

**U.S. Army Corps
Of Engineers**
Norfolk District

Fort Norfolk, 803 Front Street
Norfolk, Virginia 23510-1096

**CENAO-REG
13-RP-17**

REGIONAL PERMIT

Effective Date: August 14, 2013

Expiration Date: August 14, 2018

I. AUTHORITIES:

13-RP-17, Regional Permit 17 (RP), authorizes the installation and/or construction of open-pile piers, mooring structures/devices, certain covered boat houses, boat lifts, accessory pier structures, osprey poles/ platforms, and devices associated with shellfish gardening, for private use, subject to strict compliance with all conditions and limitations further set out herein.

The intent of this RP is to allow open-pile structures to be built in locations that would not individually or cumulatively impact general navigation. For the purpose of this RP, private use is defined as non-commercial, residential use only and does not include community or government structures (e.g. structures to be used by the residents of a condominium complex, members of a specific homeowners association, commercial piers, military piers, etc.).

The people of the Commonwealth of Virginia are hereby authorized by the Secretary of the Army and the Chief of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) to install and/or construct open-pile piers, mooring structures/devices, certain covered boat houses, boat lifts, accessory pier structures, osprey poles/ platforms, and devices associated with shellfish gardening, for private use in certain navigable waters of the United States within the Commonwealth of Virginia, as conditioned, limited, and set out more fully herein.

Activities authorized under this RP do not require further authorization unless the District Engineer determines that overriding national factors of the public interest would require an individual permit (in accordance with 33 CFR Part 325) for a particular project that might generally qualify for this RP **OR** if notification to the Corps is required per the “Section V: NOTIFICATION REQUIREMENTS” listed below.

This RP covers only those activities that comply with the general and special conditions set out below. Activities that do not comply with the conditions, terms, and limitations herein do not qualify for this RP and will require written Department of the Army authorization

II. STATE AND LOCAL APPROVALS:

1. Prospective permittees may be required to obtain additional state and/or local approvals prior to commencement of work in waters of the United States from the Virginia Marine Resources Commission (VMRC) and/or the local wetlands board. You may contact the VMRC at (757) 247-2200 and/or your local government office for further information concerning their permit requirements.
2. The State Water Control Board provided unconditional §401 Water Quality Certification for the 13-RP-17. Therefore, the activities that qualify for this RP meet the requirements of Department of Environmental Quality's (DEQ) Virginia Water Protection Permit Regulation, provided that the permittee abides by the terms and conditions of 13-RP-17.
3. Those activities on the Potomac River extending beyond the mean low water line may require authorization by the Virginia Marine Resources Commission (VMRC) and/or the Maryland Department of Natural Resources. Authorization may also be needed from the Tennessee Valley Authority for projects constructed on the Clinch and Holston Rivers.
4. Pursuant to the Coastal Zone Management Act (CZMA) of 1972, the Virginia Department of Environmental Quality Virginia Coastal Zone Management Program (VCP) completed its review of the Federal Consistency Determination (FCD) for this RP on May 10, 2013 and provided concurrence that this RP is consistent with the VCP.
5. Permittees should ensure that their projects are designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act ("the Act") (Virginia Code 10.1-2100 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 *et seq.*).
6. Authorizations under this RP do not supersede state or local government authority or responsibilities pursuant to the Chesapeake Bay Preservation Act, the Virginia Tidal Wetlands Act, or to any State or local laws or regulations.

III. PROCEDURES:

1. If a proposed project or work complies with all of the criteria and conditions described herein, then no other written authorization from the Corps is required in order to proceed with the installation and/or construction of open-pile piers, mooring structures/devices, certain covered boat houses, boat lifts, accessory pier structures, osprey poles/ platforms, and devices associated with shellfish gardening, for private use. The attached Certificate of Compliance must be completed and a copy must be retained for your records. The original Certificate of Compliance shall be mailed to: U. S. Army Corps of Engineers, Regulatory Branch (CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096 within 30 days of completion of the project. Assuming

your project meets all terms and conditions of this authorization, your signed certification serves as evidence that your project complies with the 13-RP-17.

