17-SPGP-01 STANDARD OPERATING PROCEDURES

I. PURPOSE

17-SPGP-01 authorizes the discharge of dredged or fill material in nontidal waters of the United States, including wetlands, associated with certain residential, commercial, and institutional developments and linear transportation projects within the geographical limits of the Commonwealth of Virginia and under the regulatory jurisdiction of the US Army Corps of Engineers - Norfolk District (Corps). These projects must have minimal individual and cumulative impacts and meet the terms and conditions outlined herein.

The use of 17-SPGP-01 shall be restricted to those projects that have avoided and minimized impacts to waters of the United States, including wetlands, to the maximum extent practicable. The Clean Water Act (CWA) Section 404(b)(1) guidelines state that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

The intent of this permit is to authorize residential, commercial and institutional developments, linear transportation and their associated infrastructure. Small standalone projects (such as utilities, substations, regional stormwater management, single family homes or single family home attendant features) that are not associated with a proposed larger-scale development project are not authorized by 17-SPGP-01.

II. PROCEDURES

A. Confirmation of delineations:

Prior to the submission of a permit application for 17-SPGP-01, and any subsequent modifications, a proponent must obtain a:

1) Corps confirmed delineation (Preliminary JD) that is approved for use with a permit application
   OR
2) Corps confirmed jurisdictional determination (Approved JD)

The confirmed delineation/determination must include the limits of all waters, including wetlands and open waters that are located within the project boundaries.

B. Preapplication Consultations:

Upon receipt of a preapplication meeting request the receiving agency will notify the requestor that they must:

1) Request a joint meeting with the appropriate representative from the Corps and the VDEQ via email
   AND
2) Provide the following information prior to the preapplication meeting:
   a. a conceptual development plan
   b. a vicinity map with the project boundaries clearly identified
   c. all known permitting history, if applicable, including any Corps jurisdictional determination.

Both the Corps and VDEQ should be in attendance for all 17-SPGP-01 preapplication meetings unless they have specifically declined attendance for that project.

III. APPLICATION

A. **Complete application:**

1) A completed and signed Standard Joint Permit Application (JPA). The applicant must utilize the most recent version.
   http://www.nao.usace.army.mil/Missions/Regulatory/
   AND
2) A completed SPGP Complete Application Checklist form. The applicant must utilize the most recent version.
   AND
3) A Preliminary JD or an Approved JD.

The application package must be submitted to the Virginia Marine Resource Commission (VMRC) and clearly marked 17-SPGP-01 by checking the SPGP box at the top of the JPA. The VMRC will forward a copy of the application to the applicable VDEQ office. Once the VDEQ has deemed the application complete the VDEQ will forward the complete application to the appropriate federal agency when coordination is required.

Processing of the application will not commence until the project has been issued a VMRC project number and the appropriate VDEQ office has received a complete application. The required components of a complete application are listed in the SPGP Complete Application Checklist Form.

B. **Incomplete Application:**

1) The VDEQ is the state agency responsible for ensuring permit applications meet the informational and technical requirements of the 17-SPGP-01 and for issuance of 17-SPGP-01 verifications for qualifying

Residential, Commercial, and Institutional and Linear Transportation projects.

2) If the VDEQ determines the application is incomplete, the VDEQ will send the applicant a copy of the SPGP Complete Application Checklist with the missing items highlighted.
    - If the applicant does not respond within the 60 days the VDEQ will administratively withdraw the application and notify the applicant.

IV. COORDINATION PROCEDURES

- Processing and coordination of the application **will not** commence until the project has been issued a VMRC project number and the appropriate VDEQ office has received a complete application.
- The Corps project review timeframe begins when the Corps receives a complete application from the VDEQ.
- All federal agency responses to VDEQ coordination will be provided in writing via email or letter.
- The VDEQ should send all coordination concurrently using the same 17-SPGP Federal Coordination Form.
- The VDEQ must review avoidance and minimization and onsite alternatives for all projects regardless of impact totals.

A. RESIDENTIAL, COMMERCIAL, INSTITUTIONAL PROJECTS:

1) **Section 106 coordination:**

a. The VDEQ will send the Corps a completed 17-SPGP Federal Coordination Form and a copy of the JPA
b. The Corps will complete Section 106 review in accordance with internal procedures. The Corps PM will notify the VDEQ, within 15 calendar days, if coordination with SHPO and/or other agencies is required.
c. Upon completion of the Section 106 review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that Section 106 has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required
d. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
e. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received

notification in writing that the Section 106 process has been completed (regardless of the 15 day notification date)

2) **Section 408 coordination:**

a. The VDEQ will review the Norfolk District "RP-17 Corps Project Maps": http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx.
b. If the project does not intersect any Corps civil works projects then the VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
c. The VDEQ will send the Corps a completed 17-SPGP Federal Coordination Form and a copy of the JPA if any civil works project will be affected including the following:
    - The project is located within the boundaries of a Flood Risk Management project
    - The project is located within a waterway that contains a federal navigation channel
    - The project intersects an environmental restoration project.
d. The Corps will complete Section 408 review in accordance with internal procedures. The Corps PM will notify the VDEQ, within 15 calendar days, if additional internal coordination is required.
e. Upon completion of the Section 408 review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that Section 408 has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iv. provide the VDEQ with any special conditions, if required
f. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
g. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Section 408 process has been completed (regardless of the 15 day notification date)

3) **Section 7 - INFORMAL screening and coordination:**

a. The VDEQ will determine whether federally proposed/listed species or federally proposed/designated critical habitat may occur in the project's action area. The action area is defined by regulation (50 C.F.R. § 402.02) as all areas to be affected directly or indirectly by the

Federal action and not merely the immediate area involved in the action. For the purpose of the 17-SPGP-01 the VDEQ may utilize and coordinate the same action area that is used to meet the VDEQ state requirements.

b. The VDEQ will perform informal Section 7 coordination in accordance with the most current version of the "NAO ESA Project Review Process" document and will coordinate with the appropriate agencies using the 17-SPGP Federal Coordination Form.
c. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

4) **Section 7 FORMAL consultation (when applicable):**

a. The VDEQ will send the Corps:
    i. a completed 17-SPGP Federal Coordination Form
    ii. a copy of the JPA
    iii. the Official IPAC species list
    iv. a completed species conclusion table
    v. any previous correspondence with USFWS
b. The Corps will complete formal Section 7 consultation in accordance with internal procedures.
c. Upon completion of the Section 7 consultation, and any required coordination, the Corps will:
    i. notify the VDEQ PM that formal Section 7 consultation has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required
d. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
e. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Formal Section 7 process has been completed.

5) **Federal coordination:** for projects where permanent impacts

- exceed ½ acre of waters of the US, to include stream channel, wetlands and open waters

OR

- exceed 300 linear feet of stream channel

a. The VDEQ will send the Corps, EPA and USFWS a:
    i. completed 17-SPGP Federal Coordination Form
    ii. copy of the JPA
    iii. copy of any additional information requests sent to the applicant
b. Within 15 calendar days of receipt the Corps, EPA and USFWS will provide any comments or objections regarding the project to the VDEQ
    - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.
c. if any agency responds with comments or objections the VDEQ will request that the applicant provide a response to the agency comments
    - If the applicant does not respond within the 60 days the VDEQ will administratively withdraw the application and notify the applicant.
d. The VDEQ will coordinate the applicant's response with the commenting agency for an additional 15 calendar day comment period.
    - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.
    - If the agency responds with no additional concerns the VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
e. If the agency still has additional comments or objections the VDEQ will elevate the project to the Corps for resolution
f. The Corps will complete processing in accordance with internal procedures.
g. Upon completion of the federal review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that the Corps review has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required
    OR notification that the project will be processed under an alternative Corps review.
h. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

B. LINEAR TRANSPORTATION:

1) **Section 106 coordination:**

a. The VDEQ will send the Corps a completed 17-SPGP Federal Coordination Form and a copy of the JPA
b. The Corps will complete Section 106 review in accordance with internal procedures. The Corps PM will notify the VDEQ, within 15 calendar days, if coordination with SHPO and/or other agencies is required.
c. Upon completion of the Section 106 review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that Section 106 has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required
d. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
e. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Section 106 process has been completed (regardless of the 15 calendar day notification date)

2) **Section 408 coordination:**

a. The VDEQ will review the Norfolk District "RP-17 Corps Project Maps": http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx.
b. If the project does not intersect any Corps civil works projects then the VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
c. The VDEQ will send the Corps a completed 17-SPGP Federal Coordination Form and a copy of the JPA if any civil works project will be affected including the following:
    - The project is located within the boundaries of a Flood Risk Management project
    - The project is located within a waterway that contains a federal navigation channel
    - The project intersects an environmental restoration project.
d. Upon completion of the Section 408 review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that Section 408 has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required

e. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
f. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Section 408 process has been completed (regardless of the 15 calendar day notification date)

3) **Section 7 - INFORMAL screening and coordination:**

a. The VDEQ will determine whether federally proposed/listed species or federally proposed/designated critical habitat may occur in the project's action area. The action area is defined by regulation (50 C.F.R. § 402.02) as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. For the purpose of the 17-SPGP-01 the VDEQ may utilize and coordinate the same action area that is used to meet the VDEQ state requirements.
b. The VDEQ will perform informal Section 7 coordination in accordance with the most current version of the "NAO ESA Project Review Process" document and will coordinate using the 17-SPGP Federal Coordination Form.
c. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

4) **Section 7 FORMAL consultation (when applicable):**

a. The VDEQ will send the Corps:
    i. a completed 17-SPGP Federal Coordination Form
    ii. a copy of the JPA
    iii. the Official IPAC species list
    iv. a completed Species Conclusion Table
    v. any previous correspondence with USFWS
b. The Corps will complete formal Section 7 consultation in accordance with internal procedures.
c. Upon completion of the Section 7 consultation, and any required coordination, the Corps will:
    i. notify the VDEQ PM that formal Section 7 consultation has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required
d. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

e. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Formal Section 7 process has been completed.

5) **Federal coordination:** for projects where permanent impacts
   - exceed 300 liner feet at a single impact area

   OR
   - Cumulatively exceed 300 linear feet of stream channel AND/OR ½ acre of non-tidal water of the US, to include stream channel, wetlands and open waters. (Cumulative impact coordination is only applicable when multiple single and complete crossings are proposed).

a. The VDEQ will send the Corps, EPA and USFWS a:
   i. completed 17-SPGP Federal Coordination Form
   ii. copy of the JPA
   iii. copy of any additional information requests sent to the applicant
b. Within 15 calendar days of receipt the Corps, EPA and USFWS will provide any comments or objections regarding the project to the VDEQ
   - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.

c. if any agency responds with comments or objections the VDEQ will request that the applicant provide a response to the agency comments
   - If the applicant does not respond within the 60 days the VDEQ will administratively withdraw the application and notify the applicant

d. The VDEQ will coordinate the applicant's response with the commenting agency for a 15 calendar day comment period.
   - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.
   - If the agency responds with no additional concerns the VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

e. If the agency still has additional comments or objections the VDEQ will elevate the project to the Corps for resolution
f. The Corps will complete processing in accordance with internal procedures.
g. Upon completion of the federal review, and any required coordination, the

Corps will:

i. notify the VDEQ PM that the Corps review has been completed
ii. provide all supporting documentation that documents the Corps decision
iii. provide the VDEQ with any special conditions, if required OR notification that the project will be processed under an alternative Corps review.

h. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

V. Permit Decisions

1) **Permit Issuance**: The VDEQ will determine, through the processes outlined above, whether the work proposed satisfies the terms and conditions of 17-SPGP-01. All 17- SPGP-01 verifications shall be written on attached 17-SPGP-01 Verification Letter.
2) **Denial**: The VDEQ PM should advise the applicant if the project does not qualify for a 17- SPGP-01 verification. In these situations, the VDEQ PM should send correspondence to the applicant notifying them to either:
   a. Revise their proposal so that it qualifies for a 17-SPGP verification OR
   b. Submit their application directly to the Corps for processing under a different Corps permit.

VI. Permit Re-verification

The following should apply to all re-verification requests for 17-SPGP-01 projects that were issued by the VDEQ:

1) All projects that have associated special conditions, an MOA regarding Section 106 of the NHPA and/or require formal consultation under Section 7 of the ESA must be coordinated with the Corps regardless of the newly proposed impact totals.
2) All projects proposing additional temporary and/or permanent impacts will be processed in accordance with the coordination procedures listed in Section IV(A) and IV(B) of this SOP.
   EXCEPTION: For projects where federal coordination (IV(A)(5) and IV(B)(5) has already occurred, Federal re-coordination is not required when the total of the additional permanent impacts are less than:
   - ¼ acre of waters of the US, to include stream channel,

wetlands and open waters
OR
- 100 linear feet of stream channel

3) The following re-verifications do not require re-coordination but do require the issuance of a new 17-SPGP Verification Letter:
    a. change in ownership/project name
    b. decrease in impacts
    c. modification to the development plan but no additional impacts
    d. change in use of bank/in-lieu fee
    e. clerical revisions
4) If the proposed re-verification cumulatively exceeds the thresholds of the 17-SPGP the VDEQ PM should send correspondence to the applicant notifying them to either:
    a. Revise their proposal so that it qualifies for a 17-SPGP verification.

OR

    b. Submit their application directly to the Corps for processing under a different Corps permit.

VII. Compliance and Resolution of Non-compliance for projects authorized by the 17-SPGP-01

The VDEQ will generally maintain the primary responsibility for performing compliance inspections and resolution of non-compliance for residential, commercial, and institutional developments or linear transportation projects authorized under the 17-SPGP-01. However, this does not prevent the Corps from inspecting these project sites independently or from exerting enforcement authority.

1) All projects that have associated special conditions, an MOA regarding Section 106 of the NHPA and/or require formal consultation under Section 7 of the ESA must be coordinated with the Corps regardless of their impact totals.
2) Resolution of noncompliance activities where final resolution includes an increase in temporary and/or permanent impacts will be treated and coordinated in the same manner as re-verification requests (Section VI of this SOP).
3) Non-compliance discovered by Corps PMs will be forwarded to the VDEQ for resolution. The Corps PM will include:
    a. Project name and number
    b. Dated discovered

c. Brief description of the potential non-compliance.
d. Notification that the Corps will/will not participate in resolution of the noncompliance.

4) For all 17-SPGP-01 non-compliance resolved by the VDEQ VWP staff the VDEQ will issue a new 17-SPGP-01 verification letter
5) For all non-compliance resolved by the VDEQ enforcement, the applicant will submit a new JPA to the VDEQ requesting a 17-SPGP verification for the project.

VIII. Dispute Resolution Process

1) A Joint Corps/VDEQ meeting will be scheduled between the applicable project managers to discuss project specific disputes.
2) A Joint Corps/VDEQ meeting will be scheduled between the Corps and VDEQ management to discuss programmatic differences.
3) Responsibility for the organizing the meeting shall lie with the requesting party.
4) When applicable, the Corps/VDEQ will invite any objecting/commenting agencies to attend the meeting.
5) A decision must be made at the meeting. The meeting and the decision should be documented in the project file.

IX. Training

A one day joint Corps/VDEQ training will be held once a calendar year. If additional training is needed it can be requested by either agency.

X. SPGP Annual Report Requirements

On an annual basis, the VDEQ will provide the Corps a report to assess the effectiveness of 17-SPGP-01 and evaluate the extent of its cumulative impacts.

The reports will be for the period of September 1 through August 31 of every year. This report will be advertised by public notice to provide an opportunity for the public, agencies, and interested organizations to submit comments.

