Public Notice

U S Army Corps of Engineers
Huntington District

In reply refer to Public Notice No.	Issuance Date:
LRH-200800689-3	**11 February 2025**
Stream:	Closing Date:
N/A	**11 February 2030**

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-RDS Public Notice No. (*reference above*)
502 Eighth Street
Huntington, West Virginia 25701-2070 Phone: (614) 692-4659

REGIONAL GENERAL PERMIT
FOR THE
STATE OF OHIO, DEPARTMENT OF TRANSPORTATION

TO WHOM IT MAY CONCERN: In accordance with Title 33 CFR § 325.5(c)(1) as published on November 13, 1986, in the Federal Register, Volume 51, Number 219, the district engineer of the Huntington District United States (U.S.) Army Corps of Engineers on July 29, 2024 issued a public notice under Department of Army (DA) number LRH-2008-00689-3, proposing the reissuance of a Regional General Permit (RGP) for the Ohio Department of Transportation (ODOT) that would authorize certain linear transportation projects pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

As of the date of this Public Notice, the RGP is effective and authorizes activities in waters of the U.S. including work, structures, and filling (both temporary and permanent) associated with linear transportation project, maintenance of existing transportation infrastructure, bank stabilization, and aquatic restoration activities conducted by the ODOT in the state of Ohio. Categories of activities authorized under the RGP would include (A) *Linear Transportation Projects*; (B) *Maintenance Projects*; (C) *Bank Stabilization Projects*; and (D) *Aquatic Habitat Restoration, Enhancement, and Establishment Activities for Transportation-Related Projects.* This RGP authorizes activities in such waters except those excluded by the attached regional and general permit conditions.

The ODOT is responsible for ensuring that projects are in full compliance with all conditions of the permit. The permittee's authorization could be suspended, modified, or revoked in accordance with 33 CFR § 325.7 if a determination is made by the Corps that the permittee's request was inaccurate, incomplete, or made in bad faith. Enforcement action may be initiated if such a determination is made.

An integral part of the Corps' regulatory program is the concept of general permits for minor activities. RGPs are activity specific and are designed to relieve some of the administrative burdens associated with permit processing for both the applicant and the federal government. Conditions and limitations for the activities authorized by this RGP are attached. The permit

remains in effect for a period of five (5) years unless modified or rescinded. At the end of five (5) years, a complete reevaluation will be performed according to regulations governing the use of RGPs.

This RGP is not valid until the appropriate state agency certifies the discharge does not violate state water quality standards. The Ohio Environmental Protection Agency (Ohio EPA), on December 13, 2024, granted Section 401 Water Quality Certification (WQC) with general and special limitations and conditions for this RGP. In addition, by letter dated August 13, 2024, the Ohio Department of Natural Resources-Office of Coastal Management provided conditional concurrence with the Federal Consistency Determination. This condition concurrence determination is located under the RGP General Condition 34 of the RGP.

If you have any questions concerning this Public Notice, please contact the South/Transportation Branch at (304) 399-6905, or by email at CELRH.South.Transportation@usace.army.mil.

Michael E. Hatten
Chief, Regulatory Division

Categories of Activities Covered by the Regional General Permit (RGP): This RGP authorizes activities in waters of the United States (U.S.) including work, structures, and the discharge of dredged and/or fill material (both temporary and permanent) associated with linear transportation projects and the maintenance of existing transportation infrastructure conducted by the Ohio Department of Transportation (ODOT) in the State of Ohio. Authorized activities would include the following categories of activities, referred to as RGP A, RGP B, RGP C, and RGP D.

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

RGP A also authorizes discharges of dredged and/or 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 of dredged and/or fill material into waters of the U.S., including cofferdams, are necessary for construction activities, access fill, or dewatering of construction 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. See General Conditions 6 and 13.

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

(1) if the activity involves a loss or conversion of waters that is 1/10 acre or greater for waters of the U.S;

(2) if there is a discharge in a special aquatic site, including wetlands;

(3) if the activity involves the discharge of greater than 25 cubic yards of dredged and/or fill material below the ordinary high water mark of a water subject to Section 10 of the Rivers and Harbors Act of 1899 (Section 10);

Note 1: The discharge of dredged and/or fill material 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.

Note 2: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of RGP authorization.

Note 3: For RGP A activities that require a PCN, the PCN must include any other RGP(s), NWP(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require a PCN. The District Engineer (DE) will evaluate the PCN in accordance with the DE's Decision section below. The DE may require compensatory mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects.

Note 4: RGP A cannot be used to authorize regulated activities associated with the construction or modification of 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.

RGP B - Maintenance: RGP B authorizes the maintenance of existing transportation infrastructure conducted by the ODOT as follows:

(a) RGP B authorizes the discharge of dredged and/or 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, 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. This RGP also authorizes the removal of previously authorized structures or fill. 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 RGP authorizes the repair, rehabilitation, or replacement of those structures or fill destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two (2) years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes, or tornadoes, this two (2)-year limit may be waived by the DE, provided the ODOT 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. RGP B 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.). 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. All dredged or excavated materials must be deposited and retained in an area that has no waters of the U.S. unless otherwise specifically approved by the DE under separate authorization.

(c) The placement of new or additional riprap into waters of the U.S. for maintenance activities must be the minimum necessary to protect the structure or to ensure the safety of the structure. New or additional riprap cannot exceed a total of 600 feet from the structure in either direction (e.g. 100 feet upstream plus 500 feet downstream from the structure). Any bank stabilization measures not directly associated with the structure will require a separate authorization from the DE.

(d) RGP B 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. After conducting the maintenance activity, 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. See General Conditions 6 and 13. Bridge demolition debris may be used for temporary work/access pads provided it is composed of suitable material.

(e) This RGP does not authorize new stream channelization or stream relocation projects.

Notification: The ODOT must submit a PCN to the DE prior to commencing if:

(1) the activity involves the discharge of greater than 25 cubic yards of dredged and/or fill material below the ordinary high water mark of a Section 10 water;

(2) the activity is authorized by paragraph (b) of RGP B. The PCN must include information regarding the original design of the structure and approximate dimensions when built;

(3) the activity requires the use of vertical sheet piling and closed structures in the special habitat waters of Lake Erie (See General Condition 22 - Designated Critical Resource Waters.); and/or

(4) the maximum length of temporary discharges of dredged and/or fill material into perennial and intermittent streams as measured upstream to downstream exceeds 300 feet.

Project details on any project implementing bioengineering or nature-based solutions that do not otherwise require notification to the DE, will be compiled and submitted to the USACE annually by December 31 of each calendar year.

RGP C – Bank Stabilization: Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, vanes, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the DE waives this criterion by making a written determination concluding that the discharge of dredged and/or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the DE cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one (1) cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark, unless the DE waives this criterion by making a written determination concluding that the discharge of dredged and/or fill material will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged and/or fill material into special aquatic sites, unless the DE waives this criterion by making a written determination concluding that the discharge of dredged and/or fill material will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the U.S.;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);

(g) Native plants appropriate for current site conditions must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This RGP authorizes those maintenance and repair activities if they require authorization.

RGP C also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization 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 must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. See General Conditions 6 and 13 and Note 3 below.

In conjunction with RGP C, bioengineering techniques or nature-based solutions are encouraged and can reduce off-site mitigation requirements. These techniques can include, but are not limited to, single arm vanes, vegetated riprap, native riparian plantings, j-hooks, and live branch layering. Project details on any project implementing bioengineering or nature-based solutions that do not otherwise require notification to the DE, will be compiled and submitted to the USACE annually by December 31 of each calendar year.

Notification: The ODOT must submit a PCN to the DE prior to commencing if:

(1) the activity involves discharges into special aquatic sites, including wetlands;

(2) the activity is in excess of 500 feet in length;

(3) the activity will involve the discharge of greater than an average of one (1) cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark;

(4) the activity is located in Lake Erie, Sandusky Bay, or Maumee Bay and involves the discharge of greater than 10 cubic yards of dredge and/or fill material below the ordinary high water mark;

(5) the activity involves the use of any permanent vertical bulkhead in Lake Erie, Sandusky Bay, and Maumee Bay. [A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.];

(6) the activity is located in Lake Erie, Sandusky Bay, and Maumee Bay and a waiver of the criteria in Note 2 is being requested;

(7) the activity is within 2,000 feet of a designated arrival point (specific locations depicted on river navigation charts where boats/barges enter a lock) of locks and dams on the Ohio River.