2. You must notify the Corps' District Engineer, via the submission of a Joint Permit Application (JPA), and you must receive written notification from the Corps prior to commencing activity if any of the criteria listed in "Section V. NOTIFICATION REQUIREMENTS" are met.
3. This RP covers only those activities that comply with all criteria described in the general and special conditions contained in this announcement. This does not mean that activity outside the limits outlined in the RP cannot be performed; only that such activity is not authorized under this RP and must be approved and authorized by another general or individual permit. If a proposal does not meet the conditions of this RP, a JPA must be submitted to the Corps for review. This application can be obtained by writing to the District at the above address or telephoning (757) 201-7652. With internet access, an application may also be obtained by downloading a copy at the following link: <http://www.nao.usace.army.mil/Missions/Regulatory/JPA.aspx>

IV. PERMIT EXCLUSIONS:

The provisions of this RP **DO NOT** authorize:

1. Structures proposed channelward of the limit lines described in Special Condition #1.
2. Structures proposed that specify or require a mooring plan where moored vessels will extend channelward of the limit lines described in Special Condition #1.
3. Structures proposed outside the areas designated for this RP.
4. Construction where dredging and/or filling in the waterway is proposed as part of the project.
5. Piers intended for commercial or government use including marinas, marine railways, fueling facilities, and toilet facilities.
6. Construction in Broad Creek in Middlesex County, Fisherman's Cove in Norfolk, and the Salt Ponds in Hampton which were the subject of navigational studies which concluded that these waterways were not suitable for this RP.

V. NOTIFICATION REQUIREMENTS:

You must notify the Corps' District Engineer, via the submission of a Joint Permit Application, and receive written permission from the Corps prior to the commencement of the activity if any of the following criteria are met:

1. Notification is required if the proposed construction "may affect" any proposed or listed species or proposed or designated critical habitat or if an Eagle Act permit may be required. Applicants should utilize the Fish and Wildlife Service's Virginia Online Project Review Process to ensure the project will have no effect on threatened or endangered species or their habitat. Applicants can access the on-line project review

process at

http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews.html.

2. Notification is required if work will occur in areas that contain submerged aquatic vegetation (SAV). Information about SAV can be found at the Virginia Institute of Marine Science's website at <http://www.vims.edu/bio/sav/maps>. Additional avoidance and minimization measures, such as relocating a structure, time of year restrictions, compensatory mitigation, etc. may be required by the Corps to reduce impacts to SAV.
3. Notification is required for activities occurring in the following two categories of Designated Trout Waters: Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters), as defined by the Virginia State Water Control Board Regulations, Water Quality Standards (VR-680-21-00), dated January 1, 1991, or the most recently updated publication. The Virginia Department of Game and Inland Fisheries (VDGIF) designated these same trout streams into six classes. Classes I-IV are considered wild trout streams. Classes V and VI are considered stockable trout streams. Information on designated trout streams can be obtained via their Virginia Fish and Wildlife Information Service's (VAFWIS's) Cold Water Stream Survey database.

The waters, occurring specifically within the mountains of Virginia, are within the following river basins:

1. Potomac-Shenandoah
2. James
3. Roanoke
4. New
5. Tennessee and Big Sandy
6. Rappahannock

This notification requirement applies to all waters of the United States within the following counties and cities: Albemarle, Allegheny, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Bristol, Buchanan, Buena Vista, Carroll, Clarke, Covington, Craig, Dickenson, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Loudoun, Madison, Montgomery, Nelson, Page, Patrick, Pulaski, Rappahannock, Roanoke City, Roanoke Co., Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Staunton, Tazewell, Warren, Washington, Waynesboro, Wise, and Wythe.

4. Notification is required for the construction of a private pier and associated structures in native trout waters and/or anadromous fish use areas. Construction will be conditioned to limit in-stream work within timeframes recommended by the DGIF and/or NOAA Fisheries. Coordination with DGIF and/or NOAA Fisheries Service will be conducted by the Corps. The applicant shall not begin work until notification is received that all coordination has been completed and/or the Corps has provided the applicant with the appropriate time of year restrictions regarding work in native trout waters or anadromous fish use areas.