The report will include the following information:

1) Average number of calendar days between initial receipt of application and final approval
2) Average number of calendar days between receipt of complete application and final approval

3) Total acres of wetland impacts requested
4) Total acres of wetland impacts authorized
5) Total wetland mitigation required, broken out into the following categories:
    a. Acres of wetland preservation required.
    b. Acres of wetland creation/restoration required.
    c. Wetland mitigation credits required to be purchased from a bank or in-lieu fee.
6) Linear feet of stream impacts requested
7) Linear feet of stream impacts authorized
8) Total stream mitigation required, broken out into the following categories:
    a. Linear feet of stream preservation required.
    b. Linear feet of stream enhancement/restoration required
    c. Stream mitigation credits required to be purchased from a bank or in-lieu fee.
9) Total number of projects authorized, organized by 8-digit hydrologic unit code (HUC) (HUC reviewable at http://cfpub.epa.gov/surf/locate/index.cfm)
10) Total acres of wetland impacts authorized, organized by 8-digit HUC
11) Total linear feet of stream impacts authorized, organized by 8-digit HUC
12) Total number of SPGP permit re-verifications performed within the reporting period
13) Total number of Compliance Inspections performed, broken out into the following categories:
    a. Number of projects found to be in compliance with permit conditions
    b. Number of projects found to be in non-compliance with permit conditions
    c. Number of non-compliance activities resolved within reporting period

PROJECT NAME

17-SPGP-01 COMPLETE APPLICATION CHECKLIST

* Please note that additional information may be required by the agency(ies) to complete project review.

	Submission Requirements	Material
1	Completed and signed JPA with SPGP box checked	
2	Any existing Corps project numbers and previous actions	
3	The applicant's name, contact person, mailing address, telephone number, email address	JPA Section 1
4	The authorized agent's name, contact person, mailing address, telephone number, email address	JPA Section 1
5	Project location information: address, city/county	JPA Section 2
6	Water body or water bodies or receiving stream, as applicable	JPA Section 2
7	Latitude and longitude (to the nearest second) from a central location within the project limits	JPA Section 2
8	The hydrologic unit code (HUC) for the project area	JPA Section 2
9	The name of the project, narrative description of project purpose, and a description of the proposed activities in waters, including wetlands	JPA Section 3
10	Permanent and temporary WOUS Impacts; to inlcude wetlands and open waters	JPA Section 8
11	All appropriate sections from the JPA, including signature pages: (a) Include Sections 1-9, and applicable Sections 10-27 for all General Permits (b) Check that all applicable requirements within individual sections (i.e. Appendices) of the JPA have been followed, such as road and utility crossing narratives	
12	A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map, ADC road map) of the project area, including the project boundary. The map should be of sufficient detail such that the site may be easily located for site inspection	
13	Project plan view. All plan view sketches should include, at a minimum, north arrow, scale, existing structures, existing contours, proposed contours (if available), limit of waters, including wetlands, direction of flow, ordinary high water line, impact limits, and location and dimension of all proposed structures in impact areas. In addition, cross-sectional or profile sketches with the above information may be required to detail impact areas and those impacts associated with the installation of structures.	
14	Check that all informational requirements for drawings, listed in Appendix D of the JPA, have been followed	
15	Large-sized impact map (at a scale no smaller than 1" = 200'); use matchlines if the entire site cannot fit on one sheet at this scale and provide a cover page showing how all sheets relate.	
16	A description of the specific on-site measures considered and taken during project design and development both to avoid and minimize impacts to waters, including wetlands, to the maximum extent practicable. If applicable, submit alternative designs as well as an economic analysis	
17	Endangered and threatened species information and related correspondence	

18	Historic resources information and related correspondence, including a plan view depicting all historical resources located within the project boundaries.	
19	A conceptual mitigation plan that adheres to the mitigation requirements and preference hierarch of the Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources Rule dated April 10, 2008 (33 CFR 325 and 332; 40 CFR 230)	
20	Applicants proposing compensation involving the purchase or use of mitigation banking or in-lieu fee credits shall include as their conceptual compensation plan: (a) The name of the proposed mitigation bank or in-lieu fee; (b) the HUC in which it is located; (c) the number of credit proposed to be purchases; (d) a letter of credit availability from the Sponsor (e) If applicable, a copy of the stream assessment report in the JPA	
21	WETLANDS: Applicants proposing onsite/offsite permittee responsible mitigation shall include as their conceptual compensation plan (33 CFR 332.4(c)(2)-(14)) : (a) Objectives; (b) site selection; (c) site protection instruments; (d) baseline information; (e) credit determination methodology (f) mitigation work plan including water budget; (g) maintenance plan; (h) ecological performance standards; (i) monitoring requirements; (j) long-term management; (k) adaptive management plan; (l) financial assurances;	
22	WATERS: Applicants proposing onsite/offsite permittee responsible mitigation shall include as their conceptual compensation plan (33 CFR 332.4(c)(2)-(14)) : (a) Objectives; (b) site selection; (c) site protection instruments; (d) baseline information; (e) credit determination methodology (f) mitigation work plan including water budget; (g) maintenance plan; (h) ecological performance standards; (i) monitoring requirements; (j) long-term management; (k) adaptive management plan; (l) financial assurances; (m) planform geometry (n) channel form (o) watershed size (p) design discharge (q) riparian area plantings (r) a reference reach (s) completed Natural Channel Design Review Checklist	
23	A Corps confirmed delineation map that is approved for use with a permit application or confirmed jurisdictional determination map that includes the limits of all waters, including wetlands that are located within the project boundaries.	

24	A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.	

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)

REPORTING PROCEDURES

VDOT 17-SPGP-01 projects will be submitted through either:

A. The VDOT Reporting-Only spreadsheet

OR

B. The VDOT Inter-agency Coordination Meeting (IACM) JPA

A. **Reporting Only:** VDOT may report by spreadsheet on a monthly basis to VDEQ for those VDOT projects meeting the following eligibility criteria. The Spreadsheet shall address the following federal requirements: Section 106, Section 7, and 408 Civil Works projects.

1) Permanent impacts do not exceed 1/10 acre or 300 linear feet at any single and complete crossing of waters of the United States, including wetlands; the definition of independent utility must be applied when determining permanent impact totals
2) VDOT complies with all general conditions of the 17-SPGP-01.
3) Section 7 -Endangered Species Act Review has been completed, including FWS concurrence with findings, if required the Corps and the Federal Highway Administration (FHWA) have designated VDOT to act on their behalf for informal Section 7 coordination with FWS).
4) VDOT provides to VDEQ a Section 106 finding of "No Effect" determined by VDOT in accordance with the "Programmatic Agreement Among the Federal Highway Administration, the U.S. Army Corps of Engineers, Norfolk District, the Tennessee Valley Authority, the Advisory Council on Historic Preservation Officer, and the Virginia Department of Transportation Regarding Transportation Undertakings Subject to Section 106 of the National Historic Preservation Act of 1966," finalized August 2016.
5) An application must be submitted (the project cannot be reporting only) if VDOT's proposed activity is located in the vicinity of a Norfolk District Civil Works project. For information on the location of Norfolk District projects, VDOT staff are directed to maps located at: http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx.

B. **IACM JPA (VDOT Form) Submittals:**

1) The JPA must include a Corps confirmed delineation (Preliminary JD) that is approved for use with a permit application or a Corps confirmed jurisdictional determination (Approved JD), OR a map/permit sketches showing VDOT's identification of waters of the US as well as data sheets as appropriate. For the

latter form of JD determination, the Corps will review the permit sketches and USGS map in the JPA and will indicate at the IACM their agreement or disagreement with the location of waters of the US as depicted by VDOT (which will be recorded in meeting comments). Any delineation/determination must include the limits of all waters, including wetlands that are located within the project boundaries.

2) Section 106 coordination: The JPA will include the effect determination made by VDOT in accordance with the "Programmatic Agreement Among the Federal Highway Administration, the U.S. Army Corps of Engineers, Norfolk District, the Tennessee Valley Authority, the Advisory Council on Historic Preservation Officer, and the Virginia Department of Transportation Regarding Transportation Undertakings Subject to Section 106 of the National Historic Preservation Act of 1966," (PA) finalized August 2016 and provided to VDEQ.

3) ESA coordination: Section 7 -Endangered Species Act Review must be completed, including FWS concurrence with findings, if required, and the documentation (including IPAC list, self-certification letter, and Species Conclusion Table) must be included in the JPA. (If the project is federally funded by the Federal Highway Administration, FHWA is the lead federal agency. FHWA has designated VDOT to act on their behalf for formal and informal Section 7 consultation with FWS. The JPA should include the same documentation whether the Corps or FHWA is the lead federal agency).

4) Section 408 coordination: Prior to submittal of an application, VDOT will review the Norfolk District "RP-17 Corps Project Maps": http://www.nao.usace.army.mil/Missions/Regulatory/RBregional.aspx.

a. If the project does not intersect any Corps civil works projects then the VDOT will include the determination in the JPA.
b. The VDOT will request Corps coordination, via the JPA, if the proposed project meets any of the following:
    - The project is located within the boundaries of a Flood Risk Management project
    - The project is located within a waterway that contains a federal navigation channel
    - The project intersects an environmental restoration project.
c. The Corps will complete Section 408 review in accordance with internal procedures. The Corps PM will notify the VDEQ, within 15 calendar days, if additional internal coordination is required.
d. Upon completion of the Section 408 review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that Section 408 has been completed
    ii. provide all supporting documentation that documents the Corps decision

i. provide the VDEQ with any special conditions, if required

e. The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
f. A 17-SPGP verification **CAN NOT** be issued until the VDEQ has received notification in writing that the Section 408 process has been completed (regardless of the 15 day notification date)

5) **Federal coordination:** for projects where permanent impacts
   - exceed 300 liner feet at a single impact area

   OR
   - Cumulatively exceed 300 linear feet of stream channel AND/OR ½ acre of non-tidal water of the US, to include stream channel, wetlands and open waters. (Cumulative impact coordination is only applicable when multiple single and complete crossings are proposed).

a. The VDEQ will send the Corps, EPA and USFWS a:
   i. completed 17-SPGP Federal Coordination Form
   ii. copy of the JPA
   iii. copy of any additional information requests sent to the applicant
b. Within 15 calendar days of receipt the Corps, EPA and USFWS will provide any comments or objections regarding the project to the VDEQ
   - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.
c. if any agency responds with comments or objections the VDEQ will request that the applicant provide a response to the agency comments
   - If the applicant does not respond within the 60 days the VDEQ will administratively withdraw the application and notify the applicant
d. The VDEQ will coordinate the applicant's response with the commenting agency for a 15 calendar day comment period.
   - If no comments are received by close-of-business on the 15th calendar day then VDEQ can assume the agencies have no comments and will track the decision and completion date on the VDEQ Permit Summary Sheet.
   - If the agency responds with no additional concerns the VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.
e. If the agency still has additional comments or objections the VDEQ will elevate the project to the Corps for resolution
f. The Corps will complete processing in accordance with internal procedures.

g. Upon completion of the federal review, and any required coordination, the Corps will:
    i. notify the VDEQ PM that the Corps review has been completed
    ii. provide all supporting documentation that documents the Corps decision
    iii. provide the VDEQ with any special conditions, if required OR notification that the project will be processed under an alternative Corps review.

The VDEQ will track the decision and completion date on the VDEQ Permit Summary Sheet.

Project Name:

DEQ PM:

DEQ project number:

COE project number:

17-SPGP Federal Coordination Form

This form is to be used by the VDEQ for coordinating projects with the appropriate agencies.

Attachments included:

Item	Provided
Joint Permit Application	☐
Project Location Map	☐
Impact Map	☐
USFWS IPAC	☐
USFWS Species Conclusion Table	☐
DEQ Additional Information Request	☐
Other 1:	☐
Other 2:	☐

Reason For Coordination	Being Requested	Response Required Date
The Corps for a Section 106 determination and/or coordination:	☐	None
The USFWS for **informal** Section 7 consultation:	☐	
The Corps for 408 consultation	☐	None
Federal coordination per sections IV(A)(5) and IV(B)(5) of the SOP:	☐	
The Corps for **formal** Section 7 consultation:	☐	
DOD Clearinghouse:	☐	Response not required

INSERT REGIONAL LETTERHEAD

[Date]

[SPGP Permittee Contact's Name]
[Permittee Company Name]
[Permittee Address]
[City, State, Zip]

SENT VIA E-MAIL: [enter email address]
RECEIPT CONFIRMATION REQUESTED

RE: State Program General Permit (12-SPGP-01) Authorization
Permit Number: WPX-XX-XXXX
[Project Name], [County/City], Virginia

Dear [SPGP Permittee Contact's Name]:

The Virginia Department of Environmental Quality (DEQ) has received and completed technical review of your application/re-verification request [Dated] and received [Date]. Based on DEQ's technical review, DEQ has determined the proposed project satisfies the terms and conditions contained in the Corps of Engineers, Norfolk District State Program General Permit (17-SPGP-01). You are required to adhere to all terms and conditions contained within the attached 17-SPGP-01 and any Special Conditions listed below. Your 17-SPGP-01 verification is effective as of the date on this letter and remains effective until **May 31, 2022.**

The impacts are associated with the XXXXXXXXX (describe the type of work, e.g.construction of a residential community and associated infrastructure).\

The applicant is hereby authorized to impact DESCRIPTION OF SPGP IMPACTS:

The conceptual mitigation plan submitted with your application indicated that mitigation will include [list SPGP compensation]. This mitigation shall be completed and documentation shall be submitted to DEQ prior to commencement of project impacts.

SPECIAL CONDITIONS (List SPGP special conditions):

This letter shall serve as verification to proceed with the project as proposed. The permittee shall be responsible for contacting DEQ to revise this verification, including provisions for compensatory mitigation, if the location or amount of the impacts changes.

Please contact Permit Writer by phone at (XXX) XXX-XXXX or by email at XXXX@deq.virginia.gov if you have any questions or concerns regarding the information contained herein.

Respectfully,

Regional VWPP Program Manager

Attachments: 17-SPGP-01

Cc (via E-mail):
Agent, Company

Contact Name, U.S. Army Corps of Engineers,
Contact Name, Virginia Marine Resources Commission

17-SPGP Coordination Information to be include in the VDEQ Permit Summary Sheet

1) Section 106:
   - Date initiated:
   - Date Complete:
   - Section 106 Determination:
2) Informal Section 7 consultation:
   - USFWS Review Initiation Date:
   - USFWS Review Response Date:
   - Date Complete:
   - USFWS Determination:
3) 408 consultation
   - Date reviewed/initiated:
   - Date Complete:
   - 408 Determination:
4) Federal coordination per sections IV(A)(5) and IV(B)(5) of the SOP:
   - Date Initiated:
   - Agency response:
     - USACE:
     - EPA:
     - USFWS:

OTHER COORDINATION AS APPLICABLE:

5) Formal Section 7 consultation:
   - Corps Review Initiation Date:
   - Date Complete:
   - Corps Determination:
6) DOD Clearinghouse:
   - Date sent:

17-SPGP-01 ACRONYMS

ACHP – The Advisory Council on Historic Preservation
AJD/Approved JD – a confirmed jurisdictional determination that includes the limits of all waters of the U.S., including wetlands that are located within the project boundaries
CCB – The Center for Conservation Biology
Corps – United States Army Corps of Engineers
CWA – Clean Water Act
DCR – The Virginia Department of Conservation and Recreation
DGIF – The Virginia Department of Game and Inland Fisheries
DHR/VDHR – The Virginia Department of Historic Resources
DNH – Department of Natural Heritage
DOD – Department of Defense
EPA – The Environmental Protection Agency
ESA – The Endangered Species Act
FHWA – Federal Highway Administration
FWS/USFWS – The US Fish and Wildlife Service
HUC – Hydrologic Unit Code
JPA – Joint permit application
MOA – Memorandum of Agreement
NHPA – National Historic Preservation Act
NMFS – National marine Fisheries Service
NPS – The National Park Service
PJD/Preliminary JD - A Corps confirmed delineation that is approved for use with a permit application
PM – Project manager
POC – Point of Contact
RGL – Corps Regulatory Guidance Letter
SHPO – State Historic Preservation Officer
SPGP – State General Programmatic Permit
THPO – Tribal Historic Preservation Officer
VDEQ – The Virginia Department of Environmental Quality
VDGIF – Virginia Department of Game and Inland Fisheries
VDOT – The Virginia Department of Transportation
VMRC – The Virginia Marine Resource Commission
VWP – Virginia Water Protection
WOUS – Waters of the United States

NAO ESA Project Review Process

For use by Corps projects managers and their non-federal representatives (VDEQ and VDOT)

This is a streamlined version of FWS's Online Review Process.