Note 1: For projects located along the shorelines of Lake Erie, Sandusky Bay, and Maumee Bay, all sand and gravel located below the proposed project, both below and above ordinary high water mark (573.4 feet IGLD 1985), will be excavated down to clay or bedrock, and side cast into the nearshore area either immediately waterward or downdrift of the project area. Verification of the placement of the excavated material within the nearshore area shall be documented through the submittal of dated photographs and an accompanying photo location map to the DE within 30 days of commencement of the work within these resources.

Note 2: For projects located along the shorelines of Lake Erie, a one-time sand prefill of two (2) cubic yards of sand per linear foot of shoreline stabilized shall be placed at an approved location in the nearshore area in less than three (3) feet of water within 30 days of project commencement, unless the DE waives this requirement by making a written determination. Verification of the placement of the sand prefill material within the nearshore area shall be documented through the submittal of contractor's receipts, including the volume of sand prefill, dated photographs, and accompanying photo location map to the DE. The sand shall be from an upland source or other approved source and shall be similar in composition to the sand at the project site, free from organic material; limestone sand and top soil are excluded.

Note 3: For bank stabilization projects located in Lake Erie, Sandusky Bay, and Maumee Bay, broken concrete shall not be used as suitable material, unless it is contained within a structure.

Note 4: Proper installation is required for the use of this RGP. This RGP does not authorize material that is dumped from the top of bank resulting in uncontrolled spilling of material over the bank into the waterway.

RGP D - <u>Aquatic Habitat Restoration, Enhancement, and Establishment Activities for Transportation-Related Projects:</u> Activities in waters of the U.S. associated with the restoration, enhancement, and establishment of and non-tidal wetlands and riparian areas; restoration, enhancement or establishment of aquatic habitat for threatened and endangered species; restoration and enhancement of non-tidal streams and other non-tidal open waters; and the rehabilitation or enhancement of, provided those activities result in net increases in aquatic resource functions and services. Restoration activities can also function to protect the ODOT's transportation infrastructure, such as stream banks encroaching on roadways, improving stream flow in and around bridges and embankments, etc.

To be authorized by this RGP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of one (1) or more intact aquatic habitats or riparian areas of the same type that exist in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

To the extent that a Corps permit is required, activities authorized by this RGP include, but are not limited to: the removal of accumulated sediments; the installation of current deflectors (such as vanes and j-hooks); the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; the modification of the stream bed and/or banks to enhance, rehabilitate, or reestablish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the reestablishment of submerged aquatic vegetation in areas where those plant communities previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related

activities. Only native plant species should be planted at the site.

This RGP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this RGP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This RGP does not authorize stream channelization.

Compensatory mitigation is not required for activities authorized by this Category RGP D since these activities must result in net increases in aquatic resource functions and services.

Notification: The permittee must submit a PCN to the district engineer prior to commencing any activity (see General Condition 28).

Note: This RGP can be used to authorize compensatory mitigation projects. However, this RGP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

RGP General Conditions: To qualify for authorization under the RGP, the ODOT must comply with the following general conditions, as appropriate, in addition to case-specific conditions imposed by the DE for a specific activity.

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

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

(c) The ODOT understands and agrees that, if future operations by the U.S. 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 ODOT 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 U.S.. No claim shall be made against the U.S. on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted,

bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. 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 unless specifically authorized by the Ohio Department of Natural Resources (ODNR).

4. Migratory Bird Breeding Areas. Activities in waters of the U.S. that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations.

6. 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). Bridge demolition debris may be used for temporary work/access pads provided it is free of exposed re-bar or other steel, and stabilized to prevent erosion.

7. 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.

8. 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.

9. 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 activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable Federal Emergency Management Agency-approved state or local floodplain management requirements.

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

12. 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 must be permanently stabilized at the earliest practicable date. The ODOT is encouraged to perform work within waters of the U.S. during periods of low-flow or no-flow.

13. 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.

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

15. Single and Complete Project. The activity must be a single and complete project as defined in the definition section of this RGP. RGP A, RGP B, RGP C or RGP D cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) 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 (NPS), U.S. Forest Service (USFS), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS)).

A PCN is required for work in components of 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 (2) miles of Caesars Creek.
- Total designation is 94 miles.

(b) If a proposed RGP activity will 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, the ODOT must submit a PCN (see General Condition 28. The DE will coordinate the PCN with the federal agency with direct management responsibility for that river. The ODOT shall not begin the RGP activity until notified by the DE that the federal agency with direct management responsibility for that river has determined in writing that the proposed RGP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) 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., NPS, USFS, BLM, USFWS). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights (executive orders, military decrees, federal legislation, and judicial decisions), including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any 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 or a habitat proposed for such designation. No activity is authorized under any RGP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the RGP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the RGP activity and are later in time, but still are reasonably certain to occur.

For most projects authorized under this RGP, it is expected the Federal Highways Administration (FHWA) or the ODOT will act as the lead federal agency responsible for compliance with Section 7 of the ESA. However, there may also be cases (for State-funded projects) where the Corps may be the lead federal agency responsible for ESA compliance. Conditions have been included below for either scenario.

(b) *Conditions when FHWA is the Lead Federal Agency:* The FHWA, or the ODOT when administering projects that have been duly assigned under the Memorandum of Understanding (MOU) between the FHWA and the ODOT concerning the State of Ohio's participation in the

Project Delivery Program pursuant to 23 U.S.C. 327 (NEPA Assignment MOU), may be the lead federal agency with ultimate responsibility to ensure compliance with Section 7 of the ESA. The FHWA, or the ODOT acting on behalf of FHWA under the NEPA Assignment MOU, should follow their own procedures for complying with the requirements of Section 7 of the ESA.

PCN requirements when the FHWA or the ODOT (under the NEPA Assignment MOU) is the Lead federal Agency:

i. No PCN is required under General Condition 18 if the lead agency has followed their own procedures to fulfill their obligations under Section 7 of the ESA provided:
   a. the scope of the project has not changed since the determination was made; and
   b. no new species or critical habitat have been federally listed since the determination was made; and
   c. the ODOT complies with conditions and/or commitments resulting from programmatic and/or project-specific ESA consultation.

   In the event the project scope or species listing has changed, the lead agency would be responsible for Section 7 ESA consultation.

ii. If PCN is required under other conditions of this RGP (see Note 1 below), in the PCN the ODOT must provide the DE with the appropriate documentation to demonstrate compliance with the requirements of the ESA. The DE will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA Section 7 consultation may be necessary for the activity. The lead agency is responsible for fulfilling its obligation under Section 7 of the ESA.

(c) *Conditions when the Corps is the Lead Federal Agency*: If the Corps is the lead federal agency responsible for compliance with the requirements of the ESA:

i. PCN is not required under General Condition 18 (see Note 1 below), provided all of the following conditions apply:
   a. the project has been evaluated under the terms of the *Memorandum of Agreement Among the United States and Wildlife Service, The Ohio Department of Transportation, and the United States Army Corps of Engineers Regarding Implementation of the Transportation Program in Ohio* (https://www.dot.state.oh.us/environmental-services/manuals_guidance1/Ecological/RelevantAgreements/MOAUSFWODOTUSACE.pdf); and
   b. the scope of the project has not changed since the evaluation under the MOA; and
   c. no new species or critical habitat have been federally listed since the evaluation under the MOA; and
   d. the ODOT complies with any conditions and/or commitments resulting from the evaluation under the MOA.

ii. PCN Required:
   a. If the project is not evaluated under the MOA described above, or if the project does not qualify for evaluation under the MOA, the ODOT must submit a PCN to the DE if any listed species or designated critical habitat might be affected or is in

the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the DE 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 activity or that utilize the designated critical habitat that might be affected by the proposed activity. The DE will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the ODOT of the Corps' determination within 45 days of receipt of a complete PCN. In cases where the ODOT has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the ODOT shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA Section 7 consultation has been completed. If the ODOT has not heard back from the Corps within 45 days, the ODOT must still wait for notification from the Corps.