5. Notification is required if the proposed construction of piers & placing of mooring piles occurs in the following waterways, which have Federal Navigation Channels:
 - a. Lower North Landing River from Blackwater Creek to the North Carolina State Line (Atlantic Intracoastal Waterway).
 - b. Hampton Roads (Channel to Newport News, Norfolk Harbor and anchorages).
 - c. Chincoteague Channel and Inlet.
 - d. The Elizabeth River, the Eastern Branch of the Elizabeth River to the Norfolk and Western Railroad Bridge, the Southern Branch of the Elizabeth River to a point 0.8 miles upstream of the I-64 Bridge, and the Western Branch of the Elizabeth River to a point 0.34 miles upstream of the West Norfolk Bridge.
 - e. The James River from Richmond to Hopewell and including Richmond Harbor and the Richmond Deepwater Terminal.
 - f. Little River (Creek) except the Northwest Branch and Pretty Lake.
 - g. Norfolk Harbor Channel, all reaches.
 - h. The York River from the Poropotank River to the Virginia Highway 33 Bridge at West Point.

Maps showing the locations of these projects can be viewed at:

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

6. Notification is required if the construction of a pier will be within a waterway containing a Federal Navigation Channel and the required 85-foot setback cannot be met. Written authorization will be given, if appropriate, after coordination with the Norfolk District Corps of Engineers Operations Branch has been completed. Maps showing the locations of these projects can be viewed at:
<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx>.
7. Notification is required if the construction of a pier will be within a Corps of Engineer Flood Control/Flood Risk Management Project. Maps showing the locations of these projects can be viewed at:
<http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx>.
8. Notification is required for the construction of a structure along the portion of the Upper New River from Glen Lyn, Virginia to the West Virginia/Virginia state line, which has been designated a “study river” by Congress on October 26, 1992. 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.

VI. SPECIAL CONDITIONS:

1. Piers may not extend more than one-fourth of the distance across the waterway measured from either the mean high water mark to the mean high water mark (including all channelward wetlands) or the ordinary high water mark to the ordinary high water mark (including all channelward wetlands). The measurement should be based on the narrowest distance across the waterway regardless of the orientation of the proposed pier. Authorizing this encroachment assumes that the deep water is located in the center of the waterway. When this is not the case, the RP will not apply, and the proponent needs to submit a JPA and obtain a separate permit from the Corps before commencing work. Those proposed piers that will extend more than 300 feet from mean high water or ordinary high water will not qualify for this RP, and the proponent must submit a JPA.
2. A pier may be constructed in and over wetland areas to allow access. Such piers shall be attached to the upland at a point landward of mean high water. Mooring piles will be permitted in wetland areas for the purpose of boat mooring only if sufficient water depths exist to float the vessel during periods of low water without alteration of the wetland. All piers that cross wetland vegetation shall be an open-pile design, up to five (5) feet wide and have minimum elevation of at least four (4) feet between the decking and the wetlands substrate. The required 4-foot elevation must be achieved at or above the mean high water mark or ordinary high water mark.
3. Subject to any applicable local ordinances, the proposed pier may include no more than two (2) boat lifts, no more than two (2) boat slips, and/or an open-sided roof designed to provide shelter of the pier or boat lifts with a maximum cumulative area of 700 square feet. In cases where such roofs exceed 700 square feet or the number of cumulative boat slips exceeds two, the Corps' 13-RP-18 will be used in lieu of this permit. This permit does not authorize the construction of closed-sided boathouses or other habitable structures.
4. Floatation units will be made of materials that will not become waterlogged or sink if punctured. Floating sections must be braced so they will not rest on the bottom during periods of low water.
5. The remainder of the waterways, not listed in #5 of the "Notification Requirement" section above, containing Corps Federal Project Channels in Virginia (managed by the Corps except for those in the Potomac River Watershed which are managed by the Baltimore District) will require an 85-foot setback from the permitted structure to the toe of the slope of the federally maintained channel unless otherwise noted. A copy of the appropriate Federal Project Channel map can be obtained by writing to the Regulatory Branch at the address on the first page of this RP. Also included are channels maintained by other federal agencies in Skiffes Creek adjacent to Fort Eustis, the James River adjacent to the Maritime Administration, and Back Creek adjacent to Langley Air Force Base. If the 85-foot setback cannot be met, notification to the Corps will be required and written authorization will be given, if appropriate, after

coordination with the Norfolk District Corps of Engineers Operations Branch has been completed.