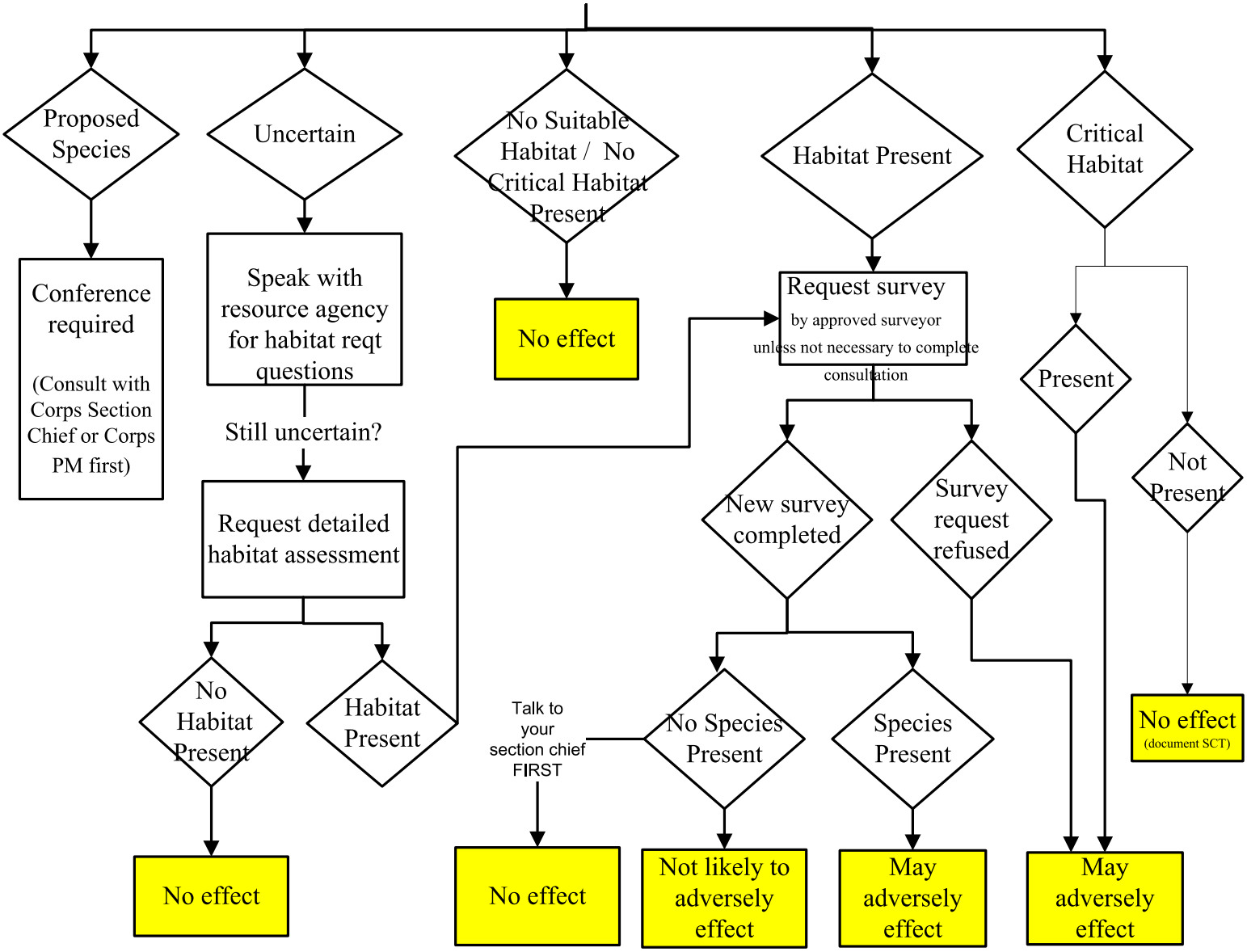
1.Determine your PERMIT AREA

2. Determine your ACTION AREA.
Consider the nature of the work and all project-specific effects that may extend outside of the permit area, such as light, sound, sedimentation, access, etc.

3. Draw your ACTION AREA in IPaC to get the FWS official species list (permits) or unofficial species list (pre-applications and JDs) and add all federally-listed and proposed species to the Species Conclusion Table (SCT). Also include any known NOAA species.

4. Pull a project report in NAO's CorpsMap (DEQ will use DCR and VDGIF datasets) and add all federally-listed and proposed species to the SCT with conclusion "Species Present"

5. Assess whether suitable habitat for each species listed on your SCT is found within the action area.



Note: A Corps permit cannot be issued until Section 7 coordination is complete. You cannot provisionally issue a permit before Section 7 coordination is complete.

ESA Agency Coordination Procedures

No effect →

Document file with SCT and move on with permit process
DO NOT COORDINATE NO EFFECTS W/USFWS or NOAA PRD ....USE NLAA DETERMINATION IF UNSURE!!

Not likely to adversely effect →

FWS (GPs): Email package (IPaC species list, CorpsMap report, SCT and self cert letter) to VirginiaFieldOffice@fws.gov. If no comments within 14 days, fill out concurrence letter and move forward with permit process.
FWS (IP): Include the package listed above in the Public Notice.

NOAA: PM must submit NLAA verification form and receive response before proceeding

SPGP: If the agency provides comments or recommends conditions, request that the applicant respond within 30 days. If coordination between the applicant and the FWS results in agreed upon conditions, a special conditions form will be attached to the SPGP permit. If an agreement can not be reached the project will be forwarded to the Corps for formal consultation.

May adversely effect →

Initiate Consultation with FWS or NOAA.

Most likely this will be formal consultation, unless the Corps can negotiate special conditions with FWS/NMFS to reduce the project to a "not likely to adversely effect."

Coordination must be performed by the lead agency, not a Federally-Designated Representative.

For SPGP applications, VDEQ shall forward to the Corps the necessary information for completing the coordination. Upon completion of the coordination, the Corps shall notify the VDEQ and provide the special conditions form to the VDEQ.

IPAC:

http://ecos.fws.gov/ipac/

Online Review Process:

http://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html

NAO CorpsMap (Corps only):

https://corpsmap.usace.army.mil/nao_regulatory

VDGIF TOYR Table (for planning purposes only):

https://www.dgif.virginia.gov/wp-content/uploads/VDGIF-Time-of-Year-Restrictions-Table.pdf

DCR National Heritage Resource abbreviations:

http://www.dcr.virginia.gov/natural-heritage/help

NAO Fish and Wildlife Coordination Act Project Review Process

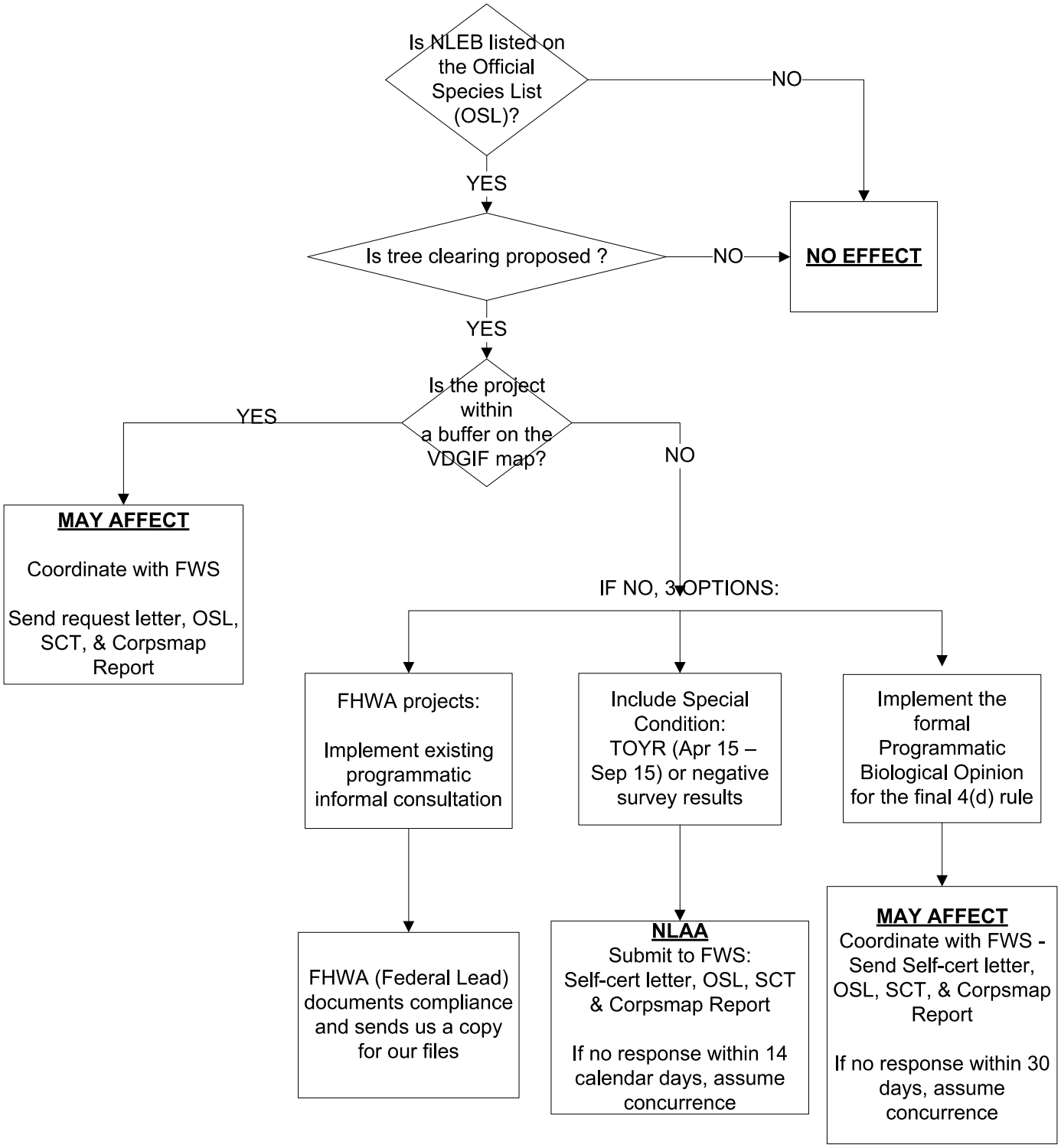
In addition to federally-listed species, the following species must also be considered:

If you get a hit for:	Coordinate with:
Bald Eagles (nests, concentration areas or buffer)	No coordination required - Applicant must obtain permit. Add this language to permit (not a special condition, though): "Please note that you should either obtain a U.S. Fish and Wildlife Service (FWS) bald eagle take permit or a letter of concurrence from FWS indicating that a permit is not necessary prior to initiating construction activities. You should contact Thomas Wittig concerning this matter at 413-253-8577 or Thomas_wittig@fws.gov ."
Anadromous Fish * *Send Dave a copy of the final permit.*	* NWP/RP - incorporate TOYR (special condition) February 15 to June 30 or coordinate with NOAA to request a waiver or modification (allow 15 days for response with a reminder email if no response in 15 days). * IPs - Coordinate with NOAA Fisheries (Dave O'Brien)
EFH (All tidal portions of Ches Bay/tribs) Pursuant to the Magnuson Stevens Act) <u>Marine Waters:</u> https:// www.greateratlantic.fisheries.noaa.gov/hcd/index2a.htm <u>Estuarine Waters:</u> https:// www.greateratlantic.fisheries.noaa.gov/hcd/est.htm <u>Skate mapping:</u> https:// www.greateratlantic.fisheries.noaa.gov/hcd/skateefhmaps.htm * *Send Dave a copy of the final permit.*	<u>IPs, RP-20 or other GPs with SAVs</u>: Coordinate with NOAA (Dave O'Brien) <u>Rp-19 projects with greater than ½ acre of propose fill:</u> coordinate with NOAA <u>All other RPs</u>: "The project area is designated as Essential Fish Habitat (EFH), however, NOAA provided general concurrence for Regional Permit XX* (*Choose appropriate RP: 13-RP-01, 13-RP-02, 13-RP-15, 13-RP-17, 13-RP-18, and 13-RP-19) as reissued August 2013. The proposed project is located within an area designated as Essential Fish Habitat (EFH) but will not impact submerged aquatic vegetation (SAV) or an anadromous fish use area. Based on the specific elements of the project, the Corps has made the determination that the project will not substantially adversely affect the quality and/or quantity of EFH, managed species or their prey. Therefore, no further coordination with NOAA Fisheries Service is required." <u>For NWPs without impacts in or adjacent to SAVs</u>: "The proposed project is located within a designated Essential Fish Habitat (EFH) area, but will not affect federally listed species, submerged aquatic vegetation (SAV) or anadromous fish use areas. Based on the specific elements of the project, the Corps has made the determination that the project will not substantially adversely affect the quality and/or quantity of EFH, managed species or their prey. Therefore, no further coordination with NOAA Fisheries Service is required."
Cold Water Stream Trout	VDGIF
Shellfish - oyster beds	If existing (biologically-active) beds are known within or adjacent to the project, coordinate with NOAA and cc: VMRC
Migratory Birds	Add language to permit (not a special condition, though): "The USFWS has asked that we inform you of their authority under the Migratory Bird Treaty Act (16 USC 703). You should contact Thomas Wittig concerning this matter at 413-253-8577 or Thomas_wittig@fws.gov to determine if any restrictions apply to your project."

Shellfish Beds: use VMRC website at: http://gis.mrc.virginia.gov/mapviewer_dev/
Click on the following Layers: Oyster Grounds (application, private & Baylor) and SITES (Commercial shellfish and oyster reefs) OR use CorpsMap: Navigation Tab, under Environmental Restoration Projects/VMRC Oyster Data.

ESA Section 7 Process for Northern Long Eared Bat (NLEB)

Tuesday, March 08, 2016



Send coordination requests to: VirginiaFieldOffice@fws.gov
And include acreage of tree clearing (or number of trees being cleared).

VDGIF Map:
http://dgif-virginia.maps.arcgis.com/apps/webappviewer/index.html?id=32ea4ee4935942c092e41ddcd19e5ec5

NLEB SCT Tables

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	A documented maternity colony or hibernacula may be in the action area	May affect	

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	Suitable habitat present	No Effect/Not Likely to Adversely Affect	Implementing a TOYR on tree clearing from April 15 -Sept 15. OR Survey conducted and no bats were documented.