(d) As a result of consultation with the USFWS, the DE may add species-specific conditions to a specific RGP verification.

(e) Authorization of an activity by an 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 USFWS, the ESA prohibits any person subject to the jurisdiction of the U.S. 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.

(f) If the ODOT has a valid ESA Section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed RGP activity, the ODOT must provide a copy of that ESA Section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this General Condition. The DE will coordinate with the agency that issued the ESA Section 10(a)(1)(B) permit to determine whether the proposed RGP activity and the associated incidental take were considered in the internal ESA Section 7 consultation conducted for the ESA Section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed RGP activity and the associated incidental take were considered in the internal ESA Section 7 consultation for the ESA Section 10(a)(1)(B) permit, the DE does not need to conduct a separate ESA Section 7 consultation for the proposed RGP activity. The DE will notify the ODOT within 45 days of receipt of a complete PCN whether the ESA Section 10(a)(1)(B) permit covers the proposed RGP activity or whether additional ESA Section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the office of the USFWS or their web page at http://www.fws.gov/ or http://www.fws.gov/ipac.

Note 1: While PCN may not be required under General Condition 18, PCN may be required under other conditions of the RGP. In cases where PCN is required under other conditions of the RGP, the PCN must include the documentation described in General Condition 28.

19. Migratory Birds and Bald and Golden Eagles. The ODOT is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The ODOT is responsible for contacting the appropriate local office of the USFWS to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the DE determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) The FHWA, or the ODOT when administering projects that have been duly assigned under the NEPA Assignment MOU, may be the lead agency with ultimate responsibility to ensure compliance with Section 106 of the NHPA (Section 106). The FHWA, or the ODOT acting on behalf of the FHWA under the NEPA Assignment MOU, should follow their own procedures for complying with the requirements of Section 106. If the FHWA or the ODOT (under the NEPA Assignment MOU) is the lead federal agency and if a PCN is required under other conditions of this RGP (see Note 1 below), the PCN must include documentation demonstrating compliance with Section 106. The DE will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under Section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with Section 106.

(c) If FHWA or the ODOT (under the NEPA Assignment MOU) is not the lead federal agency, the ODOT must submit a PCN to the DE if the RGP activity 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 NRHP, including previously unidentified properties. For such activities, the PCN must state which historic properties might have the potential to be affected by the proposed RGP activity 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 properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the NRHP. When reviewing PCNs, the DE will comply with the current procedures for addressing the requirements of Section 106. The DE 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 in the PCN and these identification efforts, the DE

shall determine whether the proposed RGP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the DE determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR § 800.3(a)). Section 106 consultation is required when the DE determines that the activity has the potential to cause effects on historic properties. The DE will conduct consultation with consulting parties identified under 36 CFR § 800.2(c) when he or she makes any of the following effect determinations for the purposes of Section 106: no historic properties affected, no adverse effect, or adverse effect. Where the ODOT has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the ODOT shall not begin the activity until notified by the DE either that the activity has no potential to cause effects to historic properties or that Section 106 consultation has been completed.

(d) If FHWA or the ODOT (under the NEPA Assignment MOU) is not the lead federal agency, the DE will notify the ODOT within 45 days of receipt of a complete PCN whether Section 106 consultation is required. If Section 106 consultation is required, the DE will notify the ODOT that he or she cannot begin the activity until Section 106 consultation is completed. If the ODOT has not heard back from the Corps within 45 days, the ODOT must still wait for notification from the Corps.

(e) The ODOT should be aware that Section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106, 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, State Historic Preservation Office/Tribal Historic Preservation Office, appropriate American 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.

Note 1: While PCN may not be required under General Condition 20, PCN may be required under other conditions of the RGP. In cases where PCN is required under other conditions of the RGP, the PCN must include the documentation described in General Condition 28.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the DE 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.

(a) If the FHWA or the ODOT is the lead federal agency, the ODOT must immediately contact the Corps and the FHWA. The FHWA will be responsible for the federal, state, and tribal

coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the NRHP.

(b) If the Corps is the lead federal agency, the ODOT must immediately contact the DE. The DE 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 NRHP.

22. Designated Critical Resource Waters.
(a) A PCN is required for any activity proposed in designated critical resource water, including wetlands adjacent to those waters. Discharges of dredged and/or fill material into waters of the U.S. under RGP A are not authorized for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. The DE may authorize activities under RGP B and RGP C only after it is determined that the impacts to the critical resource waters will result in no more than minimal adverse environmental effects.

(b) Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The DE 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 DE may also designate additional critical resource waters after notice and opportunity for public comment.

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 (2) areas have been designated critical habitat for the piping plover (*Charadrius melodus*) and are defined as areas 0.62 mile 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. For maps of the designated critical habitat, visit https://www.govinfo.gov/content/pkg/FR-2001-05-07/pdf/01-11205.pdf#page=1
- In Ohio, three (3) areas have been designated critical habitat for the rabbitsfoot mussel (*Quadrula cylindrica cylindrica*). Unit RF26 includes 17.5 rkm (10.9 rmi) of the Walhonding River from the convergence of the Kokosing and Mohican Rivers downstream to Ohio Highway 60 near Warsaw, Coshocton County, Ohio. Unit RF27 includes 33.3 rkm (20.7 rmi) of Little Darby Creek from Ohio Highway 161 near Chuckery, Union County, Ohio, downstream to U.S. Highway 40 near West Jefferson, Madison County, Ohio. Unit RF29 includes 7.7 rkm (4.8 rmi) of Fish Creek from the Indiana and Ohio State line northwest of Edgerton, Ohio, downstream to its confluence with the St. Joseph's River north of Edgerton, Williams County, Ohio. For maps of the designated critical habitat, https://www.govinfo.gov/content/pkg/FR-2015-04-30/pdf/2015-09200.pdf#page=1

- Old Woman Creek National Estuarine Research Preserve. For information pertaining to this reserve, visit https://ohiodnr.gov/go-and-do/plan-a-visit/find-a-property/old-woman-creek-nerr-state-nature-preserve
- Round Hickorynut: Grand River Unit RH 2 consists of 92 river miles (148.2 km) of the Grand River in Ashtabula, Lake, and Trumbull Counties, Ohio, from the Trumbull/ Geauga County line south of Lake County, Ohio State Route 88, downstream to the mouth of the Grand River at its confluence with Lake Erie. For maps to the designated critical habitat, visit https://www.govinfo.gov/content/pkg/FR-2023-03-09/pdf/2023-03998.pdf#page=1

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

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site (i.e., on site).

(b). Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses or permanent wetland conversion that exceed 1/10-acre and require PCN, unless the DE determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses or permanent wetland conversion of 1/10-acre or less that require PCN, the DE may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 0.03-acre and require PCN, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of 0.03 acre or less that require PCN, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation since streams are difficult to-replace resources (see 33 CFR § 332.3(e)(3)).

(e) Compensatory mitigation plans for RGP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal

protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored 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 DE may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the DE 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 minimization or compensatory mitigation, the DE may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR Part 332.

1. The ODOT is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the RGPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR § 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the DE, the DE may approve the use of permittee-responsible mitigation.

2. The amount of compensatory mitigation required by the DE must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR § 330.1(e)(3)). (See also 33 CFR § 332.3(f)).

3. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

4. If permittee-responsible mitigation is the proposed option, the ODOT is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the DE to make the decision on the RGP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR § 332.4(c)(2) through (14) must be approved by the DE before the ODOT begins work in waters of the U.S., unless the DE 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)).

5. 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 impact site and the number of credits to be provided.

6. 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 conditions added to the RGP authorization, instead of components of a compensatory mitigation plan (see 33 CFR § 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the RGPs. For example, if an RGP has an acreage limit of 1/2-acre, it cannot be used to authorize any RGP activity resulting in the loss of greater than 1/2-acre of waters of the U.S., 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 an RGP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the RGPs.

