of the **National Wild and Scenic River System:**

Big and Little Darby Creeks (National Wild and Scenic River System):

- Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River.
- Little Darby Creek from the Lafayette-Plain City Road bridge downstream to within 0.8 mile from the confluence with Big Darby Creek.
- Total designation is approximately 82 miles

Little Beaver Creek (National Wild and Scenic River System):

- Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth.
- North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown.
- Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport.
- West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport.
- Total designation is 33 miles

Little Miami (National Wild and Scenic River System)

- Little Miami River - St. Rt. 72 at Clifton to the Ohio River
- Caesar Creek: lower two miles of Caesars Creek.
- Total designation is 94 miles

(5) **Endangered Species:** Due to the potential presence of federally threatened or endangered species or their habitats, notification is required for discharges of fill material into waters of U.S. associated with all work in the following waterway or township of the corresponding county:

County	Waterway	Township
Adams	Ohio Brush Creek, Ohio River, Scioto Brush Creek, South Fork Scioto Brush Creek, West Fork Ohio Brush Creek	
Allen	Auglaize River, Cranberry Creek, Ottawa River, Riley Creek, Sugar Creek	
Ashtabula	Grand River, Pymatuning Creek	
Athens	Ohio River	

Auglaize	Auglaize River, Pusheta Creek, St. Marys River	
Belmont	Ohio River	
Brown	Eagle Creek, East Fork Eagle Creek, East Fork Little Miami River, East Fork Whiteoak Creek, Ohio River, Straight Creek, West Fork Eagle Creek, Whiteoak Creek	
Butler	Dicks Creek, Dry Fork Whitewater River, Elk Creek, Four Mile Creek, Great Miami River, Indian Creek, Sevenmile Creek	
Champaign	Chapman Creek, Kings Creek, Mad River, Nettle Creek	
Clark	Beaver Creek, Chapman Creek, Honey Creek, Little Miami River, Mad River, Mud Run	Bethel
Clermont	East Fork Little Miami River, Indian Creek, Little Miami River, O'Bannon Creek, Ohio River, Stonelick Creek	
Clinton	Anderson Fork, Cowan Creek, Little East Fork, Rattlesnake Creek, Todd Fork Little Miami River	
Columbiana	Ohio River	
Coshocton	Doughty Creek, Killbuck Creek, Kokosing River, Mill Creek, Mohican River, Muskingum River, Tuscarawas River, Wakatomika Creek, Walhonding River, White Eyes Creek, Wills Creek	
Crawford	Broken Sword Creek, Olentangy River, Sandusky River, Sycamore Creek	
Darke	Greenmile Creek, Painter Creek, Stillwater River, Swamp Creek, West Branch Greenmile Creek	
Defiance	Auglaize River, Gordon Creek, Lick Creek, Lost Creek, Maumee River, Mud Creek, North Powell Creek, South Powell Creek, St. Joseph River, Tiffin River	Milford
Delaware	Alum Creek, Big Walnut Creek, Bokes Creek, Mill Creek, Olentangy River, Scioto River, Whetstone Creek	
Fairfield	Clear Creek, Hocking River, Rush Creek, Salt Creek, Walnut Creek	
Fayette	Compton Creek, Deer Creek, East Fork Paint Creek, North Fork Compton Creek, Paint Creek, Rattlesnake Creek, Sugar Creek	
Franklin	Alum Creek, Big Darby Creek, Big Walnut Creek, Blacklick Creek, Hellbranch Run, Little Darby Creek, Olentangy River, Scioto River, Walnut Creek	