6. A proponent (permittee or applicant) of work proposed in portions of the following waterways may require an easement to be obtained from the Corps Real Estate Branch to cross government property before any construction can take place:
 - a. James River
 - b. Lynnhaven Inlet and Long Creek
 - c. All Local Cooperation Agreement areas
 - d. Dismal Swamp Canal
 - e. Albemarle and Chesapeake Canal
 - f. Appomattox River
 - g. Atlantic Intracoastal Waterway.
 - h. Craney Island
 - i. Gathright Dam

For further information regarding the government easements, please contact the Norfolk District's Real Estate Office at the address on the first page of this RP or at (757) 201-7735.

7. By accepting this RP, the permittee hereby recognizes the possibility that the structures permitted herein may be subject to damage by waves caused from passing vessels. This RP does not relieve the permittee from taking all proper steps to ensure the integrity of the structures permitted herein and the safety of boats moored thereto from damage from waves. The permittee hereby acknowledges, agrees and admits that the United States is not liable in any way for such damage and that it shall not seek to hold the U.S. liable or involve the U.S. in any actions or claims regarding such damage.
8. All structures will be of suitable materials and practical design so as to reasonably ensure a safe and sound structure.
9. A permit for a certain structure or activity does not imply that future dredging proposals will be approved.
10. The proposed structure(s) (including any moored vessels) should be located on the property in accordance with the local zoning requirements.
11. Devices used for shellfish gardening shall be attached directly to a pier and limited to a total of 160 square feet. Property owners will ensure they are in compliance with the Virginia Marine Resource Commission's Regional permit for shell fish gardening and the applicable Special and General conditions of this permit.
12. If the display of lights and signals on the structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained at the expense of the permittee. The USCG may be reached at the following address and telephone number:

Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704-5004, telephone number (757) 398-6230.

13. If and when the permittee desires to abandon the authorized activity he or she must restore the area to a condition and must obtain written notice from the District Engineer that such restoration is satisfactory to the District Engineer, unless the permittee is transferring his or her interest to a third party. See general condition number 42.
14. The Secretary of the Army or his/her authorized representative may direct the permittee to restore the waterway to its former condition, with no expense to the United States. If the permittee fails to comply with the directive, the Secretary or his/her representative may restore the area to its former condition, by contract or otherwise, and may obtain reimbursement of the cost thereof from the permittee.
15. No activity may cause more than a minimal adverse effect on an adjacent property owner's right of access to navigable waters.
16. Any structure authorized shall be properly maintained, including maintenance to ensure public safety.

VI. GENERAL CONDITIONS:

The following conditions apply to all activities authorized under Regional General Permits (RP).

1. **Geographic jurisdiction.** This regional permit will authorize work undertaken within the geographical limits of the Commonwealth of Virginia under the regulatory jurisdiction of the U.S. Army Corps of Engineers (Corps).
2. **Compliance Certification.** A Certificate of Compliance must be completed and a copy retained for your records. The original Certificate of Compliance shall be mailed to, U. S. Army Corps of Engineers, Regulatory Branch, 803 Front Street, Norfolk, Virginia 23510-1096 within 30 days of completion of the project.
3. **Other permits.** Authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, state, or local laws.
4. **Minimal effects.** Projects authorized shall have no more than minimal individual or cumulative adverse environmental impacts, as determined by the Corps.
5. **Discretionary authority.** The Norfolk District Corps of Engineers District Engineer retains discretionary authority to require processing of an individual permit based on concerns for the aquatic environment or for any other factor of the public interest (33 CFR Part 320.4(a)). This authority is exercised on a case-by-case basis.
6. **Single and complete projects.** This RP shall only be applied to single and complete projects. A single and complete project means the total project proposed or accomplished by one owner/developer or partnership and which has independent utility. For linear transportation projects with multiple crossings or encroachments a determination of "single and complete" will typically apply to each crossing of waters that occurs (i.e., single waterbody and/or wetlands) at separate and distinct locations and with independent