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	Suitable habitat present	May affect	Relying upon the findings of the 1/5/2016 Programmatic Biological Opinion for Final 4(d) Rule on the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions to fulfill our project-specific section 7 responsibilities.

Review project to see if Voluntary Conservation Measures may apply. If so, suggest to applicant.

- NLEB surveys should be done according to the most recent summer survey guidelines.
- Manage forests to ensure a continual supply of snags and other suitable maternity roosts trees.
- Conduct prescribed burns outside of the pup season (June 1-July 31) and/or the active season (April 1-October 31). Avoid high-intensity burns (causing tree scorch higher than NLEB roosting heights) during the summer maternity season.
- Perform bridge repair, retrofit, maintenance, and/or rehabilitation work outside of the NLEB active season (April 15-September 15) in areas where NLEB are known to roost on bridges or where such use is likely.
- Do not use military smoke and obscurants within forested suitable NLEB habitat during the pup season (June 1-July 31) and/or the active season (April 15-September 15).
- Minimize use of herbicides and pesticides. If necessary, spot treatment is preferred over aerial application.
- Evaluate the use of outdoor lighting during the active season and seek to minimize light pollution by angling lights downward or via other light minimization measures.

NMFS CONSULTATION DOCUMENTS

AIDS TO NAVIGATION & TEMPORARY RECREATIONAL STRUCTURES (Section 10; navigable waters of the United States) The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (see 33 CFR, chapter I, subchapter C, part 66)

No effect: All activities for GPs, LOPs & SPs.

REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED STRUCTURES & FILLS, REMOVAL OF STRUCTURES (Section 10 & 404; tidal and non-tidal waters of the U.S.) Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Includes removal of structures and fill.

No effect:

For all SV activities without additional fill in tidal waters; piles are non-steel and ≤12" in diameter; and work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

For PCN activities not in critical habit; piles are non-steel and ≤12" in diameter; and work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

PMs, for work under this activity, also check ESA PC due to the listed various activities that may occur. When in doubt, use NLAA form.

MOORINGS (Section 10; navigable waters of the U. S.) New private, non-commercial, non-rental, single-boat moorings & temporary moorings including moorings to facilitate construction or dredging; minor relocation of previously authorized moorings and mooring field expansions, boundary reconfigurations or modifications of previously authorized mooring fields and maintenance and replacement of moorings.

No effect: All activities for GPs, LOPs & SPs except for mooring fields/expansions.

PILE-SUPPORTED STRUCTURES & FLOATS, INCLUDING BOAT LIFTS/HOISTS & OTHER MISCELLANEOUS STRUCTURES & WORK (Section 10; navigable waters of the U.S.) New, expansions, reconfigurations or modifications of structures for navigation access including floats, stairs, and boat/float lifts.

No effect:

1. Piles are non-steel and are ≤12" in diameter, and ≤25 piles installed below mean high water
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

BOAT RAMPS & MARINE RAILWAYS (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities required for the construction of boat ramps and marine railways, including excavation and fill.

No effect:

3. Piles are non-steel and are ≤12" in diameter.
4. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

For projects in critical habitat, no effect provided action does not affect any of the PBFs of the critical habitat in question.

UTILITY LINE ACTIVITIES (Sections 10 & 404; tidal & non-tidal waters of the U.S.) Activities required for (a) The construction, maintenance, relocation, repair, & removal of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for utility lines; (b) The construction, maintenance or expansion of utility line substation facilities associated with a power/utility line in non-tidal waters; and (c) The construction and maintenance of foundations for overhead utility line towers, poles, and anchors provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

No effect: Not applicable.

NLAA Verification Form: All GP, LOP & SP activities.

DREDGING (Section 10; navigable waters of the U.S.), TRANSPORT &DISPOSAL OF DREDGED MATERIAL (Sections 10, 404 &103; tidal waters of the U.S.), BEACH NOURISHMENT (Sections 10 & 404; tidal waters of the U.S.); ROCK REMOVAL (Section 10, navigable waters of the U.S.) &ROCK RELOCATION (Sections 10 & 404; tidal waters of the U.S.) New, improvement and maintenance dredging, including: (a) Disposal of dredged material at a confined aquatic disposal, beach nourishment, near shore, designated open water or ocean water disposal site, provided the Corps finds the dredged material to be suitable for such disposal; (b) Beach nourishment not associated with dredging; (c) Rock removal and relocation for navigation.

No effect:

1. Project meets all of the General Project Design Criteria (PDC).
2. Maintenance dredging, using mechanical, cutterhead, or low volume hopper.
3. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.
4. Disposal may only occur at designated disposal sites that have already been consulted on with NMFS.

SHORELINE & BANK STABILIZATION PROJECTS (Sections 10 & 404; tidal and non-tidal waters of the U.S.) Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes bulkheads, seawalls, riprap, revetments or slope protection & similar structures as well as vegetative planting, soil bioengineering or alternative techniques that are a combination of the two (e.g. living shorelines), specifically for the purpose of shoreline protection.

No effect:

1. Piles are non-steel and are ≤12" in diameter.
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

AQUATIC HABITAT RESTORATION, ESTABLISHMENT & ENHANCEMENT ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities in waters of the U.S. associated with the restoration, enhancement and establishment of non-tidal and tidal wetlands and riparian areas, including invasive, non-native or nuisance species control; the restoration and enhancement of non-tidal streams and other non-tidal open waters; the relocation of non-tidal waters, including non-tidal streams & associated wetlands for reestablishment of a natural stream morphology and reconnection of the floodplain; the restoration and enhancement of shellfish, finfish and wildlife; and the rehabilitation or enhancement of tidal streams, tidal wetlands and tidal open waters; provided those activities result in net increases in aquatic resource functions and services.

No effect:

1. No work in proposed/designated critical habitat; and
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

FISH & WILDLIFE HARVESTING ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities in waters of the U.S. associated with fish and wildlife harvesting devices including pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open water fish concentrators (sea kites, etc.).

No effect:

1. No work in proposed or designated critical habitat; and
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

OIL SPILL & HAZARDOUS MATERIAL CLEANUP (Sections 10 and 404; tidal and non-tidal waters of the U.S.): a. Activities conducted in response to a discharge or release of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) including containment, cleanup, and mitigation efforts, provided activities are done under either (i) The Spill Prevent, Control & Countermeasure Plan require by 40 CFR 112.3; (ii) The direction or oversight of the Federal on-site coordinator designated by 40 CFR 300; or (iii) Any approved existing State, regional or local contingency plan provided that the Regional Response Team concurs with the proposed response efforts or does not object to the response effort. b. Activities required for the cleanup of oil releases in waters of the U.S. from electrical equipment that are governed by EPA's polychlorinated biphenyl (PCB) spill response regulations at 40 CFR 761. c. Booms placed in tidal waters. d. Use of structures & fills for spill response training exercises.

No effect: All SV activities.

NLAA Verification Form: Required for all PCN activities.

CLEANUP OF HAZARDOUS & TOXIC WASTE (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Specific activities to effect the containment, stabilization or removal of hazardous or toxic waste materials, including court ordered remedial action plans or related settlements which are performed, ordered or sponsored by a government agency with established legal or regulatory authority. Special Aquatic Sites must be restored in place to pre-impact elevations.

No effect: All SV activities provided no work in proposed or designated critical habitat.

NLAA Verification Form: Required for all PCN activities.

SCIENTIFIC MEASUREMENT DEVICES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Scientific devices for measuring and recording scientific data, such as staff gauges, tide and current gauges, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Also eligible are small temporary weirs and flumes constructed primarily to record water quantity and velocity provided the discharge is less than 25 cubic yards.

No effect: All SV activities.

NLAA Verification Form: Required for all PCN activities.

SURVEY ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching* and historic resources surveys.

No effect: All GP, LOP & SP activities.

AQUACULTURE PROJECTS & FISHERIES (Sections 10 and 404; navigable waters of the U.S.) The installation of buoys, floats, racks, trays, nets, lines or other structures in navigable waters for the containment and cultivation of indigenous species of shellfish and seaweed/kelp. Also authorized are anchored upweller floats, small-scale shellfish hatchery seawater intake/discharge structures, and discharges of dredged or fill material associated with cultivation such as the placement of cultch or spatted-shell on bottom.

No effect:

1. Project meets all of the General Project Design Criteria (PDC)
2. Floating upweller docks in ≤10 feet MLLW with or without piles, provided piles are non-steel and ≤12”
3. Land-based hatchery intake provided pipe diameter ≤3”

LINEAR TRANSPORTATION PROJECTS (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, railways, trails, airport runways, and taxiways) and attendant features.

No effect:
1. No work in proposed or designated critical habitat; and
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present; and
3. Zone of passage with appropriate habitat for ESA-listed species must be maintained.

NLAA Verification Form: Activities that don't meet the above no effect criteria.

ENERGY GENERATION & RENEWABLE ENERGY GENERATION FACILITIES (Sections 10 and 404; tidal waters of the U.S.) & HYDROPOWER PROJECTS (Sections 10 and 404; tidal waters of the U.S.) Structures and work in navigable waters of the U.S. and discharges of dredged or fill material into tidal waters of the U.S. for the construction, expansion, modification or removal of: (a) Land-based renewable energy production facilities, including attendant features; (b) Water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects. Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S

No effect: Not applicable.

NLAA Verification Form: All GP, LOP & SP activities.

TEMPORARY FILL NOT ASSOCIATED WITH ANY OTHER GP ACTIVITES (Sections 10 and 404; tidal waters of the U.S.) Temporary discharges, such as sandbag/earth cofferdams, access fills, etc., necessary for construction activities or dewatering of construction sites.

No effect:
1. No work in proposed or designated critical habitat; and
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

Standard Operating Procedures (SOPs) for the
NMFS GARFO PRD-USACE NAD 2017 NLAA Program

The 2017 NMFS GARFO PRD-USACE NAD 2017 NLAA Program ("2017 NLAA Program") represents an interagency effort to streamline ESA consultation for routine, non-controversial projects that are not likely to adversely affect (NLAA) ESA-listed species or critical habitat. The 2017 NLAA Program does not address whether or not certain activity categories or stressor levels will have no effect on listed species or critical habitat (this remains under the discretion of individual NAD Districts). The purpose of the 2017 NLAA Program is to determine which activity categories and associated stressor thresholds provide a project's eligibility for processing under the Program's streamlined verification form. Those which are ineligible require individual section 7 consultation (informal or formal, depending on whether the proposed work will likely adversely affect listed species or habitat).

I. Is my project eligible for review under the 2017 NLAA Program?

a. USACE project managers will screen applications for the potential presence of NMFS ESA-listed species and critical habitat in the project's **action area**. The best available information on the distribution (geographic and temporal), life stages, and behaviors of NMFS-ESA listed species, as well as the physical and biological features (PBFs) of critical habitat is found here (check both the maps and species tables):

https://www.greateratlantic.fisheries.noaa.gov/protected/section7/listing/index.html

As of March 2017, NMFS is in the process of creating new GIS-species and habitat layers that will be hosted on an online web portal. Once available, NMFS will alert USACE. If project managers are in doubt about whether or not ESA-listed species or critical habitat overlap with the action area, they will contact a NMFS Section 7 Biologist and request technical assistance (i.e., make a phone call, send an informal email).

https://www.greateratlantic.fisheries.noaa.gov/protected/section7/contactus/index.html

b. If the project manager determines that a project will have **no effect** on ESA-listed species or critical habitat, no ESA consultation is needed, and no documentation should be sent to NMFS.

c. If the project manager determines that a project may affect, but is not likely to adversely affect (**NLAA**) ESA-listed species or critical habitat (i.e., the project's effects are **insignificant**, **discountable**, or **wholly beneficial**), it may be eligible for review under the 2017 NLAA Program. To determine project eligibility, the project manager must check to see whether or not the application meets (or could meet with the appropriate permit conditions) all of the project design criteria (PDC) outlined in the 2017 NLAA Program. There are general PDC that apply to all NLAA projects, and there are "stressor specific" PDC, that apply to projects that have the potential to introduce those stressors into action

area.

The 2017 NLAA Program Verification Form lists all of the PDC and includes a table to show which stressors may apply to which activity types. If the project meets all of the applicable PDC, it is eligible for review under the 2017 NLAA Program. If the project does not meet all of the applicable PDC, but the project manager still believes the project should be eligible for review using the form (e.g., the project does not introduce any stressors outside of those considered in the 2017 NLAA Program, but it occurs during a time of year restriction), the project manager should indicate which PDC it violates, and then provide a justification for each violated PDC at the bottom of the form. Examples of acceptable justifications include additional permit conditions, such as observer coverage, or temperature/salinity monitoring.

If the project does not meet all of the PDC and either introduces a stressor not considered under the 2017 NLAA Program and/or the project manager cannot provide proper justification for why the project violates PDC but should still be reviewed under the program, the project manager must submit to NMFS a request for individual informal (or formal, if necessary) consultation following this guidance:

http://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/index.html

II. Interpreting the 2017 NLAA Program PDC

a. Connecting Activities to Stressors and Associated PDC:

On the Verification Form, project managers will find a total of 32 PDC. There are 11 General PDC, which apply to all projects, and then there are PDC for six stressor categories.

The 2017 NLAA Program identifies the following six activity categories and stressors (see table below). Project managers should use the table to decide which stressor specific PDC are applicable to their project in addition to the general PDC. For example, for a maintenance dredging project, the project manager would want to look at the following PDC categories: a) general; b) impingement/entrapment/capture; c) turbidity/sedimentation; d) vessel traffic; and e) habitat modification.