Fulton	Bad Creek, Brush Creek, Mill Creek, Swan Creek, Tenmile Creek, Tiffin River	
Gallia	Ohio River	
Greene	Caesar Creek, Little Miami River, Mad River, Massies Creek, Mud Run	
Hamilton	Dry Fork Whitewater River, Great Miami River, Mill Creek, Ohio River, West Fork Mill Creek, Whitewater River	
Hancock	Blanchard River, Eagle Creek, Ottawa Creek, Riley Creek	
Hardin	Blanchard River, Ottawa River, Panther Creek, Scioto River, Taylor Creek	Blanchard, Jackson
Henry	Bad Creek, Beaver Creek, Brush Creek, Lost Creek, Maumee River, South Turkeyfoot Creek, Turkeyfoot Creek	
Highland	Baker Fork, East Fork Little Miami River, East Fork Whiteoak Creek, Lees Creek, Paint Creek, Rattlesnake Creek, Rocky Fork, Whiteoak Creek	
Holmes		Prairie
Jefferson	Ohio River	
Lake	Grand River	
Lawrence	Ohio River	
Logan	Cherokee Mans Run, Great Miami River, Mad River, Mill Creek, Muchinippi Creek, Rush Creek, Stoney Creek	
Lucas	Maumee River, Swan Creek, Tenmile Creek	Jerusalem
Madison	Big Darby Creek, Bradford Creek, Deer Creek, Little Darby Creek, Paint Creek, Spring Fork, Walnut Run	
Marion	Little Scioto River, Mud Run, Olentangy River, Rush Creek, Scioto River, Tymochtee Creek	
Meigs	Ohio River	
Mercer	Beaver Creek, Black Creek, Burntwood Creek, Chickasaw Creek, Goldwater, Little Beaver Creek, Little Black Creek, Mile Creek, St. Marys River, Twelvemile Creek, Wabash River	
Miami	Great Miami River, Greenville Creek, Honey Creek, Lost Creek, Ludlow Creek, Painter Creek, Spring Creek, Stillwater River	
Monroe	Ohio River	
Montgomery	Great Miami River, Little Bear Creek, Mad River, Stillwater River, Twin Creek, Wolf Creek	
Morgan	Muskingum River	

Morrow	Alum Creek, Big Walnut Creek, Kokosing River, Olentangy River, Shaw Creek, Whetstone Creek	
Muskingum	Muskingum River	
Ottawa	Cedar Creek, Crane Creek, Muddy Creek, Nine Mile Creek, Packer Creek, Portage River, Sugar Creek, Terwilegars Pond, Toussaint Creek, Turtle Creek, Wolf Creek	
Paulding	Auglaize River, Blue Creek, Dog Creek, Flatrock Creek, Gordon Creek, Hagerman Creek, Hoaglin Creek, Little Auglaize River, Maddox Creek, Maumee River, Prairie Creek, Town Creek	
Pickaway	Big Darby Creek, Big Walnut Creek, Deer Creek, Scioto River, Scippo Creek, Walnut Creek	
Pike	Beaver Creek, Crooked Creek, Peepee Creek, Scioto River, Sunfish Creek	
Portage		Aurora
Preble	Bantas Fork, Four Mile Creek, Price Creek, Sevenmile Creek, Twin Creek	
Putnam	Auglaize River, Blanchard River, Cranberry Creek, Little Auglaize River, North Powell Creek, Ottawa River, Plum Creek, Riley Creek, South Powell Creek, Sugar Creek	
Ross	Buckskin Creek, Deer Creek, Kinnikinnick Creek, Little Salt Creek, North Fork Paint Creek, Paint Creek, Pigeon Creek, Salt Creek, Scioto River, Walnut Creek	
Sandusky	East Branch Sandusky River, Green Creek, Little Muddy Creek, Muddy Creek, Muskellunge Creek, Nine Mile Creek, Pickerel Creek, Portage River, Sandusky River, South Creek, Sugar Creek, Toussaint Creek, Wolf Creek (Portage River), Wolf Creek (Sandusky River)	Riley
Scioto	Little Scioto River, Ohio River, Pine Creek, Rocky Fork, Scioto Brush Creek, Scioto River, South Fork Scioto Brush Creek, Turkey Creek	Rush, Union
Seneca	East Branch Sandusky River, Green Creek, Honey Creek, Rock Creek, Sandusky River, Wolf Creek	
Shelby	Great Miami River, Leatherwood Creek, Loramie Creek, Mile Creek, Mosquito Creek	
Trumbull	Grand River, Pymatuning Creek	