utility. However, in cases where there are many crossings in close proximity, numerous crossings of the same waterbody, multiple crossings, or multiple encroachments that otherwise may have more than minimal individual or cumulative impacts; the Corps has the discretion to consider all the crossings cumulatively as one single and complete project.

7. **Independent Utility** 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 single and complete projects with independent utility.
8. **Multiple general permit authorizations.** This Regional Permit may be combined with any Corps general permits (including Nationwide (NWP) or Regional Permits (RP) for a single and complete project, as long as the impacts are considered cumulatively and do not exceed the acreage limit or linear foot limits of the RP/ NWP.
9. **Permit on-site.** The permittee shall ensure that a copy of the RP and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any general permit authorization.

General Conditions Related to National Concerns:

10. **Historic properties.** (a) In cases where it is determined that the activity may affect properties listed, or eligible for listing on the National Register of Historic Places, the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements. The Corps will review the documentation and determine whether it is sufficient to address Section 106 compliance for the RP activity, or whether additional Section 106 consultation is necessary. (c) Non-federal permittees must submit a statement to the Corps regarding the authorized activity's potential to cause effects to any historic properties listed, or determined to be eligible for listing on the National Register of Historic Places, including previously unidentified properties. The statement must say which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location or potential for the presence of historic resources can be sought from the Virginia Department of Historic Resources (VDHR) (<http://www.dhr.virginia.gov/>) or Tribal Historic Preservation Officer (THPO), as appropriate, and the National Register of Historic Places. Where an applicant has identified historic properties which the proposed activity may have the potential to affect, the applicant shall not begin the activity until notified by the Corps that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) Prospective permittees should be aware that Section 110(k) of the NHPA

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

11. **Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural, or archaeological remains and artifacts while accomplishing activity authorized by this permit, you must immediately stop work and notify the Corps of what has been found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
12. **Tribal rights.** No activity authorized may impair reserved tribal rights, including, but not limited to, reserved water rights, treaty fishing, and hunting rights.
13. **Federal Lands.** Authorized activities shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Park, or any other area administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service unless approval from the applicable land management agency is provided with the permit application.
14. **Endangered species.** (a) No activity is authorized under any RP which is likely to 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 destroy or adversely modify the critical habitat of such species. No activity is authorized under any RP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed; (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees shall notify the District Engineer if any proposed or listed species or proposed or designated critical habitat may be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location proposed/listed species and proposed/designated critical habitat can be obtained directly from the U.S. Fish and Wildlife (USFWS) online project review process at http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews.html and/or the

NOAA Fisheries Service Protected Resources Division (NOAA PRD), at 55 Great Republic Drive, Gloucester, MA 01930 or via telephone at (978) 281-9328, email: <http://www.nero.noaa.gov/protected/index.html>. Notification must include the name(s) of the proposed or listed species and/or proposed or designated critical habitat that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The District Engineer will determine whether the proposed activity "may affect" or will have "no effect" to proposed or listed species or proposed or designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete notification. In cases where the non-Federal applicant has identified proposed or listed species or proposed or designated critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activities will have "no effect" on proposed or listed species or proposed or designated critical habitat, or until Section 7 consultation has been completed. (d) As a result of formal or informal consultation with the USFWS or NOAA PRD the District Engineer may add species-specific regional endangered species conditions to the RP. (e) Authorization of an activity by a RP 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 or NOAA PRD, both lethal and non-lethal "take" of protected species are in violation of the ESA.