	Stressor Category					
Activity Category	Entanglement	Sound Pressure	Impingement/ Entrapment/ Capture	Turbidity/ Sedimentation	Vessel Traffic	Habitat Mod.
Aquaculture (shellfish) and	Y	N	N	Y	Y	Y

artificial reef creation						
Routine maintenance dredging and disposal/beach nourishment	N	N	Y	Y	Y	Y
Piers, ramps, floats, and other structures	N	Y	N	Y	Y	Y
Transportation and development (e.g., culvert construction, bridge repair)	N	Y	N	Y	Y	Y
Mitigation (fish/wildlife enhancement or restoration)	N	N	N	Y	Y	Y
Bank stabilization and dam maintenance	N	Y	N	Y	Y	Y

b. Guidance on General PDC

1. No work will individually or cumulatively have an adverse effect on ESA-listed species or designated critical habitat; no work will cause adverse modification or destruction to proposed critical habitat.
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation
2. No work will occur in the tidally influenced portion of rivers/streams where Atlantic salmon presence is possible from April 10–November 7.
    a. **Yes –** project is eligible. To determine if your project overlaps with possible Atlantic salmon presence in rivers/streams, see the NMFS maps/species tables. If the project is in coastal/marine waters (i.e., outside of a river/river estuary, this PDC does not apply.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
3. **No** work will occur in Atlantic or shortnose sturgeon spawning grounds during the time of year (TOY) restriction for your District:

a. **Yes –** project is eligible. To determine if your project overlaps with possible sturgeon spawning grounds, see the NMFS maps/species tables. If the project is in coastal/marine waters (i.e., outside of a river, this PDC does not apply.
b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

4. No work will occur in shortnose sturgeon overwintering grounds during the TOY restriction for your District.
    a. **Yes –** project is eligible. To determine if your project overlaps with possible shortnose sturgeon overwintering grounds, see the NMFS maps/species tables. If the project is in coastal/marine waters (i.e., outside of a river, this PDC does not apply.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
5. Within designated Atlantic salmon critical habitat, no work will affect spawning and rearing areas.
    a. **Yes –** project is eligible. To determine if your project has the potential to affect Atlantic salmon critical habitat, first look to see if your project is in Atlantic sturgeon critical habitat (check NMFS map). Next, review PBFs 1-7 in Table 4**Error! Reference source not found.**. If still uncertain, seek technical assistance from a NMFS Section 7 biologist. If the project is in coastal/marine waters (i.e., outside of a river, this PDC does not apply.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
6. Within proposed/designated Atlantic sturgeon critical habitat, no work will affect hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0-0.5 parts per thousand).
    a. **Yes –** project is eligible. To determine if your project has the potential to affect Atlantic sturgeon critical habitat, first look to see if your project is in Atlantic sturgeon critical habitat (check NMFS map). Next, review PBF 1 in Table 3**Error! Reference source not found.**. If still uncertain, seek technical assistance from a NMFS Section 7 biologist. If the project is in coastal/marine waters (i.e., outside of a river/estuary, this PDC does not apply.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
7. Work will not change temperature, water flow, salinity, or dissolved oxygen levels.
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

8. If it is possible for ESA-listed species to pass through the action area, a zone of passage with appropriate habitat for ESA-listed species (e.g., depth, water velocity, etc.) must be maintained (i.e., physical or biological stressors such as turbidity and sound pressure must not create barrier to passage).
    a. **Yes –** project is eligible. To determine if your project will maintain passage with appropriate habitat for ESA-listed species, consider the distance an animal would have to travel to avoid the sound pressure or turbidity plume associated with your project. After avoiding the sound pressure waves or turbidity plume, make sure there is still a zone of passage with suitable habitat (sufficient width, depth, water velocity, etc.) available for the species' passage. This is particularly important in rivers and streams. You may need to use the NMFS acoustic tool or reference the NMFS website for turbidity plume estimates (both found here: https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/index.html). If uncertain, seek technical assistance from NMFS Section 7 Biologist.

       Include support for your determination that passage is maintained on the verification form: provide the water body width and the max extent of the stressor (e.g., turbidity plume, sound pressure wave). See **PDC 14** & **20** for further guidance.

    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
9. Any work in designated North Atlantic right whale critical habitat must have no effect on the physical and biological features (PBFs).
    a. **Yes –** project is eligible. To determine if your project has the potential to affect any of the PBFs of North Atlantic right whale critical habitat, first look to see if your project is in critical habitat (check NMFS map). Next, see PBFs in Table 5**Error! Reference source not found.**. If still uncertain, seek technical assistance from a NMFS Section 7 biologist. If the project is in a river or stream, this PDC does not apply.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
10. The project will not adversely impact any submerged aquatic vegetation (SAV).
    a. **Yes –** project is eligible. You may need to provide documentation showing that **No** SAV is present.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
11. No blasting will occur.
    a. **Yes –** project is eligible.

b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

c. Guidance on Sound Pressure PDC

12. If the pile driving is occurring during a time of year when ESA-listed species may be present, and the anticipated noise is above the behavioral noise threshold of those species, a 20 minute "soft start" is required to allow for animals to leave the project vicinity before sound pressure increases.
    a. **Yes –** project is eligible. To determine if ESA-listed species may be present, refer to the NMFS maps/species tables.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
13. Any new pile supported structure must involve the installation of ≤ 50 piles (below MHW).
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
14. If the project involves steel piles, or non-steel piles greater than (>) 24-inches in diameter/width, or any other noise-producing mechanism, the expected underwater noise (pressure) must be below (<) the physiological/injury noise threshold for ESA-species in the action area.
    a. **Yes –** project is eligible.

    NON-STEEL or STEEL SHEET PILES
    ≤ 24" in DIAMETER/WIDTH:
    If your project only involves non-steel piles (or steel sheet piles) ≤ 24-inches in diameter/width, then your project meets this PDC (see Note below if your project's action area includes ESA-listed whales).

    Here are the estimated distances to sturgeon/salmon sea turtle injury and behavioral thresholds for piles in this category (to show compliance with **PDC 8**):

Table 1: Estimated Distances to Sturgeon/Salmon/Sea Turtle Injury & Behavioral Thresholds (non-steel piles and steel sheet piles ≤ 24")

Diameter and Type of Pile	Hammer Type	Sturgeon/Salmon Thresholds			Sea Turtle Thresholds	
		Distance (m) to Behavioral Disturbance Threshold (150 dB_{RMS})	Distance (m) to 206dB_{Peak} (injury)	Distance (m) to sSEL of 150 dB (surrogate for 187 dBcSEL injury)	Distance (m) to 166 dBRMS (behavior)	Distance (m) to 180 dB RMS (injury)
16-20" Timber	Impact	40.0	NA	NA	NA	NA
16-20" Timber	Vibratory	20.0	NA	NA	NA	NA
24" Concrete	Impact	50.0	NA	30.0	NA	NA
24" Concrete	Vibratory	30.0	NA	10.0	18.0	NA
24" Steel Sheet	Impact	90.0	NA	70.0	58.0	30.0
24" Steel Sheet	Vibratory	40.0	NA	40.0	NA	NA

STEEL or NON-STEEL/STEEL SHEET PILES > 24" in DIAMETER/WIDTH:

If your project involves steel piles (any size), or non-steel piles/steel sheet piles > 24-inches in diameter/width, you must provide a sound pressure (noise) estimate for the installation of the piles. NMFS GARFO has an acoustics tool with noise estimates for a variety of pile types, sizes, and installation methods:

https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/index.html

You can use this or another credible noise estimate. If you can show that the underwater noise will be below (<) the physiological/injury noise threshold for ESA-species in the action area (thresholds are in the NMFS GARFO tool), your project meets **PDC 14**. You should submit documentation to support your findings (e.g., the completed tables from the NMFS GARFO acoustics tool) along with your verification form. Remember to also use the estimated distances to ESA-listed species behavior thresholds for **PDC 8**.

NOTE: If ESA-listed whales may be in your action area, you'll need to use two tools to estimate the impacts of underwater noise. Coordinating with a NMFS Section 7 biologist is recommended.

1) For Injury:
http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm
2) For Behavior:
https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/index.html

b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

d. Guidance on Impingement/Entrapment/Capture PDC

15. Only mechanical, cutterhead, and low volume hopper (e.g., CURRITUCK) dredges may be used. Check time of year windows for each District.
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification for the PDC violation on the form.
16. **No** new dredging in proposed or designated Atlantic sturgeon or Atlantic salmon critical habitat (maintenance dredging still must meet all other PDC). New dredging outside Atlantic sturgeon or salmon critical habitat is limited to one-time dredge events (e.g., burying a utility line) and minor (≤2 acres) expansions of areas already subject to maintenance dredging (e.g., marina/harbor expansion).
    a. **Yes –** project is eligible. To determine if your project overlaps with Atlantic sturgeon or salmon critical habitat, see the NMFS maps/species tables.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

17. Work behind cofferdams, turbidity curtains, and other methods to block access of animals to dredge footprint is required when operationally feasible and ESA-listed species may be present.
    a. **Yes –** project is eligible. If the project manager determines that cofferdams, turbidity curtains, and other methods to block access of animals from the dredge footprint are not operationally feasible, she/he should be prepared to submit a written justification along with the verification form.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
18. Temporary intakes related to construction must be equipped with appropriate sized mesh screening (as determined by NMFS Section 7 biologist) and must not have greater than 0.5 fps intake velocities, to prevent impingement or entrainment of any ESA-listed species life stage.
    a. **Yes –** project is eligible. Coordinate with a NMFS Section 7 biologist to determine appropriate size of mesh screening (depends on species/life stages present in the action area).
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
19. No new permanent intake structures related to cooling water, or any other inflow at facilities (e.g. water treatment plants, power plants, etc.).
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

e. Guidance on Turbidity/Water Quality PDC

20. Work behind cofferdams, turbidity curtains, or other methods to control turbidity are required when operationally feasible and ESA-listed species may be present.
    a. **Yes –** project is eligible. If the project manager determines that cofferdams, turbidity curtains, and other methods to block access of animals from the turbidity plume are not operationally feasible, she/he should be prepared to submit a written justification along with the verification form.

       For compliance with **PDC 8**, you must also provide an estimate for the max extent of the turbidity plume and show that there will still be a zone of passage through the water body where the action is taking place. Turbidity estimates can be found here: https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/index.html

b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

21. In-water offshore disposal may only occur at designated disposal sites that have already been consulted on with NMFS.
    a. **Yes –** project is eligible. If the project manager is uncertain whether or not the proposed offshore disposal site as an existing consultation with NMFS, contact a NMFS Section 7 biologist. If the project will dispose of dredged material at a site with an existing NMFS consultation, all of the permit conditions from that existing consultation must be used in the permit (e.g., observer/designated lookout, vessel speed limits, TOYs, etc.).
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
22. Any temporary discharges must meet state water quality standards; no discharges of toxic substances.
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
23. Only repair of existing discharge pipes allowed; no new construction.
    a. **Yes –** project is eligible. The completed repair/replacement of an existing discharge pipe must maintain or improve current water quality conditions around the pipe.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

f. Guidance on Entanglement PDC

24. Shell on bottom <50 acres with maximum of 4 corner marker buoys.
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
25. Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages).
    a. **Yes –** project is eligible. If the project manager is uncertain whether or not the project design meets the "no loose floating line" criteria, ask a NMFS Section 7 biologist for technical assistance. Generally, lines should be taught, or other methods should be promoted to achieve rigidity (e.g., sheathed or weighted line).
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
26. Floating cages <3 acres and in waters shallower than -10 feet MLLW with no loose lines and minimal vertical lines (1 per string of cages).

a. **Yes –** project is eligible. If the project manager is uncertain whether or not the project design meets the "no loose floating line" criteria, ask a NMFS Section 7 biologist for technical assistance.
b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

27. Floating upweller docks in >10 feet MLLW
    a. **Yes –** project is eligible.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

g. Guidance on Habitat Modification PDC

28. No conversion of habitat type (soft bottom to hard, or vice versa) for aquaculture or reef creation
    a. **Yes –** project is eligible. If the project manager is uncertain whether or not the proposed project constitutes a habitat conversion, ask a NMFS Section 7 biologist for technical assistance.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

h. Guidance on Vessel Traffic PDC

29. Speed limits below 10 knots for project vessels with buffers of 150 feet for all listed species (1,500 feet for right whales).
    a. **Yes –** project is eligible. If the project manager is uncertain whether or not ESA-listed whales will occur in the action area, review the NMFS maps/species tables. If whales will be present, a permit condition requiring observers or designated lookouts will be necessary to ensure this PDC is met.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
30. While dredging, dredge buffers of 300 feet in the vicinity of any listed species (1,500 feet for right whales), with speeds of 4 knots maximum.
    a. **Yes –** project is eligible. If the project manager is uncertain whether or not ESA-listed whales will occur in the action area, review the NMFS maps/species tables. If whales will be present, a permit condition requiring observers or designated lookouts will be necessary to ensure this PDC is met.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.
31. The number of project vessels must be limited to the greatest extent possible, as

appropriate to size and scale of project.

a. **Yes –** project is eligible. When reviewing projects, ensure that project vessels and the number of trips taken (e.g., dredged material disposal) are limited to the greatest extent possible.
b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

32. A project must not result in the permanent net increase of commercial vessels (e.g., a ferry terminal). The permanent net increase in vessels resulting from a residential project (e.g., dock/float/pier) must not exceed two vessels.
    a. **Yes –** project is eligible. The phrase "net increase" is key here. E.g., if the project involves the reconstruction of an existing pier with 12 slips, as long as the replacement pier has ≤ 14 slips, and no new commercial vessels will be using the pier, the project meets this PDC.
    b. **No –** project will require individual consultation unless the project manager can provide proper justification on the form.

III. Monitoring

As outlined in the 2017 NLAA Program (both in the USACE Biological Assessment and NMFS Programmatic Consultation), USACE will provide an annual monitoring report to NMFS by March 1 of each year. This report should capture all of the projects USACE submitted for ESA Section 7 review under the 2017 NLAA Program in the previous calendar year. A summary table within the report should show the number of projects, by NAD District, for each activity category. Additional data on cumulative effects (e.g., habitat modification, aquaculture leases, and vessel traffic) should be provided to the extent that this information is captured in ORM.

IV. ESA Glossary

Action area: "All areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action" (50CFR§402.02). This includes the project's footprint as well as the area beyond it that may experience direct or indirect effects that would not occur but for the action. For more information on how to determine the scope of the action area, please consult the definition of "effects of the action" (50 CFR §402.02).

Discountable In order to determine that effects of a particular project will be "discountable," you must be able to demonstrate that the effects cannot be meaningfully detected, measured, or evaluated, and will never reach the scale where "take" will occur (i.e., insignificant effects relate to the magnitude of the impact).

Insignificant In order to determine that effects of a particular project will be "insignificant," you must be able to demonstrate that the effects are extremely unlikely to occur (i.e., discountable effects relate to the likelihood of the impact).

NLAA	Informal consultation: the action agency determines that an action may affect, but is not likely to adversely affect listed species or critical habitat. A "May Affect, but Not Likely to Adversely Affect" (NLAA) determination is based on a determination that effects are insignificant, discountable, or wholly beneficial as those terms are defined in the FWS-NMFS Joint Section 7 Consultation Handbook.
No Effect	There will be no direct or indirect effects to listed species or critical habitat from the proposed action. USACE does not need to contact NMFS for consultation.
Wholly Beneficial	In order to determine that effects of a particular project will be "insignificant," you must be able to demonstrate that the effects are wholly positive, without any adverse effects, on a listed species or designated critical habitat.