Union	Big Darby Creek, Bokes Creek, Little Darby Creek, Mill Creek, Rush Creek	
Van Wert	Black Creek, Blue Creek, Dog Creek, Hagerman Creek, Hoaglin Creek, Little Auglaize River, Maddox Creek, St. Marys River, Town Creek	
Warren	Clear Creek, Great Miami River, Little Miami River, Todd Fork	
Washington	Muskingum River, Ohio River	
Wayne		Clinton, Wooster
Williams	Bear Creek, Brush Creek, Clear Fork, Eagle Creek, East Branch St. Joseph River, Fish Creek, Lick Creek, Mill Creek, Nettle Creek, St. Joseph River, Tiffin River, West Branch St. Joseph River	Bridgewater, Center, Florence, Jefferson, Madison, Northwest, St. Joseph, Superior
Wood	Beaver Creek, Brush Creek, Bull Creek, Cedar Creek, Crane Creek, Cutoff Ditch, East Branch Portage River, Maumee River, Middle Branch Portage River, Portage River, Rocky Ford, South Branch Portage River, Toussaint Creek	
Wyandot	Broken Sword Creek, Sandusky River, Sycamore Creek, Tymochtee Creek	

Note: As mentioned in General Condition Q-Endangered Species, Federal Agencies should follow their own procedures for complying with the requirements of the ESA. Federal applicants must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements

(6) **Critical Resource Waters:** A PCN is required for all work in Critical Resource Waters. The following are designated as **Critical Resource Waters:**

Special habitat waters of Lake Erie including the shoreline, off shore islands, rock outcrops, and adjacent waters within the boundaries defined as 82° 22' 30" West Longitude, 83° 07' 30" West Longitude, 41° 33' 00" North Latitude, and 42°00'00" North Latitude.

In Ohio, two areas have been designated critical habitat for the piping plover (Charadrius melodus) and are defined as areas 0.62 miles inland from normal high water line of a designated water of the U.S. Unit OH-1 extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately 2.0 miles. Unit OH-2 extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile.

(7) Oak Openings: A PCN is required for all discharges of fill material into waters of the U.S. associated with activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry, and Fulton counties. For a map of the Oak Openings Region, visit <http://www.oakopen.org/maps/>.

D. Ohio Coastal Management Program Federal Consistency Conditions:

(1) This proposed RGP shall not authorize the construction of a beach, groin, or other structure to control erosion, wave action, or inundation (flooding) along or near the shoreline of Lake Erie.

(2) Construction and/or demolition debris and clean hard fill associated with any project authorized under this proposed RGP shall not be placed along or near the shoreline of Lake Erie or within the territory of Lake Erie as defined in Ohio Revised Code §1506.11.

E. Pre-Construction Notification (PCN) Submittals: In addition to the information required under the PCN General Condition Z, the following information is required for each PCN:

(1) Drawings: The PCN must include project drawings on 8 1/2" x 11" paper. Three types of illustrations are required to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Typical Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). In addition, each illustration should be identified with a figure or attachment number. Each project drawing must clearly depict discharges of fill within waters of the U.S.

(2) Agency Coordination: Activities that result in the loss of greater than 1/2 acre of waters of the U.S. require full agency coordination (See General Condition Z – PCN). Applicants are encouraged to submit this information in electronic format in order to minimize the use of paper.

3. General Conditions:

Note: To qualify for authorization under the proposed RGP, the applicant must comply with the following general conditions, as appropriate, in addition to special conditions listed above or case-specific conditions imposed by the Division Engineer or District Engineer.

A. Navigation.

(1) No activity may cause more than a minimal adverse effect on navigation.

(2) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(3) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee

will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

B. 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.

C. Spawning Areas.

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

D. Migratory Bird Breeding Areas.

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

E. Shellfish Beds.

No activity may occur in areas of concentrated shellfish populations.

F. Suitable Material.

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged into waters of the U.S. must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). However, bridge demolition debris may be used for temporary work/access pads provided it is composed of suitable material, free of exposed re-bar or other steel, and stabilized to prevent erosion.

G. Water Supply Intakes.

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

H. Adverse Effects From Impoundments.

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

I. Management of Water Flows.

To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the

passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

J. Fills Within 100-Year Floodplains.

The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

K. Equipment.

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

L. Soil Erosion and Sediment Controls.

Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

M. Removal of Temporary Fills.

Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

N. Proper Maintenance.

Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable proposed RGP general conditions, as well as any activity-specific conditions added by the District Engineer to the proposed RGP authorization.