15. **Essential Fish Habitat.** The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-297; 11 October 1996), requires all Federal agencies to consult with the NOAA Fisheries Service Habitat Conservation Division (NOAA HCD) on all actions, or proposed actions, authorized, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). The EFH Designations within the Northeast Region (Maine to Virginia), dated March 1, 1999, has identified EFH for a number of species and their life stages within Virginia waters. If EFH consultation is required with NOAA HCD, the applicant shall not begin work until the Corps has provided notification that the EFH consultation has concluded.
16. **Migratory Birds and Bald and Golden Eagle Protection Act.** The bald eagle (*Haliaeetus leucocephalus*) is no longer a federally listed threatened or endangered species; therefore, the Endangered Species Act provisions are not applicable to this species. The Bald and Golden Eagle Protection Act (BGEPA) does not require that a federal agency involved in permitting the proposed action conduct coordination. The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the BGEPA. The applicant should either obtain "take" permit or a letter of concurrence from USFWS indicating that a permit is not necessary prior to initiating construction activities. You should contact USFWS concerning this matter at U.S. Fish and Wildlife Service, Virginia Field Office, ATTN: Kim Smith, 6669 Short Lane, Gloucester, VA 23061. Information on active bald eagle nests and concentration areas can be obtained in Step 6 of the U.S. Fish and Wildlife Service's online project review system available at: http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews_Introduction.html.

17. **Wild and Scenic Rivers.** Currently, there are no designated Wild and Scenic Rivers in the Commonwealth of Virginia; however, the portion of the Upper New River from Glen Lyn, Virginia to the West Virginia/Virginia state line was designated a “study river” by Congress on October 26, 1992. 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 in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Impacts that occur in these resource areas will require coordination with the appropriate Federal agency.
18. **Federal navigation project.** Authorized activities may not interfere with any existing or proposed Federal navigation projects.
19. **Navigation.** (a) No authorized activity may cause more than a minimal adverse effect on navigation. (b) The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
20. **Floodplains.** All practicable efforts shall be made to conduct the work authorized by this RP in a manner so as to avoid any adverse impact on the Federal Emergency Management Agency (FEMA) designated 100-year floodplain.
21. **Real estate.** Activities authorized under this RP do not grant any Corps or Federal real estate rights. If real estate rights are needed from the Corps, you must contact the Corps Real Estate Office at (757) 201-7735 or at the address listed on the front page of this permit.
22. **Environmental Justice.** Activities authorized under this RP must comply with Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”.
23. **Federal liability.** In issuing this RP, the Federal government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this RP; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

General Conditions Related to Minimizing Environmental Impacts:

24. **Avoidance and minimization.** Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.(40 CFR Part 230.10(a) Section 404 (b)(1) Guidelines).
25. **Mitigation.** Mitigation in all its forms (avoiding, minimizing, or compensating for resource losses) may be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site)."
26. **Heavy equipment in wetlands.** Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance.
27. **Temporary fills.** All temporarily disturbed waters and wetlands must be restored to preconstruction contours within 6 months of commencing the temporary impact's construction. Impacts that will not be restored within 6 months (calculated from the start of the temporary impacts construction) will be considered permanent unless otherwise approved by the RP. Following restoration of contours, the soil in wetlands must be mechanically loosened to a depth of 12 inches, and the wetlands must then be seeded or sprigged with appropriate native wetland vegetation.
28. **Sedimentation and erosion control.** Appropriate erosion and sediment controls must be employed 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.
29. **Aquatic life movements.** No authorized activities may substantially disrupt the necessary life cycle movements of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water. The Corps has determined that fish and wildlife are most often present in any stream being crossed, in the absence of evidence to the contrary. All permanent and temporary crossings of water bodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. This includes providing invert elevations of culverts at or below the streambed to ensure unrestricted passage of aquatic organisms, where possible.
30. **Discharge of pollutants.** All authorized activities involving any discharge of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. § 1251 *et seq.*) and applicable state and local laws. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.
31. **Obstruction of high flows.** Discharges of dredged or fill material must not permanently restrict or impede the passage of normal or expected high flows.
32. **Waterbird breeding areas.** Discharges of dredged or fill material into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