(h) The ODOT may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the ODOT must consider appropriate and practicable options consistent with the framework at 33 CFR § 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible 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 ODOT. For permittee-responsible mitigation, the special conditions of the 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.

(i) Where certain functions and services of waters of the U.S. are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the U.S. that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Case-By-Case Conditions. The activity must comply with any conditions that may have been added by the Division Engineer and with any case specific conditions added by the Corps, by the state in its Section 401 Clean Water Act Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

25. Use of Multiple Permits. The use of more than one RGP category for a single and complete project is prohibited, except when the acreage loss of waters of the U.S. authorized by the RGPs does not exceed the acreage limit of the RGP category with the highest specified acreage limit. For example, if a road crossing is constructed under RGP A, with associated bank stabilization authorized by RGP C, the maximum acreage loss of waters of the U.S. for the total project cannot exceed 1/2-acre.

26. Compliance Certification. If the ODOT receives a RGP verification letter from the Corps, the ODOT 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 DE. The Corps will provide the ODOT the certification document with the RGP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the RGP verification, including any general or activity-specific conditions;

(b) 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 ODOT secured the appropriate number and resource type of credits; and

(c) The signature of the ODOT certifying the completion of the activity and mitigation.

27. Activities Affecting Structures or Works Built by the U.S. If an RGP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the ODOT must submit a PCN (see paragraph (b)(9) of General Condition 28). An activity that requires Section 408 permission is not authorized by an RGP until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USACE project, and the DE issues a written RGP verification.

28. Pre-Construction Notification (PCN).
(a) Timing. Where required by the terms of the RGP, the ODOT must notify the DE by submitting a PCN as early as possible. The DE 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 ODOT 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, the DE will request additional information necessary to make the PCN complete only once. However, if the ODOT does not provide all of the requested information, then the DE will notify the ODOT 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 DE. The ODOT shall not begin the activity until either:

1. The ODOT is notified in writing by the DE that the activity may proceed under the RGP with any special conditions imposed by the DE; or

2. 45 calendar days have passed from the DE's receipt of the complete PCN and the ODOT has not received written notice from the DE. However, if the ODOT was required to notify the Corps pursuant to General Condition 18 or to notify the Corps pursuant to General Condition 20 the ODOT or the project will occur within a Wild and Scenic River, or the project requires review by, or permission from, the Corps pursuant to 33 U.S.C. § 408 the ODOT cannot begin the activity until receiving written notification from the Corps that any consultation required under Section 7 of the Endangered Species Act and/or Section 106 of the National Historic Preservation Act has been completed and/or the National Park Service has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation

or study status and/or the Corps has granted permission under 33 U.S.C. § 408. If the proposed activity requires a written waiver to exceed specified limits of this RGP, the permittee may not begin the activity until the district engineer issues the waiver. If the DE notifies the ODOT in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the ODOT cannot begin the activity until an individual permit has been obtained. Subsequently, the ODOT'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.

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

1. Exact location of the work, including a location map on United States Geological Survey 7.5 Minute Series Quadrangle, with Latitude and Longitude in decimal degree format (e.g. Latitude 38.2111 and Longitude -81.3533);

2. Identify the specific RGP or RGP(s) the ODOT proposes to use to authorize the proposed activity;

3. A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the RGP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other 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, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require PCN. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the DE to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the RGP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches 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);

4. 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 ODOT 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 wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate.

5. If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100 acre of stream bed and a PCN is required, the ODOT must submit a statement describing how the mitigation requirement will be satisfied or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the ODOT may submit a conceptual or detailed mitigation plan;

6. If any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. See General Condition 18.

a) If FHWA or the ODOT (NEPA Assignment MOU) is the lead federal agency and a PCN is required, the PCN must provide documentation demonstrating compliance with the ESA;
b) If FHWA/ODOT is not the lead federal agency, the PCN must include the name(s) of those federally listed endangered or threatened species that might be affected by the proposed RGP activity or utilize the designated critical habitat that may be affected by the proposed RGP activity;

7. If the RGP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the NRHP, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. See General Condition 20.

a) If FHWA/ODOT (NEPA Assignment MOU) is the lead federal agency, they have ultimate responsibility to ensure compliance with Section 106 of the NHPA. In such cases where a PCN is required, the ODOT must provide the DE with the appropriate documentation to demonstrate compliance with the requirements of Section 106 of the NHPA.
b) If FHWA/ODOT is not the lead federal agency, the PCN must state which historic property might be affected by the proposed RGP activity or include a vicinity map indicating the location of the historic property;

8. For an activity that will 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, the PCN must identify the Wild and Scenic River or the "study river" (see General Condition 16);

9. For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the PCN must include a statement confirming that the ODOT has submitted a written request for Section 408 permission from the Corps office having jurisdiction over that USACE project;

10. A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-construction contours and elevations; and

11. A list of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.

(c) Form of PCN: The standard individual permit application form (ENG 4345 or Nationwide Permit PCN form (ENG Form 6082) may be used, but the completed application form must clearly indicate that it is an RGP PCN and must include all of the applicable information required in paragraphs (b)(1) through (9) of this general condition. A letter containing the required information may also be used. The ODOT may provide electronic files of PCNs and supporting materials.

(d) Agency Coordination: The DE will consider any comments from federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the RGPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

For all RGP activities requiring PCN that result in the loss of greater than 1/2-acre of waters of the U.S. and/or when a waiver of any RGP criteria is being requested, the DE will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate federal or state offices (USFWS, ODNR, Ohio Environmental Protection Agency (OEPA), U.S. Environmental Protection Agency, State Historic Preservation Office). The agencies will then have 10 calendar days from the date the material is transmitted to notify the DE that they intend to provide substantive, site-specific comments. If so contacted by an agency, the DE will wait an additional 15 calendar days before making a decision on the PCN. The DE will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the RGPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The DE will provide no response to the resource agency, except as provided below. The DE will indicate in the administrative record associated with each PCN that the resource agencies' concerns were considered.

29. Fens and Bogs: RGPs shall not authorize any activity which negatively impacts bogs and/or fens.

30. ODNR In-Water Work Exclusion Dates: No work under this RGP may take place during the restricted period of the ODNR, Division of Wildlife Statewide In-Water Work Restrictions unless a waiver is granted by ODNR and the ODOT notifies the DE:

Location	**Restricted Period**
Percid streams a	3/15 - 6/30
Salmonid streams b	9/15 - 6/30
Other streams c	4/15 – 6/30

(a) **Great Miami River** (dam south of New Baltimore to mouth), **Hocking River** (falls at White's Mill to mouth), **Little Miami River** (dam at Waynesville to mouth), **Maumee**

River (split dam at Grand Rapids to mouth), **Maumee Bay**, **Muskingum River** (Devola Dam No.2 north of Marietta to mouth), **Ohio Brush Creek** (S.R. 32 bridge to mouth), **Ohio River** (entire reach), **Portage River** (entire reach), **Sandusky River** (first dam to mouth), **Sandusky Bay**, **Scioto River** (S.R. 207 bridge north of Chillicothe to mouth), **Toussaint River** (entire reach).

(b) **Arcola Creek** (entire reach), **Ashtabula River** (Hadlock Rd. to mouth), **Ashtabula Harbor**, **Aurora Branch** (Chagrin River (RM 0.38 to mouth)), **Big Creek** (Grand River (Girdled Road to mouth)), **Black River** (entire reach), **Chagrin River** (Chagrin Falls to mouth), **Cold Creek** (entire reach), **Conneaut Creek** (entire reach), **Conneaut Harbor**, **Corporation Creek** (Chagrin River (entire reach)), **Cowles Creek** (entire reach), **Ellison Creek** (Grand River (entire reach)), **Euclid Creek** (entire reach), **Grand River** (dam at Harpersfield Covered Bridge Park to mouth), **Fairport Harbor**, **Gulley Brook** (Chagrin River (entire reach)), **Huron River** (East Branch-West Branch confluence to mouth) **Indian Creek** (entire reach), **Kellogg Creek** (Grand River (entire reach)), **Mill Creek** (Grand River (entire reach)), **Paine Creek** (Grand River (Paine Falls to mouth)), **Rocky River** (East Branch-West Branch confluence to mouth), **Smokey Run** (Conneaut Creek (entire reach)), **Turkey Creek** (entire reach), **Vermilion River** (dam at Wakeman upstream of the US 20 & SR 60 bridge to mouth), **Ward Creek** (Chagrin River (entire reach)), **Wheeler Creek** (entire reach), **Whitman Creek** (entire reach).