O. Wild and Scenic Rivers.

No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

P. Tribal Rights.

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

Q. Endangered Species.

(1) No activity is authorized under any proposed RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed

for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any proposed RGP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(2) Federal agencies should follow their own procedures for complying with the requirements of the ESA. The Federal Highway Administration is the lead federal agency with ultimate responsibility to ensure compliance with Section 7 of the ESA for projects conducted by the Ohio Department of Transportation. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act.

(3) Non-federal permittees must submit a PCN to the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The District Engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete PCN. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(4) As a result of formal or informal consultation with the FWS the District Engineer may add species-specific regional endangered species conditions to the proposed RGP.

(5) Authorization of an activity by a proposed RGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively

R. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act

S. Historic Properties.

(1) In cases where the District Engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(2) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. The Federal Highway Administration is the lead federal agency with ultimate responsibility to ensure compliance with Section 106 of the NHPA for projects conducted by the Ohio Department of Transportation. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the proposed RGP activity, or whether additional section 106 consultation is necessary.

(3) Non-federal permittees must submit a PCN to the District Engineer if the authorized activity may 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. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing PCNs, District Engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The District Engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the District Engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(3) While accomplishing the activity authorized by this proposed RGP, the inadvertent discovery of any artifacts (human remains, funerary objects, sacred objects, and objects of cultural patrimony/patrimony, etc.) shall result in immediately ceasing work and contacting the Ohio Department of Transportation, Office of Environmental Services, Cultural Resource Section (OES-CR) and the Regulatory Division of the Huntington District of the Corps. The Corps in coordination with the OES-CR will initiate the Federal, state, and tribal coordination required to

satisfy the NHPA and all other applicable laws and regulations. Federally recognized tribes are afforded a government-to-government status as sovereign nations and consultation is required under Executive Order 13175 and 36 CFR Part 800.

(4) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

(5) If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately cease working and contact the Ohio Department of Transportation, Office of Environmental Services, Cultural Resource Section (OES-CR) and the Huntington District Columbus Field Office. The Corps in coordination with the OES-CR will initiate the Federal, state, and tribal coordination required to satisfy the NHPA and all other applicable laws and regulations. Federally recognized tribes are afforded a government-to-government status as sovereign nations and consultation is required under Executive Order 13175 and 36 CFR Part 800 notify the District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

T. Designated Critical Resource Waters.

(1) A PCN is required for any activity proposed in designated critical resource water, including wetlands adjacent to those waters. Discharges of dredged or fill material into waters of the U.S. under Section A. Linear Transportation Projects are not authorized for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. The District Engineer may authorize activities under Section B. Maintenance only after it is determined that the impacts to the critical resource waters will be no more than minimal.

(2) Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The District Engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national

resource waters or state natural heritage sites. The District Engineer may also designate additional critical resource waters after notice and opportunity for public comment.

U. Mitigation.

The District Engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

- (1) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- (2) Mitigation sequencing (avoidance, minimization, compensation for loss of waters of the U.S. and associated functions) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
- (3) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require a PCN, unless the District Engineer determines in writing that either some other form of mitigation would be more environmentally appropriate, the adverse effects of the proposed activity are minimal, and/or provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require a PCN, the District Engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.
 - (a) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.
 - (b) Compensatory mitigation may be performed using the methods of restoration, enhancement, establishment, and in certain circumstances preservation. Restoration should generally be the first option considered because the likelihood of success is greater and the impacts to potentially ecologically important uplands are reduced compared to establishment, and the potential gains in terms of aquatic resource functions are greater, compared to enhancement and preservation.
 - (c) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the District Engineer to make the decision on the proposed RGP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the District Engineer before the permittee begins work in waters of the United States, unless the District Engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

- (d) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the site of discharge of fill into waters of the U.S. and the number of credits to be provided.
- (e) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through special conditions added to the proposed RGP authorization, instead of components of a compensatory mitigation plan.

(4) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the proposed RGP. For example, if a proposed RGP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the proposed RGP.

(5) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the District Engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the District Engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(6) As required by the 2008 Mitigation Regulation, permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the proposed RGP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(7) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to an herbaceous wetland in a permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level.