33. **Native trout and anadromous fishes.** Authorizations for discharges of dredged or fill material into native trout waters or anadromous fish use areas will be conditioned to limit in-stream work within timeframes recommended by the DGIF and/or NOAA Fisheries Service. Coordination with DGIF and/or NOAA Fisheries Service will be conducted by the Corps. The applicant shall not begin work until notification is received that all coordination has been completed and/or the Corps has provided the applicant with the appropriate time of year restrictions regarding work in native trout waters or anadromous fish use areas.
34. **Water supply intakes.** No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for adjacent bank stabilization and/or the Corps has provided specific authorization under this permit.

General Procedural Conditions:

35. **Inspections.** A copy of this permit and any verification letter must be provided to the contractor and made available at the project site to any regulatory representative. The permittee understands and agrees that the Corps are permitted and allowed to make periodic inspections at any time the Corps deems necessary in order to assure that the activities being performed under authority of this permit are in accordance with the terms and conditions prescribed herein. The Corps reserves the right to require post-construction engineering drawings and/or surveys of any work authorized under this RP, as deemed necessary on a case-by-case basis.
36. **Maintenance.** The permittee shall maintain the work authorized herein in good condition and in conformance with all terms and conditions of this permit. All fills shall be properly maintained to ensure public safety.
37. **Property rights.** This General Permit does not convey any property rights, either in real estate or material, or convey any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.
38. **Modification, suspension, and revocation.** This RP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR Part 325.7. Any such action shall not be the basis for any claim for damages against the United States.
39. **Restoration directive.** The permittee, upon receipt of a restoration directive, shall restore the waters of the United States to their former conditions without expense to the United States and as directed by the Secretary of the Army or his/her authorized representative. If the permittee fails to comply with such a directive, the Secretary or his/her designee, may restore the waters of the United States to their former conditions, by contract or otherwise, and recover the cost from the permittee.
40. **Special conditions.** The Corps may impose other special conditions on a project authorized pursuant to this RP that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all general conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.

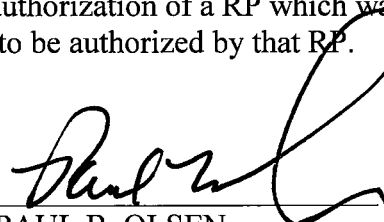
41. **False or incomplete information.** In granting authorization pursuant to this permit, the Corps has relied upon information and data provided by the permittee. If, subsequent to notification by the Corps that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the authorization may be suspended or revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.
42. **Abandonment.** If the permittee decides to abandon the activity authorized under this RP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Corps.
43. **Transfer of authorization.** In order to transfer authorization under this RP, the transferee or permittee must supply the Corps with a written and signed, by all appropriate parties, request to make such a transfer. Such transfer is not effective until written approval has been granted by the Corps.
44. **Binding effect.** The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original permittee.

General Conditions Regarding Duration of Authorizations, Time Extensions for Authorizations, and Permit Expiration:

45. **Duration of Activity's Authorization.** Activities authorized under 13-RP-17 must be completed by August 14, 2018. If this RP is reissued at that time, and if this work has not been started or completed, but the project continues to meet the terms and conditions of the revalidated RP, then the project will continue to be authorized. The Corps will issue a special public notice announcing any changes to the Regional Permits when they occur; however, it is incumbent upon you to remain informed of changes to the RPs. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this RP that do not meet the terms and conditions of the revalidated RP will remain authorized provided the activity is completed within twelve months of the date of this RP's expiration (i.e. August 14, 2019), unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR Part 325.7(a-e). If work cannot be completed by August 14, 2019, you must reapply for separate permit authorization in order to meet current permit criteria.
46. **Expiration of 13-RGP-17.** Unless further modified, suspended, or revoked, this general permit will be in effect until August 14, 2018. Upon expiration, it may be considered for revalidation. Activities completed under the authorization of a RP which was in effect at the time the activity was completed continue to be authorized by that RP.

AUG 13 2013

Date



PAUL B. OLSEN
Colonel, Corps of Engineers
Commanding