V. Appendix: ESA-Listed Species and Critical Habitat

NOTE: the info below may be outdated. For the most up-to-date information, visit the NMFS GARFO website at:

https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/maps/index.html

Table 2: NMFS ESA-Listed Species and Critical Habitat in the Action Area

Species	ESA Status	Expected Life Stages	Expected Behaviors	Expected TOY	Listing Rule/Date	Most Recent recovery plan date	Effect determination
North Atlantic Right Whale	E	Adults; Juveniles	Foraging; Wintering; Migrating	Year round (greatest densities January to April)	73 FR 12024	NMFS 2005	NLAA
Fin Whale	E	Adults; Juveniles	Foraging; Wintering; Migrating; Calving	Year round	35 FR 18319	NMFS 2010	NLAA
Kemp's Ridley Sea Turtle	E	Juveniles	Foraging; Migrating	May to November	35 FR 18319	NMFS *et al.* 2011	NLAA
Leatherback Sea Turtle	E	Adults; Juveniles	Foraging; Migrating	May to November	35 FR 849	NMFS & USFWS 1992	NLAA
Loggerhead Sea Turtle; Northwest Atlantic DPS	T	Adults; Subdults; Pelagic/ benthic juveniles	Foraging; Migrating	May to November	76 FR 58868	NMFS & USFWS 2008	NLAA
Green Sea Turtle; North Atlantic DPS	T	Adults; Juveniles	Foraging; Migrating	May to November	81 FR 20057	NMFS & USFWS 1991	NLAA

Atlantic sturgeon (all 5 DPSs)	E (GOM) T (four others)	All life stages (eggs to adults)	Spawning and Rearing (specific rivers); Foraging; Overwintering; Migrating	Year round	77 FR 5880 and 77 FR 5914	N/A	NLAA
Shortnose sturgeon	E	All life stages (eggs to adults)	Spawning and Rearing (specific rivers);; Foraging; Overwintering; Migrating	Year round	32 FR 4001	NMFS 1998	NLAA
Atlantic salmon; Gulf of Maine DPS[1]	E	All life stages (eggs to adults)	Foraging, Migrating, Spawning, Rearing, Overwintering	April to November (marine/estuarine areas); Year round (freshwater areas)	74 FR 29344	NMFS & USFWS 2016	NLAA

Table 3: PBFs for Proposed Atlantic Sturgeon Critical Habitat

1.	Hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0-0.5 parts per thousand range) for settlement of fertilized eggs, refuge, growth, and development of early life stages;
2.	Aquatic habitat with a gradual downstream salinity gradient of 0.5-30 parts per thousand and soft substrate (e.g., sand, mud) downriver of spawning sites for juvenile foraging and physiological development.
3.	Water of appropriate depth absent physical barriers to passage (e.g., locks, dams, reservoirs, gear, etc.) between the river mouth and spawning sites necessary to support: (1) unimpeded movements of spawning adults to and from spawning sites; (2) as well as seasonal and physiologically-dependent movement of juvenile Atlantic sturgeon to appropriate salinity zones within the river estuary; (3) staging, resting, or holding of subadults or spawning condition adults. Water depths in main river channels must also be deep enough (e.g., ≥1.2 m) to ensure continuous flow in the main channel at all times when any sturgeon life stage would be in the river;
4.	Water, especially in the bottom meter of the water column, with the temperature, salinity, and oxygen values that, combined, support: (1) spawning; (2) annual and interannual adult, subadult, larval, and juvenile survival; and (3) larval, juvenile, and subadult growth, development, and recruitment (e.g., 13°C to 26° C for spawning habitat and **No** more than 30° C for juvenile rearing habitat and 6 mg/L dissolved oxygen for juvenile rearing habitat)

Table 4: PBFs for Atlantic Salmon (GOM DPS) Critical Habitat

Spawning and Rearing Critical Habitat

[1] The U.S. Fish and Wildlife Service (USFWS) has jurisdiction of Atlantic salmon in the freshwater portion of its range (except for work on hydropower dams), while NMFS has jurisdiction of Atlantic salmon in tidal and marine portions of its range.

1.	Deep, oxygenated pools and cover (e.g., boulders, woody debris, vegetation) near freshwater spawning sites necessary to support adult migrants during the summer while they await spawning in the fall.
2.	Freshwater spawning sites that contain clean, permeable gravel and cobble substrate with oxygenated water and cool water temperatures to support spawning activity, egg incubation, and larval development.
3.	Freshwater spawning and rearing sites with clean, permeable gravel and cobble substrate with oxygenated water and cool water temperatures to support emergence, territorial development, and feeding activities of Atlantic salmon fry.
4.	Freshwater rearing sites with space to accommodate growth and survival of Atlantic salmon parr.
5.	Freshwater rearing sites with a combination of river, stream, and lake habitats that accommodate Atlantic salmon parrs' ability to occupy many niches and maximize parr production.
6.	Freshwater rearing sites with cool, oxygenated water to support growth and survival of Atlantic salmon parr.
7.	Freshwater rearing sites with diverse food resources to support growth and survival of Atlantic salmon parr.
	Migration Critical Habitat
8.	Freshwater and estuary migratory sites free from physical and biological barriers that delay or prevent access of adult salmon seeking spawning grounds needed to support recovered populations;
9.	Freshwater and estuary migration sites with abundant, diverse native fish communities to serve as a protective buffer against predation; and
10.	Freshwater and estuary migration sites free from physical and biological barriers that delay or prevent emigration of smolts to the marine environment.

Table 5: PBFs for North Atlantic Right Whale Critical Habitat

1.	The physical oceanographic conditions and structures of the Gulf of Maine and Georges Bank region that combine to distribute and aggregate *Calanus finmarchicus* for right whale foraging, namely prevailing currents and circulation patterns, bathymetric features (basins, banks, and channels), oceanic fronts, density gradients, and temperature regimes;
2.	Low flow velocities in Jordan, Wilkinson, and Georges Basins that allow diapausing *C. finmarchicus* to aggregate passively below the convective layer so that the copepods are retained in the basins;
3.	Late stage *C. finmarchicus* in dense aggregations in the Gulf of Maine and Georges Bank region;
4.	Diapausing *C. finmarchicus* in aggregations in the Gulf of Maine and Georges Bank region.

NOAA FISHERIES
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Greater Atlantic Region

US Army Corps of Engineers ®

GARFO ESA Section 7: 2017 NLAA Program Verification Form

Submit this verification form and supporting documents to nmfs.gar.esa.section7@noaa.gov. Please put 2017 NLAA Program, the permit number, and a brief project title in the subject line.

Section 1: General Project Details

Application Number:	
Applicant(s):	
Permit Type (e.g. NWP, LOP, RGP, IP, Permit Modification):	
Anticipated project duration (e.g., start/end date of construction/permit duration)	

Project Type/Category (check all that apply to entire action):

☐	Aquaculture (shellfish) and artificial reef creation	☐	Transportation and development (e.g., culvert construction, bridge repair)
☐	Routine maintenance dredging and disposal/beach nourishment	☐	Mitigation (fish/wildlife enhancement or restoration)
☐	Piers, ramps, floats, and other structures	☐	Bank stabilization and dam maintenance
☐	If other, describe project type/category:		

Project/Action Description and Purpose:	
Total area of habitat modification (acres) by habitat type (e.g., 2.5 acres sand; 3 acres silt/mud, 0.25 acres cobble):	
Project Latitude (e.g., 42.625884)	

Project Longitude (e.g., -70.646114)	

Section 2: ESA-listed species and/or critical habitat in the action area:

☐	Atlantic sturgeon (all DPSs) If not all DPSs, list which here:	☐	Kemp's ridley sea turtle
☐	Atlantic sturgeon critical habitat (proposed or designated) (GOM, NYB, Chesapeake Bay DPSs)	☐	Loggerhead sea turtle (NW Atlantic DPS)
☐	Shortnose sturgeon	☐	Leatherback sea turtle
☐	Atlantic salmon (GOM DPS)	☐	Right whale (N. Atlantic DPS)
☐	Atlantic salmon critical habitat (GOM DPS)	☐	Right whale critical habitat (N. Atlantic DPS)
☐	Green sea turtle (N. Atlantic DPS)	☐	Fin whale

Section 3: NLAA Determination (check all applicable fields):

a) GENERAL PDC		
☐	Yes, my project meets all of the General PDC (justification for PDC 8, below) Width of water body in action area (m):	
	Max extent (m) of activity stressor into water body: (e.g., turbidity plume, sound pressure wave)	
☐	No, my project does not meet all the General PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	
☐	1.	No work will individually or cumulatively have an adverse effect on ESA-listed species or designated critical habitat; no work will cause adverse modification or destruction to proposed critical habitat.
☐	2.	No work will occur in the tidally influenced portion of rivers/streams where Atlantic salmon presence is possible from April 10–November 7.
☐	3.	No work will occur in Atlantic or shortnose sturgeon spawning grounds as follows: i. New England: April 1–Aug. 31 ii. New York/Philadelphia: March 15–August 31 iii. Baltimore/Norfolk: March 15–July 1 and Sept. 15–Nov. 1
☐	4.	No work will occur in shortnose sturgeon overwintering grounds as follows: i. New England District: October 15–April 30 ii. New York/Philadelphia: Nov. 1–March 15

		iii. Baltimore: Nov. 1–March 15
☐	5.	Within designated Atlantic salmon critical habitat, no work will affect spawning and rearing areas (PBFs 1-7).
☐	6.	Within proposed/designated Atlantic sturgeon critical habitat, no work will affect hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0-0.5 parts per thousand) (PBF 1).
☐	7.	Work will not change temperature, water flow, salinity, or dissolved oxygen levels.
☐	8.	If it is possible for ESA-listed species to pass through the action area, a zone of passage with appropriate habitat for ESA-listed species (e.g., depth, water velocity, etc.) must be maintained (i.e., physical or biological stressors such as turbidity and sound pressure must not create barrier to passage).
☐	9.	Any work in designated North Atlantic right whale critical habitat must have no effect on the physical and biological features (PBFs).
☐	10.	The project will not adversely impact any submerged aquatic vegetation (SAV).
☐	11.	No blasting will occur.

b) The following stressors are applicable to the action (check all that apply—use table for guidance):	
☐	Sound Pressure
☐	Impingement/Entrapment/Capture
☐	Turbidity/Water Quality
☐	Entanglement
☐	Habitat Modification
☐	Vessel Traffic

	Stressor Category					
Activity Category	Entanglement	Sound Pressure	Impingement/ Entrapment/ Capture	Turbidity/ Sedimentation	Vessel Traffic	Habitat Mod.
Aquaculture (shellfish) and artificial reef creation	Y	N	N	Y	Y	Y
Routine maintenance dredging and disposal/beach nourishment	N	N	Y	Y	Y	Y
Piers, ramps, floats, and other	Y	Y	N	Y	Y	Y

structures						
Transportation and development (e.g., culvert construction, bridge repair)	N	Y	N	Y	Y	Y
Mitigation (fish/wildlife enhancement or restoration)	N	N	N	Y	Y	Y
Bank stabilization and dam maintenance	N	Y	N	Y	Y	Y

c) SOUND PRESSURE PDC		
☐	Yes, my project meets all of the Sound Pressure PDC below (attach analysis for PDC 14 if necessary). Please indicate the number, type(s), and diameter(s)/width(s) of all piles (e.g., 10-16" steel pipe piles; 20-14" timber piles): Please indicate the installation method (e.g., impact hammer, vibratory hammer):	
☐	No, my project does not meet all the Sound Pressure PDC as indicated below. (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	
☐	12.	If the pile driving is occurring during a time of year when ESA-listed species may be present, and the anticipated noise is above the behavioral noise threshold of those species (please see SOPs), a 20 minute "soft start" is required to allow for animals to leave the project vicinity before sound pressure increases.
☐	13.	Any new pile supported structure must involve the installation of ≤ 50 piles (below MHW).
☐	14.	The project involves non-steel piles (or steel sheet piles) less than (≤) 24-inches in diameter (or width) and all underwater noise (pressure) is below (<) the physiological/injury noise threshold for ESA-species in the action area.
d) IMPINGEMENT/ENTRAINMENT/CAPTURE PDC		
☐	Yes, my project meets all of the Impingement/Entrainment/Capture PDC below. Please indicate mesh size for PDC 18 here:	
☐	No, my project does not meet all the Impingement/Entrainment/Capture PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	

☐	15.	Only mechanical, cutterhead, and low volume hopper (e.g., CURRITUCK) dredges may be used.
☐	16.	No new dredging in proposed or designated Atlantic sturgeon or Atlantic salmon critical habitat (maintenance dredging still must meet all other PDCs). New dredging outside Atlantic sturgeon or salmon critical habitat is limited to one time dredge events (e.g., burying a utility line) and minor (≤ 2 acres) expansions of areas already subject to maintenance dredging (e.g., marina/harbor expansion).
☐	17.	Work behind cofferdams, turbidity curtains, and other methods to block access of animals to dredge footprint is required when operationally feasible and ESA-listed species may be present.
☐	18.	Temporary intakes related to construction must be equipped with appropriate sized mesh screening (as determined by GARFO section 7 biologist and/or according to Chapter 11 of the NOAA Fisheries Anadromous Salmonid Passage Facility Design) and must not have greater than 0.5 fps intake velocities, to prevent impingement or entrainment of any ESA-listed species life stage.
☐	19.	No new permanent intake structures related to cooling water, or any other inflow at facilities (e.g. water treatment plants, power plants, etc.).
e) TURBIDITY/WATER QUALITY PDC		
☐	Yes, my project meets all of the Turbidity/Water Quality PDC below.	
☐	No, my project does not meet all the Turbidity/Water Quality PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	
☐	20.	Work behind cofferdams, turbidity curtains, or other methods to control turbidity are required when operationally feasible and ESA-listed species may be present.
☐	21.	In-water offshore disposal may only occur at designated disposal sites that have already been consulted on with GARFO.
☐	22.	Any temporary discharges must meet state water quality standards; no discharges of toxic substances.
☐	23.	Only repair of existing discharge pipes allowed; no new construction.
f) ENTANGLEMENT PDC		
☐	Yes, my project meets all of the Entanglement PDC below. The aquaculture gear type (e.g., cage on bottom) is:	
☐	No, my project does not meet all the Entanglement PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	

☐	24.	Shell on bottom <50 acres with maximum of 4 corner marker buoys;
☐	25.	Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
☐	26.	Floating cages in <3 acres in waters and shallower than -10 feet MLLW with no loose lines and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
☐	27.	Floating upweller docks in >10 feet MLLW.
☐	28.	Any in-water lines, ropes, or chains must be made of materials and installed in a manner (properly spaced) to minimize the risk of entanglement by keeping lines taut or using methods to promote rigidity (e.g., sheathed or weighted lines that do not loop or entangle).
g) HABITAT MODIFICATION PDC		
☐	Yes, my project meets all of the Habitat Modification PDC below.	
☐	No, my project does not meet all the Habitat Modification PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	
☐	29.	No conversion of habitat type (soft bottom to hard, or vice versa) for aquaculture or reef creation.
h) VESSEL TRAFFIC PDC		
☐	Yes, my project meets all of the Vessel Traffic PDC below. Below, please list separately the number of temporary project/construction vessels and the net increase of permanent non-commercial vessels (must be ≤ 2 per PDC 32): Temporary project/construction vessels (# and type): Permanent net increase of non-commercial vessels (#):	
☐	No, my project does not meet all the Vessel Traffic PDC as indicated below (please check the PDC the action does NOT comply with below, and provide justification in Section 4 of this form):	
☐	30.	Speed limits below 10 knots for project vessels with buffers of 150 feet for all listed species (1,500 feet for right whales).
☐	31.	While dredging, dredge buffers of 300 feet in the vicinity of any listed species (1,500 feet for right whales), with speeds of 4 knots maximum.
☐	32.	The number of project vessels must be limited to the greatest extent possible, as appropriate to size and scale of project.
☐	33.	The permanent net increase in vessels resulting from a project (e.g., dock/float/pier/boating facility) must not exceed two non-commercial vessels. A project must not result in the permanent net increase of any commercial vessels (e.g., a ferry terminal).

Section 4: Justification for Review under the 2017 NLAA Program

If the action is not in compliance with all of the General PDC and appropriate stressor PDC, but you can provide justification and/or special conditions to demonstrate why the project still meets the NLAA determination (all effects are insignificant and/or discountable) and is consistent with the aggregate effects considered in the programmatic consultation, you may still certify your project through the NLAA program using this verification form. Please identify which PDC your project does not meet (e.g., PDC 9, PDC 15, PDC 22, etc.) and provide your rationale and justification for why the project is still eligible for the verification form:

PDC#	Justification

Section 5: USACE Verification of Determination

☐	In accordance with the 2017 NLAA Programmatic Consultation, the Corps has determined that the action complies with all applicable PDC and is not likely to adversely affect listed species.
☐	In accordance with the 2017 NLAA Programmatic Consultation, the Corps has determined that the action is not likely to adversely affect listed species per the justification and/or special conditions provided in Section 4.