V. Case-By-Case Conditions.

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

W. Use of Multiple Permits.

The use of any combination of Sections A and B for a single and complete project is permitted as long as discharges into waters of the U.S. thresholds identified in each section are not exceeded. In addition, the use of any other general permit in combination with any Section (A or B) of this proposed RGP for a single and complete project is prohibited, except when the acreage loss of waters of the U.S. authorized by a Section of the proposed RGP or the Nationwide Permit (NWP) does not exceed the acreage limit of the section of the proposed RGP or NWP with the highest specified acreage limit. For example, if a road crossing is constructed under Section A of the proposed RGP, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the U.S. for the total project cannot exceed 1/2-acre.

X. Transfer of Regional Permit Verifications.

If the permittee sells the property associated with regional permit verification, the permittee may transfer the regional permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the regional permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this regional permit are still in existence at the time the property is transferred, the terms and conditions of this regional permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this regional permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

Y. Compliance Certification.

Each permittee who receives an RGP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the

achievement of ecological performance standards, will be addressed separately by the District Engineer. The Corps will provide the permittee the certification document with the RGP verification letter. The certification document will include:

- (1) A statement that the authorized work was done in accordance with the RGP authorization, including any general, regional, or activity-specific conditions;
- (2) A statement that the implementation of any required compensatory 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
- (3) The signature of the permittee certifying the completion of the work and mitigation.

Z. Pre-Construction Notification (PCN).

(1) Timing. Where required by the terms of the proposed RGP, the prospective permittee must notify the District Engineer by submitting a PCN as early as possible. The District Engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information required to make the PCN complete. As a general rule, District Engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity until either:

- (a) He or she is notified in writing by the District Engineer that the activity may proceed under the proposed RGP with any special conditions imposed by the District or Division Engineer; or
- (b) 45 calendar days have passed from the District Engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the District or Division Engineer. However, if the permittee was required to notify the Corps pursuant to general condition Q that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition S that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. If the District or Division Engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit

has been obtained. Subsequently, the permittee's right to proceed under the RGP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.7.

(2) Contents of PCN: The PCN must be in writing and include the following information:

- (a) Name, address and telephone numbers of the prospective permittee;
- (b) Location of the proposed project;
- (c) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the proposed RGP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the District Engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Plans/drawings should be provided when necessary to show that the activity complies with the terms of the proposed RGP. (Plans/drawings usually clarify the project and when provided results in a quicker decision. Plans/drawings should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (d) Project drawings on 8 1/2" x 11" paper. Three types of illustrations are required to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Typical Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). In addition, each illustration should be identified with a figure or attachment number;
- (e) For activities resulting in the loss of greater than 1/2 acre of waters of the U.S., full agency coordination is required. In an effort to expedite permit review, it is requested that all PCN's for activities resulting in the loss of greater than 1/2 acre of waters of the U.S. include five (5) copies of the notification package. Applicants are encouraged to submit this information in electronic format in order to minimize the use of paper;
- (f) A copy of the applicable FIRM map;
- (g) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps

to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

- (h) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or a statement explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (i) If the Federal Highway Administration (FHWA) is the lead federal agency, they have ultimate responsibility to ensure compliance with Section 7 of the ESA for projects conducted by the Ohio Department of Transportation. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act;
- (j) If FHWA is not the lead federal agency, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work;
- (k) If FHWA is the lead federal agency they have ultimate responsibility to ensure compliance with Section 106 of the NHPA. The applicant will coordinate with the OHPO in accordance with the *Programmatic Agreement Among The Federal Highway Administration, The Advisory Council On Historic Preservation, The Ohio Historical Society, State Historic Preservation Office, And The State of Ohio, Department of Transportation Regarding The Implementation Of The Federal-Aid Highway Program In Ohio* (Agreement Number 16734) executed on November 30, 2011. In such cases where a PCN is required, the applicant must provide the District Engineer with the appropriate documentation to demonstrate compliance with the requirements of Section 106 of the NHPA; and
- (l) If FHWA is not the lead federal agency the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(3) Form of PCN: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraph (2) of this general condition. A letter containing the required information may also be used.