(c) **Exceptional Warmwater Habitat, Cold Water Habitat, Warmwater Habitat,** or streams with known occurrences of threatened and/or endangered (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 1: To determine the defined Aquatic Life Habitat designation for a stream and project segment, refer to: www.epa.ohio.gov/dsw/rules/3745_1.aspx

Note 2: This condition does not apply to the ODOT projects that are covered under the "Memorandum of Agreement Between The Ohio Department of Transportation, The Ohio Department of Natural Resources, and The U.S. Fish and Wildlife Service For Interagency Coordination For Projects Which Require Consultation Under the Endangered Species Act, Impact State Listed Species, and/or Modify Jurisdictional Waters 2016 Agreement Number: 19394"

31. Waters of Special Concern: PCN is required for activities in the following resources:

(a) **Category 3 Wetlands**: PCN is required for all temporary or permanent discharges of dredged and/or 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.**

(b) **Ohio Stream Designations**: PCN is required for all temporary or permanent discharges of fill material into Exceptional Warmwater Habitat, Cold Water Habitat, native 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 activities performed under RGP B. The current list of these streams can be found on the OEPA website 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."

32. Oak Openings: A PCN is required for all wetland 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, please contact the ODNR.

33. Water Quality. If the OEPA has not previously certified compliance of a RGP with Section 401 of the Clean Water Act, an individual Section 401 Clean Water Act Water Quality Certification (WQC), a Director's Authorization from the OEPA or a waiver has been obtained. The DE or the State may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

34. Ohio Coastal Management Program Federal Consistency Conditions:
(a) This permit shall not authorize any activity within the territory of Lake Erie, including Maumee Bay and Sandusky Bay, as defined in Ohio Revised Code § 1506.11(A) or along or near the Ohio shoreline of Lake Erie unless a project-specific Federal Consistency concurrence pursuant to the Coastal Zone Management Act of 1972, as amended, has been issued by the Ohio Department of Natural Resources.

(b) The DE or the ODNR may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

(c) Construction and/or demolition debris and clean hard fill associated with any project authorized under this permit shall not be placed along or near the shoreline of Lake Erie or within the territory of Lake Erie unless authorized by a Shore Structure Permit pursuant to Ohio Revised Code § 1506.40.

DE's Decision:

1. In reviewing the PCN for the proposed activity, the DE will determine whether the activity authorized by the RGP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. When the ODOT requests authorization by a specific RGP category, the DE should issue the RGP verification for that activity if it meets the terms and conditions of that RGP category, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse environmental effects and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. 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 RGP(s), as well as the cumulative effects caused by all of the crossings authorized by the RGP and other permits. If the ODOT requests a waiver of any RGP criteria, the DE will

only grant the waiver upon a written determination that the RGP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal effects determinations the DE will consider the direct and indirect effects caused by the RGP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by the RGP and other permits whether those cumulative adverse environmental effects are no more than minimal. He or she will also consider site specific factors, such as the environmental setting in the vicinity of the RGP activity, the type of resource that will be affected by the RGP activity, the functions provided by the aquatic resources that will be affected by the 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 RGP activity (e.g., partial or complete loss), the duration of the adverse environmental effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the DE. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the DE to assist in the minimal adverse environmental effects determination. The DE may add case-specific special conditions to the RGP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, and/or a loss of 0.03 acre of stream, the ODOT should submit a mitigation proposal with the PCN. The ODOT may also propose compensatory mitigation for RGP activities projects with smaller impacts, or for impacts to other types of waters (e.g., ditches, ponds, lakes). The DE will consider any proposed compensatory mitigation or other mitigation measures the ODOT has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the DE determines that the activity complies with the terms and conditions of the RGP and that the adverse environmental effects on the aquatic environment are no more than minimal, after considering mitigation, the DE will notify the ODOT and include any activity-specific conditions in the RGP verification the DE deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR § 332.3(k). The DE must approve the final mitigation plan before the ODOT commences work in waters of the U.S., unless the DE 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 ODOT elects to submit a compensatory mitigation plan with the PCN, the DE will expeditiously review the proposed compensatory mitigation plan. The DE must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the RGP activity results in no more than minimal adverse effects environmental effects on the aquatic environment. If the net adverse environmental effects of the RGP activity project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the DE to be no more than minimal, the DE will provide a timely written response to the ODOT. The response will state that the RGP activity project can proceed under the terms and conditions of the RGP, including any activity-specific conditions added to the RGP authorization by the DE.

4. If the DE determines that the adverse environmental effects of the proposed activity work are more than minimal, then the DE will notify the ODOT either: (a) That the activity project does not qualify for authorization under the RGP and instruct the ODOT on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the RGP subject to the ODOT's submission of a mitigation plan that would reduce the adverse environmental effects on the aquatic environment to the so that they are not more than minimal level; or (c) that the activity project is authorized under the RGP with specific modifications or conditions. Where the DE determines that mitigation is required to ensure no more than minimal adverse environmental effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with General Conditions 18, 20, 27, and/or 34), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the ODOT submit a mitigation plan that would reduce the adverse environmental effects on the aquatic environment to the so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the U.S. may occur until the DE 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.

Further Information:

A. Congressional Authorities: Proposed activities under this 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) DEs have authority to determine if an activity complies with the terms and conditions of an RGP.
(2) This RGP does not obviate the need to obtain other federal, state, or local authorizations required by law
(3) This RGP does not grant any property rights or exclusive privileges.
(4) This RGP does not authorize any injury to the property or rights of others.
(5) This RGP does not authorize interference with any existing or proposed federal project (see General Condition 27).

C. Limits of Federal Liability: In issuing this RGP, the Federal Government does not assume any liability for the following:

(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 U.S. 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 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 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 33 CFR § 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 ODOT 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 ODOT 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.).

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.

Bioengineering techniques: Restoration using plants along with natural materials to stabilize soil, prevent erosion, and enhance ecological functions. This approach leverages the biological components to create sustainable and resilient ecosystems, promoting biodiversity and overall environmental health.

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 into waters of the U.S.

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.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the NRHP 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 U.S.: Waters of the U.S. 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 U.S. is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an 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 U.S. 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 U.S. 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 U.S.

Nature-based solutions: Nature-based solutions in stream restoration involve using natural processes and features to address environmental challenges. Restoring or mimicking the natural functions of streams, such as using vegetation, bioengineering, natural channel designs, and ecosystem-based methods to enhance water quality, reduce erosion, and improve overall stream health.

Navigable waters: Waters subject to Section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR Part 329.

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 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: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

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 (PCN): A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by the RGP. 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 an RGP, 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 an RGP.

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.

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

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 Section 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 course 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 23.)

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 U.S. (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 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 RGP authorization.

Special Aquatic Sites: Special aquatic sites are defined in 40 CFR Part 230, Subpart E and include wetlands, riffle and pool complexes, mudflats, and vegetated shallows. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region.

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 U.S.

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-erodible 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 re-bar or other steel, and stabilized to prevent erosion.

Tribal lands: Any lands title to which is either: 1) held in trust by the U.S. for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the U.S. against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

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 RGP, a waterbody is a jurisdictional water of the U.S. If a wetland is adjacent to a waterbody determined to be a water of the U.S., that waterbody and any 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.