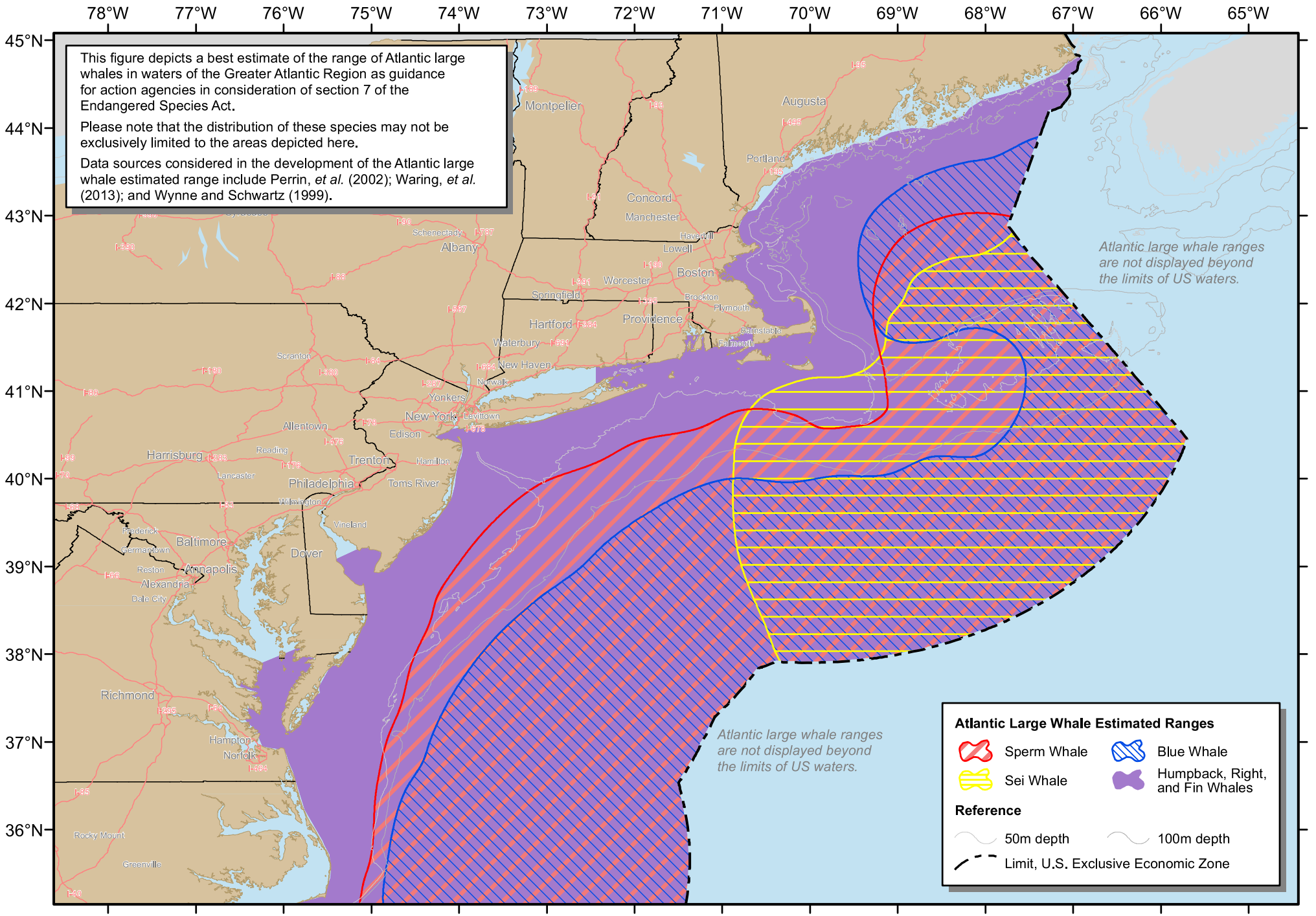
USACE Signature:	Date:

Section 6: GARFO Concurrence

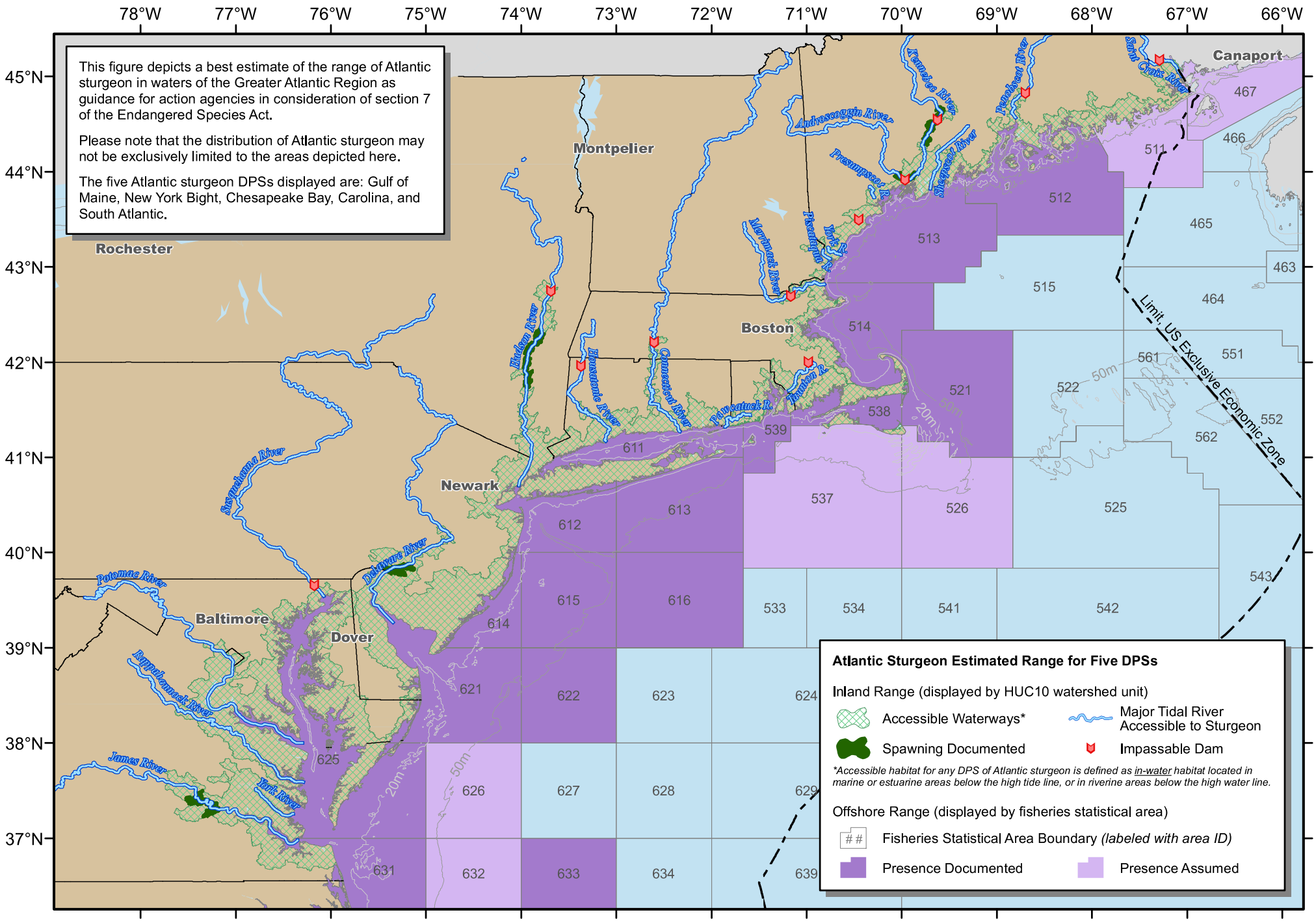
☐	In accordance with the 2017 NLAA Program, GARFO PRD concurs with USACE's determination that the action complies with all applicable PDC and is not likely to adversely affect listed species or critical habitat.
☐	In accordance with the 2017 NLAA Program, GARFO PRD concurs with USACE's determination that the action is not likely to adversely affect listed species or critical habitat per the justification and/or special conditions provided in Section 4.
☐	GARFO PRD does not concur with USACE's determination that the action complies with the applicable PDC (with or without justification), and recommends an individual Section 7 consultation to be completed independent from the 2017 NLAA Program.

GARFO Signature:	Date:

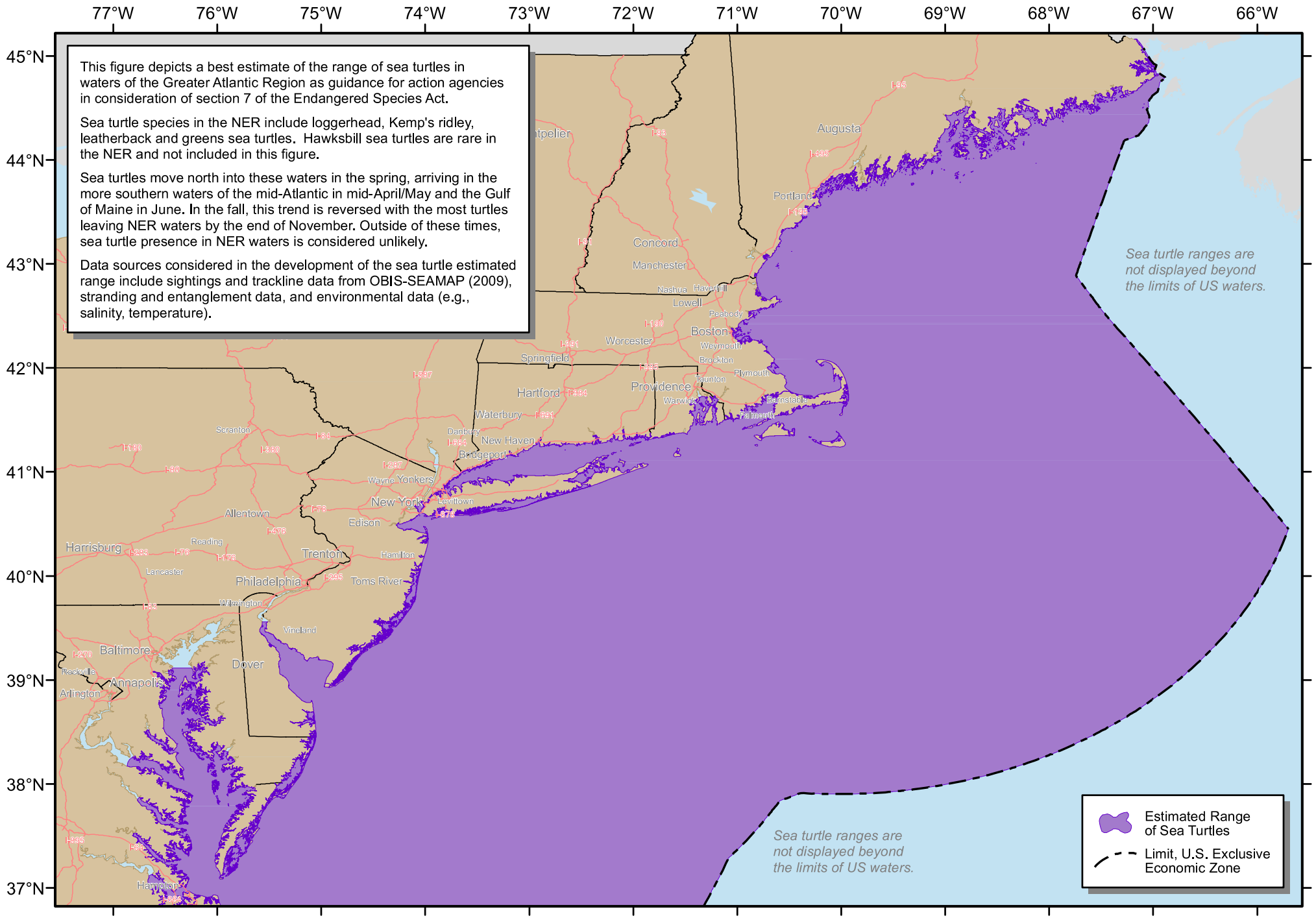
Estimated Range of Atlantic Large Whales



Estimated Range of Atlantic Sturgeon Distinct Population Segments (DPSs)



Estimated Range of Sea Turtles

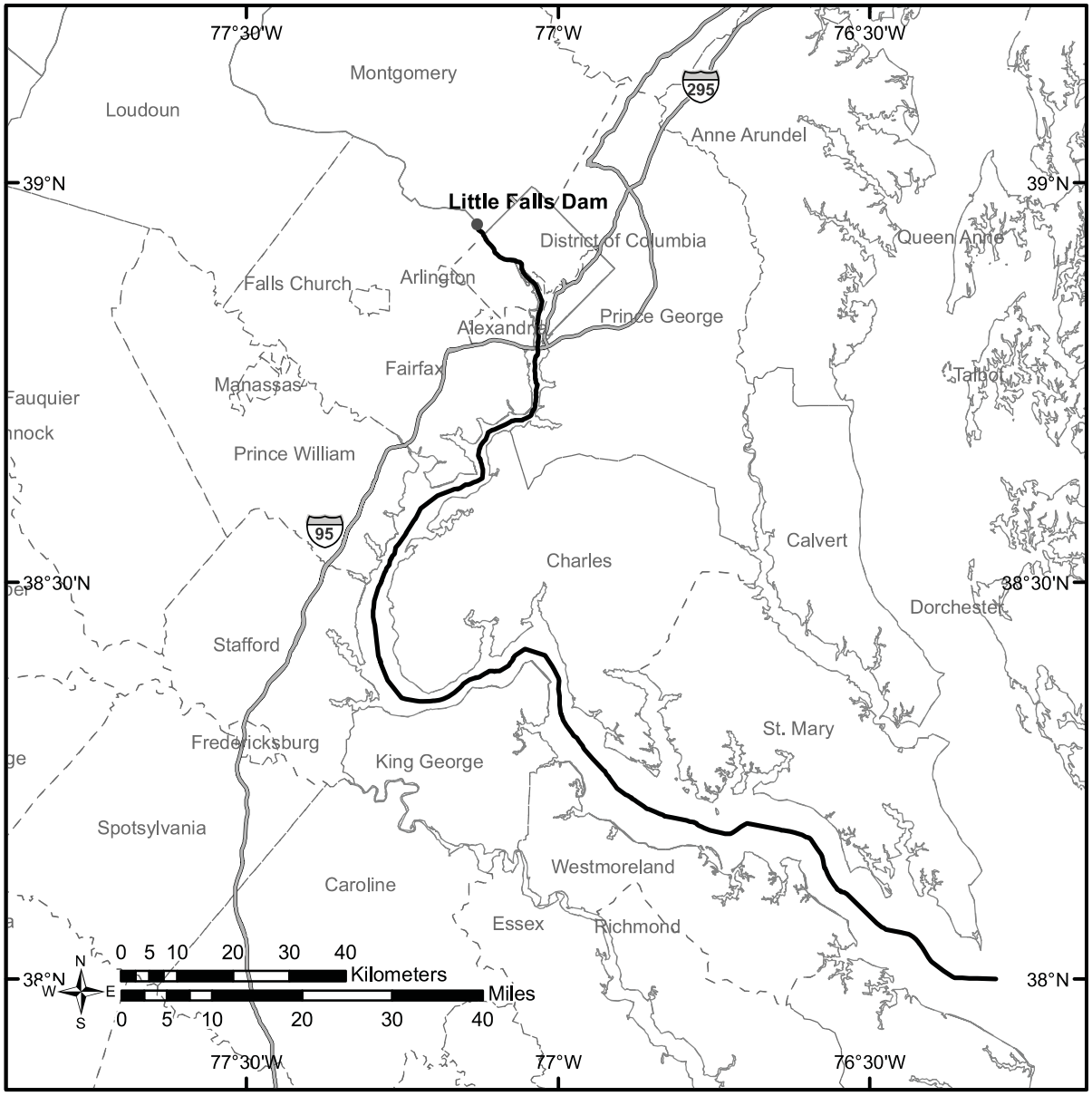


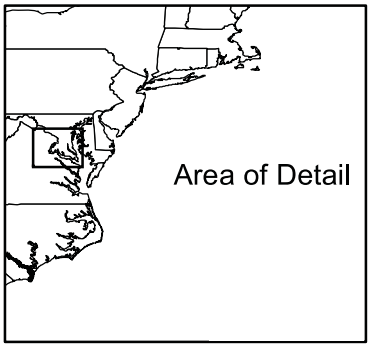
PROPOSED STURGEON CRITICAL HABITAT IN VIRGINIA