(4) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of

the proposed RGP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For all proposed RGP activities requiring PCN to the District Engineer that result in the loss of greater than 1/2-acre of waters of the U.S., the District Engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (FWS, ODNR, Ohio EPA, SHPO). The agencies will then have 10 calendar days from the date the material is transmitted to notify the District Engineer that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the PCN. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each PCN that the resource agencies' concerns were considered.

(5) District Engineer's Decision:

In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the proposed RGP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the proposed RGP(s), as well as the cumulative effects caused by all of the crossings authorized by proposed RGP. When making minimal effects determinations the District Engineer will consider the direct and indirect effects caused by the proposed RGP activity. The District Engineer will also consider site specific factors, such as the environmental setting in the vicinity of the proposed RGP activity, the type of resource that will be affected by the proposed RGP activity, the functions provided by the aquatic resources that will be affected by the proposed RGP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the proposed RGP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the District Engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the District Engineer to assist in the minimal adverse effects determination. The District Engineer may add case-specific special conditions to the proposed RGP authorization to address site-specific environmental concerns.

If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the District Engineer determines that the activity complies with the terms and conditions of the proposed RGP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any activity-specific conditions in the proposed RGP verification the

District Engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The District Engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the District Engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the proposed RGP, including any activity-specific conditions added to the proposed RGP authorization by the District Engineer.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (a) That the project does not qualify for authorization under the proposed RGP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the proposed RGP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the proposed RGP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the District Engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

AA. Single and Complete Project.

The activity must be a single and complete project as defined in Section 5 of this proposed RGP. Section A or B of this proposed RGP cannot be used more than once for the same single and complete project.

4. Further Information:

A. Congressional Authorities:

Proposed activities under this proposed RGP would be authorized under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

B. Limits of this authorization:

- (1) This proposed RGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- (2) This proposed RGP does not grant any property rights or exclusive privileges.
- (3) This proposed RGP does not authorize any injury to the property or rights of others.
- (4) This proposed RGP does not authorize interference with any existing or proposed Federal project.

C. Limits of Federal Liability:

- (1) Damages to the permitted project or uses hereof as a result of other permitted or unpermitted activities or from natural causes.
- (2) 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.
- (3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- (4) Design or construction deficiencies associated with the permitted work.
- (5) Damage claims associated with any future modification, suspension, or revocation of this permit.

D. Reevaluation of Permit Decision:

Should circumstances warrant, this office may reevaluate its decision on the proposed RGP. Circumstances that could require reevaluation include but are not limited to the following:

- (1) Failure to comply with the terms and conditions of this proposed RGP.
- (2) If information provided in support of the project description is false, incomplete, or inaccurate.
- (3) Significant new information surfaces which was not considered in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring compliance with the terms and conditions of the permit and for the initiation of legal action where appropriate. The permittee would be required to pay for any corrective measures ordered by this office, and for failure to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contact or otherwise and bill the permittee

for the costs. In addition, unpermitted work or violation of permit conditions may result in civil, criminal or administrative penalties (33 U.S.C. 1319 c, d, and g.).

5. Definitions:

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Flood Control Facility: Structures such as levees, floodwalls, flood control channels, and water control structures that were designed and constructed to have appreciable effects in preventing damage by irregular and unusual rises in water level.

High Tide Line: The line of intersection of the land with the water’s surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but

does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: 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 projects in the project area. 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.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States (U.S.): Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for a proposed RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the proposed RGP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or

flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark (OHWM): An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. PCN may be required by the terms and conditions of a nationwide permit, or by regional conditions. A PCN may be voluntarily submitted in cases where PCN is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: 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. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition U.)

Single and complete linear project: A linear project is a project 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 waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear 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 proposed RGP authorization. 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.

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 owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in the proposed RGP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Suitable Material: Clean, non-erodable materials including hard fill that is free of toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). Trash, debris, car bodies, and asphalt are examples of unsuitable material. However, bridge demolition debris may be used for temporary work/access pads provided it is composed of suitable material, free of exposed rebar or other steel, and stabilized to prevent erosion.

Temporary: A finite period of time limited to the duration of the construction or maintenance of a transportation project, but never to exceed 2 years

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the proposed RGP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.