December 13, 2024

Transmitted Electronically

United States Army Corps of Engineers
Huntington District ORTO Office
Attn: Peter Clingan
502 Eighth Street
Huntington, West Virginia 25701

Re: ODOT Regional General Permit
Permit - Intermediate
Approval
401 Wetlands
All Counties in Ohio
DSW401249670A2

Subject: All Counties, Cities, and Townships within Ohio
Grant of Section 401 Water Quality Certification for Regional General Permit (RGP) for the Ohio Department of Transportation
Corps Public Notice No. LRH-200800689-3
Ohio EPA ID No. 249670A2

Dear Stakeholders:

I hereby authorize the above referenced project under one or both of the following authorities and it is subject to the following modifications and/or conditions:

Section 401 Water Quality Certification

Pursuant to section 401 of the Federal Water Pollution Control Act, 33 U.S.C. section 1341; Ohio Revised Code (ORC) chapters 119 and 6111; Ohio Administrative Code chapters 3745-1, 3745-32 and 3745-49, I hereby certify that the proposed Regional General Permit will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and applicable water quality requirements, as defined at 40 C.F.R. § 121.1(j). In accordance with 40 C.F.R. § 121.7, citations and justifications for each of the following conditions in this 401 WQC are provided at the end of this document in **Appendix C**.

This authorization is specifically limited to a Section 401 Water Quality Certification (here after referred to as "certification") with respect to water pollution and does not relieve the Certification Holder of further Certifications or Permits as may be necessary under applicable state and federal laws and/or local ordinances.

I have determined that a lowering of water quality in various waters of the state as authorized by this certification is necessary. I have made this determination based upon the consideration of all public comments, and including the technical, social, and economic considerations concerning this application and its impact on waters of the state. This certification is issued for impacts to waters of the state that may occur pursuant to activities authorized by the Regional General Permit (RGP), as listed below, provided the specified conditions are satisfied.

RGP Activities

A. Linear Transportation Projects

B. Maintenance

C. Bank Stabilization

D. Aquatic Habitat Restoration, Enhancement, and Establishment Activities for Transportation-Related Projects

Granted with Conditions (40 CFR 121.7(d)) Ohio EPA has determined that the potential discharges from the project will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(j), subject to the following conditions pursuant to CWA Section 401(d):

PART ONE: GENERAL LIMITATIONS AND CONDITIONS FOR THE ODOT RGP

A. CULVERTS

Conditions 1-4 are required unless culverts have a gradient of greater than 1% or are installed on bedrock or if a demonstration can be made that the AOP design would cause downstream property damage from flooding:

1. For new and replacement culverts, bottomless or buried culverts are required when culvert size is greater than 48” in diameter. A buried culvert means that the bottom 10% by rise shall be buried below the existing stream bed elevation.

2. New culverts shall be designed and sized to accommodate bankfull width, or determine width by utilizing HEC-26 or a similar industry standard stream simulation model, and match the existing depth of flow to facilitate the passage of aquatic organisms and movement of bedload.

3. Culvert replacement or maintenance projects shall, at a minimum, accommodate bankfull discharge. Culvert replacement shall be installed to match the existing depth of flow to facilitate the passage of aquatic organisms and movement of bedload. Culvert maintenance projects shall implement techniques to eliminate perched conditions caused by scour at the culvert outlet to accommodate aquatic organism passage and bedload transport if either are restricted.

4. When practicable, culverts shall be installed at the existing streambed slope, to allow for the natural movement of bedload and aquatic organisms.

5. All other culverts shall be designed to accommodate bankfull discharge at a minimum and, when practicable, installed at the existing streambed slope and buried.

6. Where culverts are installed for temporary crossings, the bottom elevations of the stream shall be restored as nearly as possible to pre-project conditions.

B. BEST MANAGEMENT PRACTICES

1. Unless subject to a more specific storm water National Pollutant Discharge Elimination System (NPDES) permit, all best management practices for storm water management shall be designed and implemented in accordance with the most current edition of the NPDES construction general permit available at: https://epa.ohio.gov/divisions-and-offices/surface-water/permitting/stormwater-program, or any watershed specific construction general permit.

2. Sediment and erosion control measures and best management practices must be designed, installed, and maintained in effective operating condition at all times during construction activities as required by applicable NPDES permits. Proper maintenance ensures corrective measures will be implemented for failed controls within 72 hours of discovery.

3. For perennial and intermittent streams, in-stream sediment control measures shall not be utilized, with the exception of turbidity curtains, for the purpose of sediment collection. All sediment and erosion control measures shall be entirely removed and the natural grade of the site restored once construction is completed.

4. All avoided water resources and associated buffers/riparian areas shall be demarcated in the field and protected with suitable materials (e.g., silt fencing, snow fencing, signage, etc.) prior to site disturbance. These materials shall remain in place and be maintained throughout the construction process and shall be entirely removed once construction is completed.

5. Disturbance and removal of vegetation from the project construction area is to be avoided where possible and minimized to the maximum extent practicable. Entry to surface waters shall be through a single point of access to the maximum extent practicable to minimize disturbance to riparian habitat. Unavoidable temporary impacts to forested riparian habitat shall be restored as soon as practicable after in-water work is complete using tree and shrub species native to the specific ecoregion where the project is located.

6. All dredged material placed at an upland site shall be controlled so that sediment runoff to adjacent surface waters is minimized to the maximum extent practicable.

7. Straw bales shall not be used as a form of sediment control unless used in conjunction with another structural control such as silt fencing. Straw bales may be utilized for purposes of erosion control such as ditch checks.

8. Heavy equipment shall not be placed below the ordinary high water mark of any surface water, except when no other alternative is practicable.

9. Temporary fill for purposes of access or staging shall consist of suitable non-erodible material and shall be maintained to minimize erosion.

10. Chromated copper arsenate (CCA) and creosote treated lumber shall not be used in structures that come into contact with waters of the state.

11. All dewatering activities must be conducted in such a manner that does NOT result in a violation of water quality standards.

12. All areas of final grade must be protected from erosion within seven days. All areas of final grade within 50 feet of a surface water of the state must be protected from erosion within two days.

13. All disturbed areas which remain dormant in excess of fourteen days must be protected from erosion within seven days from the last earth disturbing activity. All areas within 50 feet of a surface water of the state must be protected from erosion within two days.

14. In the event of authorized in-stream activities, provisions must be established to redirect the stream flow around or through active areas of construction in a stabilized, non-erosive manner to the maximum extent practicable.

C. MITIGATION

1. Compensatory mitigation is required for the discharge of dredged or fill material into wetlands for permanent impacts exceeding 0.10 acres.

2. Compensatory mitigation is required for the discharge of dredged or fill material into streams for permanent impacts exceeding 0.03 acres; except for maintenance activities involving the replacement of an existing structure not to exceed the existing footprint.

3. When required, compensatory mitigation for wetlands and streams shall be provided in accordance with chapters 3745-1-54 and 3745-32-04 of the Ohio Administrative Code.

4. When compensatory mitigation will be provided wholly or in part at a mitigation bank or through an in-lieu fee program, credit purchase shall only be authorized at those banks or in-lieu fee programs approved by the Interagency Review Team (IRT).

D. DIRECTOR'S AUTHORIZATION

In accordance with the procedures outlined in **Appendix A**, Ohio EPA may grant coverage under this certification for any project that does not meet one or more of the terms and conditions for eligibility of this certification. Coverage may be granted when Ohio EPA determines, consistent with the special limitations and conditions for each certification, and after considering comments received on the requested director's authorization, that a project will have such a minimal impact on water quality that an individual 401 WQC is not necessary provided all other terms and conditions of this

certification have been met. If a Director's authorization is not granted, an individual 401 WQC must be obtained. In no case may a Director's authorization issued under this certification exceed an impact threshold authorized by the Corps' Regional General Permit.

E. Notifications to Ohio EPA

1. For any activity proposed to be authorized under RGP Sections A, B, C, and D, when a PCN is not required by the Corps, notification to Ohio EPA is required for impacts to the following resources:

    a. category 3 wetlands;

    b. ≥0.10 acres of wetland;

    c. permanent impacts to >0.03 acres of stream.

2. Notifications required by E.1 should be submitted using the Ohio EPA 401 Pre-application Request Form and contain all information required by **Appendix B**, as well as a description of the proposed impacts including project design details.

3. When notification to Ohio EPA is required by condition E.1 above, the applicant shall not begin the activity until either:

    a. They are notified in writing by Ohio EPA that the activity may proceed under the 401 WQC for the NWP; or

    b. 45 calendar days have passed from Ohio EPA's receipt of the notification and the applicant has not received written notice from Ohio EPA that additional information is necessary or that an individual 401 WQC is required.

F. MISCELLANEOUS

1. RGP sections cannot be combined to increase any of the special or general limitations and conditions of this certification.

2. Any waiver granted by the district engineer that does not meet the 401 conditions listed in this certification will require individual state water quality certification from Ohio EPA.

3. Authorization under this certification does not relieve the permittee from the responsibility of obtaining any other federal, state or local permits, approvals or authorizations.

4. For purposes of this certification the Corps' definition of single and complete project shall be applied to all conditions regarding impacts, mitigation, and director's authorizations.

5. For purposes of this certification temporary impact means temporary activities, lasting no longer than 2 years, which facilitate the nature of the activity or aid in the access, staging, or development of construction that are short term in nature and which are expected, upon removal of the temporary impact, to result in the surface water returning to conditions which support pre-impact biological function with minimal or no human intervention within 12 months following the completion of the temporary impact. Examples of temporary impacts include, but are not limited to access roads, work pads, staging areas, and stream crossings, including utility corridors. Activities that result in a wetland conversion (e.g. forested to non-forested) are not considered temporary impacts.

    a. Restoration of temporary impacts to streams requires returning the stream to pre-impact flow-regime, contours, and substrate composition. The stream channel shall be stable, without signs of erosion, and the physical stream habitat, as measured prior to impact, shall be restored.

6. In the event that the issuance of an RGP by the Corps requires individual state water quality certification for an activity that constitutes an emergency as defined in 33 CFR 325.2(e)(4), the limitation and/or condition requiring the individual water quality certification is not applicable and the project may proceed upon approval by the Corps provided all other terms of this certification, including mitigation, have been met.

7. Representatives from Ohio EPA, Division of Surface Water will be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this certification. This includes, but is not limited to, access to and copies of any records

that must be kept under the conditions of this certification; and authorization to sample and/or monitor any discharge activity or mitigation site. Ohio EPA will make a reasonable attempt to notify the applicant of its intention to inspect the site in advance of that inspection.

8. Impacts as referenced in this certification consist of waters of the United States, that are also waters of the state, directly impacted by the placement of fill or dredged material.

9. An applicant proposing to impact a stream that does not have an aquatic life use designation pursuant to Admin. Code Chapter 3745-1 shall perform a qualitative assessment of the physical, and if necessary biological, characteristics of the stream necessary to determine its existing use to demonstrate eligibility for coverage under the specific Ohio certification requested.

10. In accordance with the procedures outlined in **Appendix B**, and where specifically required in the special limitations and conditions of this certification, an applicant proposing to impact a wetland shall perform a wetland characterization analysis consistent with the Ohio Rapid Assessment Method (ORAM) to demonstrate wetland category for all projects.

11. If recommended in comments received from the United States Fish and Wildlife Service (USFWS) or the Ohio Department of Natural Resources (ODNR), a mussel survey and relocation shall be performed by a professional malacologist with the appropriate state or federal permit from the ODNR and USFWS prior to the discharge of fill material into streams.

PART TWO: SPECIAL LIMITATIONS AND CONDITIONS FOR THE ODOT RGP

A. Section A (Linear transportation projects)

1. Ohio state certification general limitations and conditions apply to this RGP section.

2. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.

3. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

4. Individual state water quality certification is required for use of this RGP section when temporary or permanent impacts are proposed on or in the following waters:

   a. category 1 and category 2 wetlands when impacts exceed 0.5 acres per crossing;

   b. streams that meet or have an aquatic life use designation of exceptional warmwater habitat, cold water habitat or seasonal salmonid;

   c. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   d. state wild and scenic rivers when impacts exceed 300 linear feet;

   e. national wild and scenic rivers when impacts exceed 300 linear feet; and

   f. general high quality water bodies which harbor federally and state listed threatened or endangered aquatic species unless the project has been coordinated with and approved by the USFWS and ODNR.

5. Individual 401 WQC is required for temporary or permanent impacts to category 3 wetlands that exceed 0.1 acres. Impacts to category 3 wetlands are only allowable for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need. Ohio EPA will make the determination if a project meets public need during the ORAM verification process.

B. Section B (Maintenance)

1. Ohio state certification general limitations and conditions apply to this RGP section.

2. Individual 401 WQC is required for temporary or permanent impacts to category 3 wetlands that exceed 0.1 acres. Impacts to category 3 wetlands are only allowable for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need. Ohio EPA will make the determination if a project meets public need during the ORAM verification process.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to 0.5 acres.

4. This certification does not authorize the replacement of existing structures that are open to the flow of water with structures that are not open to the flow of water.

5. For an individual stream, while the repair or replacement of an existing culvert of any length is not limited by this certification, any culvert extension shall not exceed 300 linear feet.

6. Replacement vertical bulkheads shall not be placed more than one foot waterward of the ordinary high water mark of the water body. For vertical bulkheads on Lake Erie, toe stone shall be placed at the base of the vertical bulkhead except in areas where the original shoreline is composed of bedrock and slopes are predominantly greater than 75 percent or where the placement of toe stone will interfere with shipping activity. When required, toe stone shall be placed at an average rate of one-third the total height of the exposed face of the vertical bulkhead at a 2:1 slope.

7. Removal of accumulated sediment shall occur only once per year and shall be limited to low-flow conditions, except in cases of emergency situations that threaten life or property.

8. For projects which involve temporary impacts to wetlands: upon the cessation of earth moving activities, any hydric topsoil removed from a wetland shall be separated and saved for later placement as the topmost backfill layer when the wetland is restored to grade.

C. Section C (Bank Stabilization)

1. Ohio state certification general limitations and conditions apply to this regional general permit.

2. Individual 401 WQC is required for use of this regional general permit when temporary or permanent impacts are proposed on or in any of the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed 0.50 acres;

    c. streams that meet or have an aquatic life use designation of exceptional warmwater habitat, cold water habitat, or seasonal salmonid when impacts exceed either 300 linear feet or 0.03 acres;

d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers when impacts exceed 300 linear feet;

f. national wild and scenic rivers when impacts exceed 300 linear feet; and

g. general high quality water bodies which harbor federally and state listed threatened or endangered aquatic species unless the project has been coordinated with and approved by the USFWS and ODNR.

h. all other streams and lake shorelines when the activity exceeds 500 linear feet along the bank or shoreline.

3. Bioengineering techniques shall be utilized when practicable.

4. Material used for bank stabilization shall be free from toxic contaminants in other than trace quantities, free of exposed rebar, and free of asphalt, tires, and debris.

5. Material used for bank stabilization may consist of rock, stone, vegetative erosion control measures, broken concrete rubble, and clean soil.

6. Vertical bulkheads shall not be placed more than one foot waterward of the ordinary high water mark of the water body. For vertical bulkheads on Lake Erie, toe stone shall be placed at the base of the vertical bulkhead except in areas where the original shoreline is composed of bedrock and slopes are predominantly greater than 75 percent or where the placement of toe stone will interfere with shipping activity. When required, toe stone shall be placed at an average rate of one-third the total height of the exposed face of the vertical bulkhead at a 2:1 slope.

D. Section D (Aquatic Habitat Restoration, Enhancement, and Establishment Activities for Transportation-Related Projects)

1. Ohio state certification general limitations and conditions apply to this regional general permit.

2. Individual 401 WQC is required for use of this RGP when temporary or permanent impacts are proposed on or in any of the following waters:

a. category 3 wetlands in exceedance of 0.1 acres;

b. category 2 forested wetlands when impacts exceed 0.50 acres;

c. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water when impacts exceed 500 linear feet;

d. state wild and scenic rivers when impacts exceed 500 linear feet;

e. national wild and scenic rivers when impacts exceed 500 linear feet;

f. general high quality water bodies which harbor federally or state listed threatened or endangered aquatic species unless the project has been coordinated with and approved by the USFWS and ODNR;

g. streams that meet or have an aquatic life use designation of exceptional warmwater habitat, cold water habitat, or seasonal salmonid when impacts exceed 500 linear feet; and

h. all other stream or lake shorelines when impacts exceed 1000 linear feet.

3. Bank stabilization activities authorized under this regional general permit must utilize bioengineering techniques.

4. Material used for restoration shall be free from toxic contaminants in other than trace quantities, free of exposed rebar, and free of asphalt, tires, and debris.

You are hereby notified that this action of the director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the director's action. The appeal must be accompanied by a filing fee of $70.00, made payable to “Treasurer, State of Ohio," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General’s Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

Sincerely,

E-SIGNED by Anne Vogel
on 2024-12-10 15:26:33 EST

Anne M. Vogel
Director

ec: Peter Clingan, peter.m.cling@usace.army.mil, Department of the Army, Huntington District ORTO, Corps of Engineers
Brett Latta, brett.c.latta@usace.army.mil, Department of the Army, Huntington District ORTO, Corps of Engineers
Marci Faudree, marci.lininger@usace.army.mil, Department of the Army, Huntington District ORTO, Corps of Engineers
Teresa Spagna, teresa.d.spagna@usace.army.mil, Department of the Army, Huntington District, Corps of Engineers
U.S. EPA, Region 5, R5Wetlands@epa.gov
U.S. Fish & Wildlife Service, Ohio Ecological Services Field Office, Ohio@fws.gov
Mike Pettegrew, mike.pettegrew@dnr.ohio.gov, ODNR, Office of Real Estate
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J. Brent Glover, james.glover@epa.ohio.gov Ohio EPA, DSW, 401/Wetlands Mitigation Section
Jeff Boyles, Jeffrey.boyles@epa.ohio.gov, Ohio EPA 401/Wetlands Supervisor
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Mary McCarron, mary.mccarron@epa.ohio.gov, Ohio EPA, Communications and Outreach
Adrienne Earley, adrienne.earley@dot.ohio.gov, ODOT Waterway Permits Program Manager
Matt Perlik, matt.perlik@dot.ohio.gov, ODOT Assistant Environmental Administrator

Appendix A
Director's Authorization Process

1. To apply for a director's authorization for coverage under this certification, the applicant must provide to Ohio EPA the following:

    a. A completed Director's Authorization Request Form submitted through the Ohio EPA eBusiness center;

    b. A copy of the pre-construction notification submitted to the Corps including all attachments;

    c. A copy of the provisional RGP authorization letter issued by the Corps including all attachments and special conditions, if any;

    d. A copy of the mitigation plan as approved by the Corps, if applicable;

    e. A detailed description of the conditions within this certification that are not being met;

    f. A detailed description of any RGP terms and conditions, including impact limits that the Corps district engineer has waived for the project, if applicable;

    g. A rationale of how the applicant believes the project will minimally impact water quality for those impacts to resources that do not meet one or more of the terms and conditions within this certification, including reason(s) why the resources are unable to be avoided;

    h. Comments received from the Ohio Department of Natural Resources and United States Fish and Wildlife Service regarding threatened and endangered species or comments from an applicant that has been authorized by these entities to make threatened and endangered species determinations;

    i. A detailed description of how the project meets public need, as defined in OAC 3745-1-50, for impacts to category 3 wetlands;

    j. Documentation as required under Appendix B and General Condition F.9;

    k. Any other documentation as may be required under this certification.

2. Upon receipt of the director's authorization request containing items a. through k. outlined above, excluding item c., the Director will post the materials on the Ohio EPA, DSW webpage and invite public comment on the request for 15 days. The Director will review and consider the comments received during the public comment period before making a decision on the Director's authorization.

Appendix B
Ohio EPA Wetland and Stream Notification

1. ORAM Verification Process for Wetlands. The ORAM results shall be included with the pre-construction notification (PCN)or notification to Ohio EPA if a PCN is not required by the Corps. For each wetland proposed for impact the applicant must provide the following information for review in accordance with the ORAM verification procedure:

    a. Complete ORAM forms prepared in accordance with the current ORAM manual;

    b. Wetland delineation prepared in accordance with the current method required by the Corps;

    c. A minimum of four high resolution color photographs taken while facing each of the four cardinal directions of each wetland proposed for impact. Photographs must accurately depict the quality of the wetland and may not include a majority of dying or dead vegetation or excessive cover due to seasonal conditions that vegetation and substrates cannot be observed, such as leaf litter, snow, or ice. Photographs deemed to be insufficient of representing the wetland will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the wetland name, direction, and date;

    d. USGS topographical map, National Wetlands Inventory map, Soil Survey map and aerial images (both historical and current) which clearly outline the entire wetland boundary;

    e. Coordination letter from the Ohio Department of Natural Resources (ODNR), Natural Heritage Database indicating the presence or absence of state listed threatened or endangered species or comments from an applicant that has been authorized by ODNR to make threatened and endangered species determinations; and

    f. A detailed description of how the project meets public need, as defined in OAC 3745-1-50, for impacts to category 3 wetlands.

2. Notification Process for Streams. When a PCN is not required for impacts to streams >0.03 acres, the following information must be provided to Ohio EPA in accordance with the General Condition E, Notifications to Ohio EPA:

    a. Complete Qualitative Assessment Habitat Evaluation Index (QHEI) or Headwater Habitat Evaluation Index (HHEI) prepared in accordance with the current manuals;

b. A specific and detailed mitigation plan, if applicable;

c. A minimum of three high resolution color photographs taken of the proposed impact area, including one facing upstream, one facing downstream, and a close up which clearly depicts the substrate composition and size for each stream proposed for impact. Photographs must accurately depict the quality of the stream and may not include excessive cover due to seasonal conditions that substrates cannot be observed such as snow or ice. Photographs deemed to be insufficient of representing the stream will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the stream name, direction, and date.

Appendix C
40 C.F.R. § 121.7 Citations and Justifications

PART ONE: GENERAL LIMITATIONS AND CONDITIONS FOR THE ODOT RGP

A. Culverts

This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.6. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B. Best Management Practices

B.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.6. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.7. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.8. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.9. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.10. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.11. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.12. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.13. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.14. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C. Mitigation

C.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D. Director’s Authorization

This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

E. Notification to Ohio EPA

E.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

E.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

E.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F. Miscellaneous

F.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.6. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.7. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.8. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.9. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.10. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

F.11. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

PART TWO: SPECIAL LIMITATIONS AND CONDITIONS FOR THE ODOT RGP

A. Section A (Linear transportation projects)

A.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

A.4.a. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

A.4.b. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

A.4.c. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

A.4.d. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

A.4.e. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

A.4.f. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

A.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

B. Section B (Maintenance)

B.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

B.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

B.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.6. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.7. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

B.8. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C. Section C (Bank Stabilization)

C.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.2.a. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

C.2.b. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

C.2.c. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

C.2.d. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

C.2.e. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

C.2.f. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

C.2.g. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

C.2.h. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.5. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

C.6. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D. Section D (Aquatic Habitat Restoration, Enhancement, and Establishment Activities for Transportation-Related Projects)

D.1. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D.2. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D.2.a. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

D.2.b. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, and OAC 3745-1-54

D.2.c. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

D.2.d. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

D.2.e. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

D.2.f. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D.2.g. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, and Section 303 of the Clean Water Act

D.2.h. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D.3. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

D.4. This condition is authorized by OAC 3745-32-03(M)(2) and is necessary to comply with water quality requirements per OAC 3745-1-04, OAC 3745-1-05, OAC 3745-1-07, OAC 3745-1-51, OAC 3745-1-54, and Section 303 of the Clean Water Act

Ohio EPA has developed a customer service survey to get feedback from regulated entities that have contacted Ohio EPA for regulatory assistance, or worked with the Agency to obtain a permit, license or other authorization. Ohio EPA's goal is to provide our customers with the best possible customer service, and your feedback is important to us in meeting this goal. Please take a few minutes to complete this survey and share your experience with us at http://www.surveymonkey.com/s/ohioepacustomersurvey