2016

Chesapeake Bay Unit 2
Potomac River

Map 11





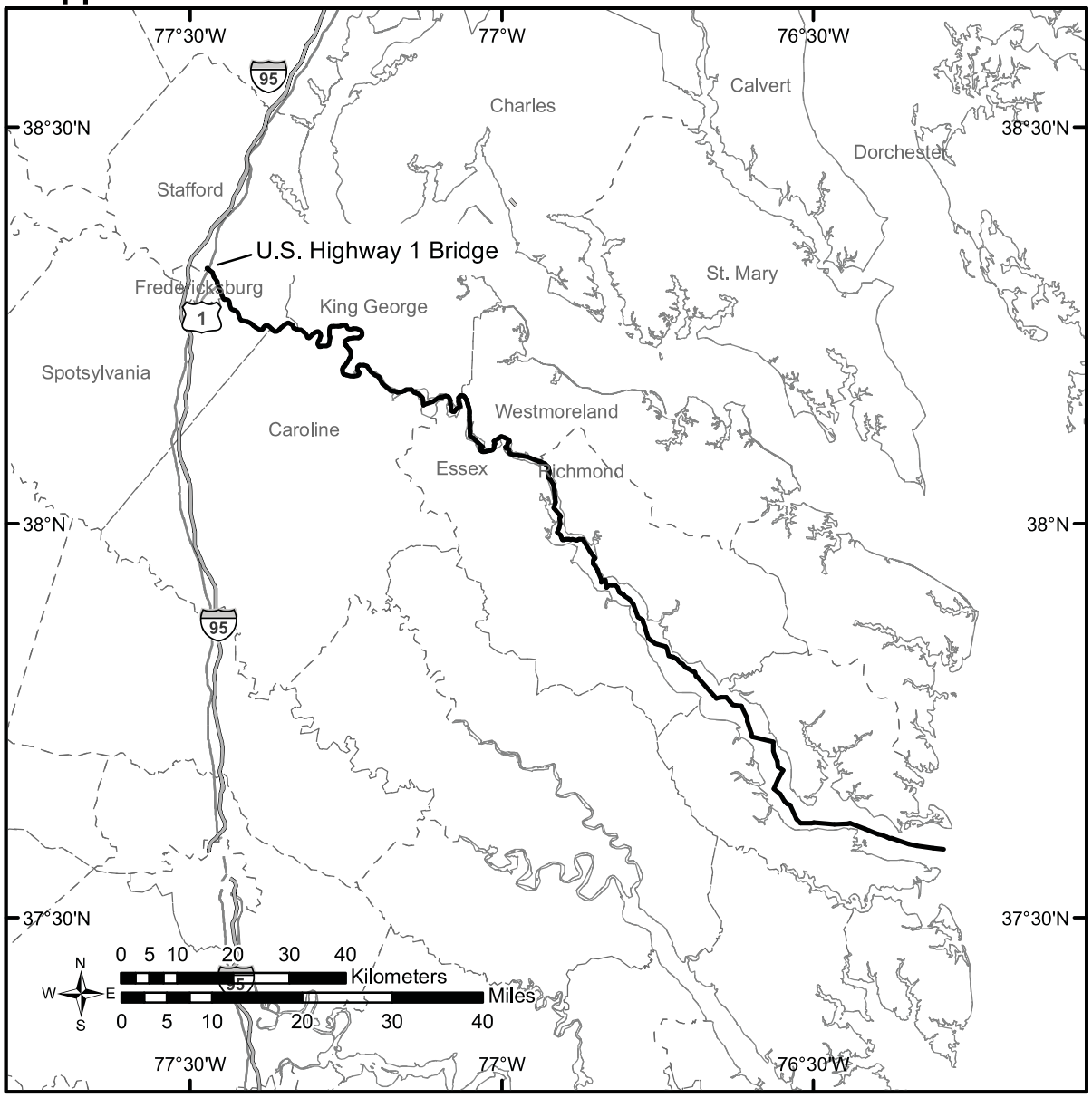
Legend

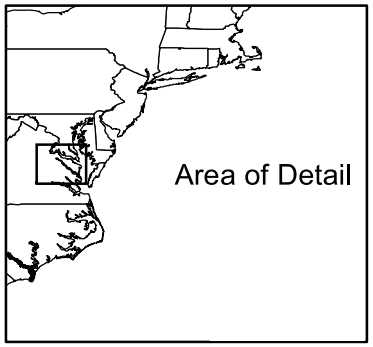
Length of River Proposed as Critical Habitat

This map is provided for illustrative purposes only of Atlantic sturgeon critical habitat.
For the precise legal definition of critical habitat, please refer to the narrative description.
The proposed critical habitat is the full bank width of the depicted river length with the exception of U.S. Department of Defense sites determined to be ineligible for designation.
The river is not depicted in its entirety unless critical habitat is proposed for the entire length of the river.

Chesapeake Bay Unit 3
Rappahannock River

Map 12





Legend

Length of River Proposed as Critical Habitat

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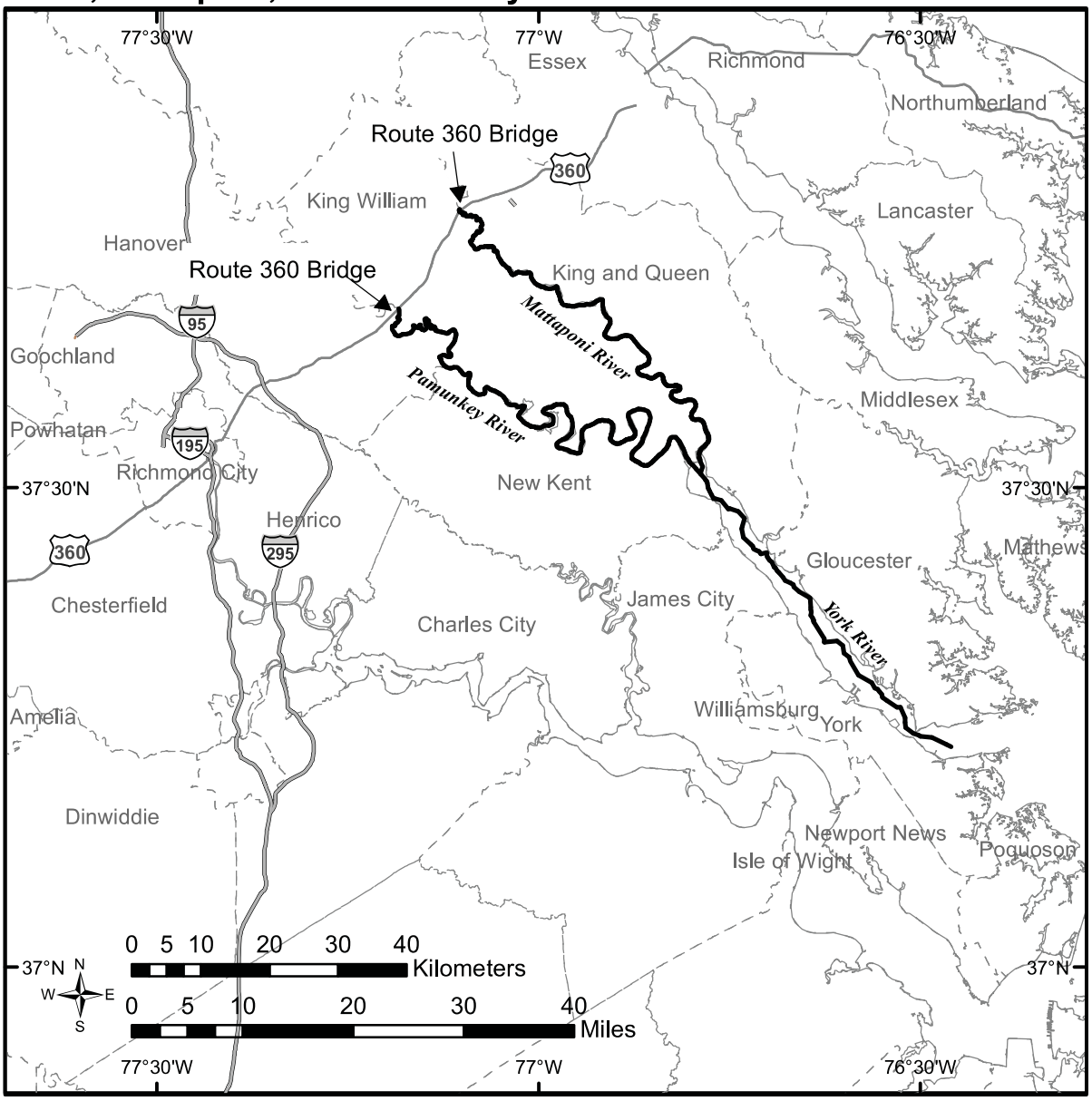
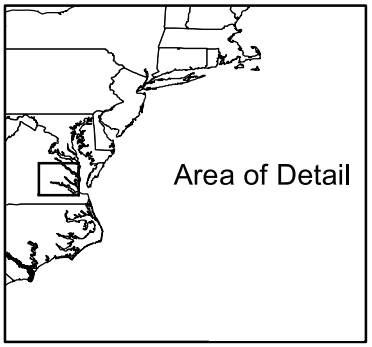
The river is not depicted in its entirety unless critical habitat is proposed for the entire length of the river.

Chesapeake Bay Unit 4
York, Mattaponi, and Pamunkey Rivers

Map 13





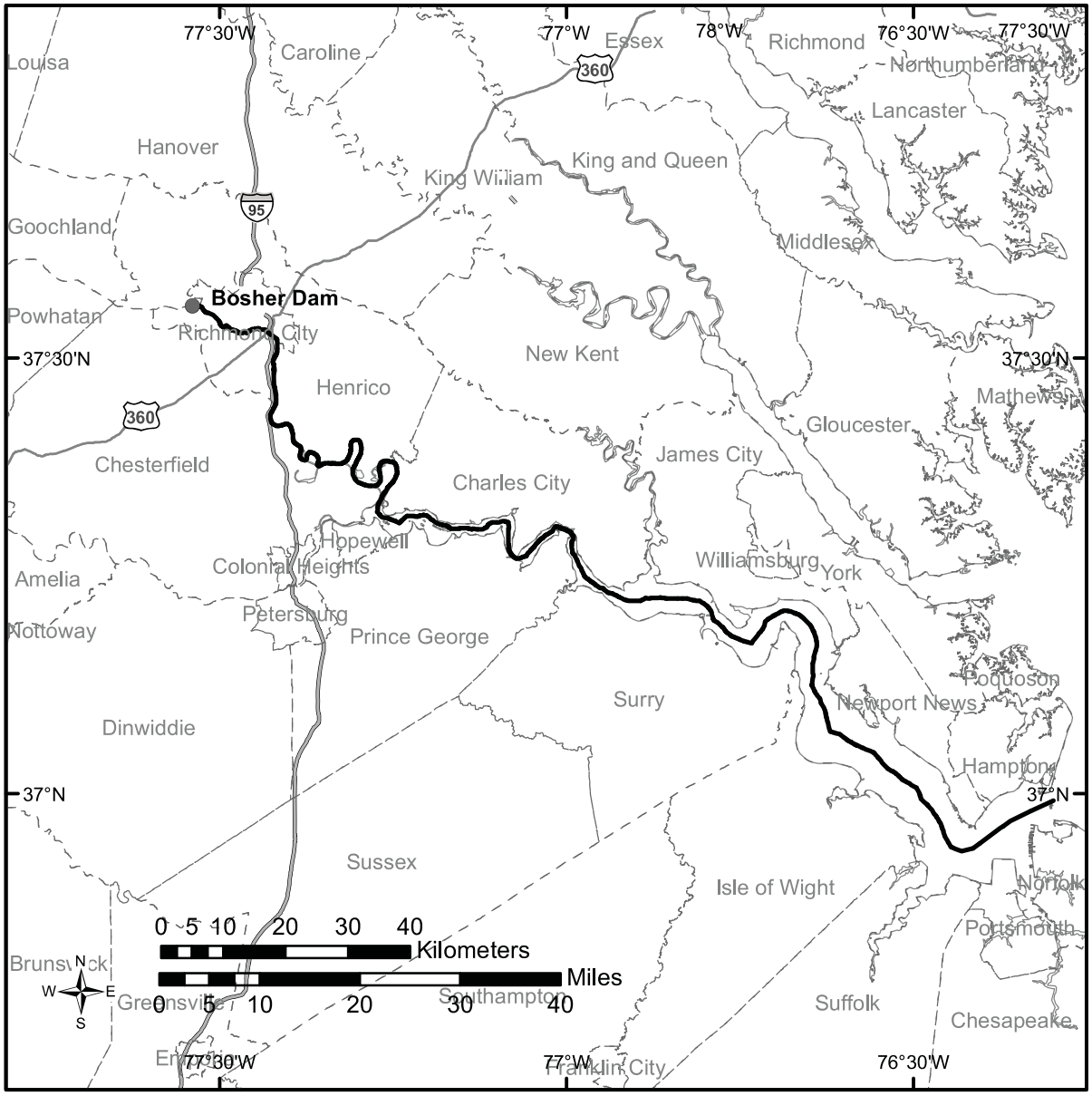
Legend

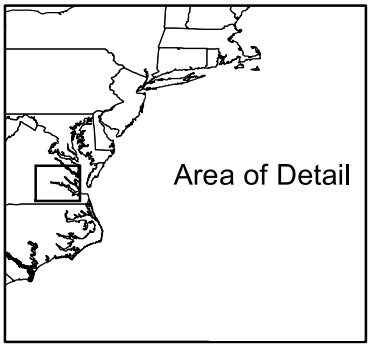
River Length Proposed for Critical Habitat

This map is provided for illustrative purposes only of Atlantic sturgeon critical habitat.
For the precise legal definition of critical habitat, please refer to the narrative description.
The proposed critical habitat is the full bank width of the depicted river length with the exception of U.S. Department of Defense sites determined to be ineligible for designation.
The river is not depicted in its entirety unless critical habitat is proposed for the entire length of the river.

Chesapeake Bay Unit 5
James River

Map 14





Legend

River Length Proposed for Critical Habitat

This map is provided for illustrative purposes only of Atlantic sturgeon critical habitat.
For the precise legal definition of critical habitat, please refer to the narrative description.
The proposed critical habitat is the full bank width of the depicted river length with the exception of U.S. Department of Defense sites determined to be ineligible for designation.
The river is not depicted in its entirety unless critical habitat is proposed for the entire length of the river.

ORM Data Entry

ENDANGERED SPECIES ACT SUBACTION

Enter a subaction for all NLAA and MAY EFFECT determinations/coordinations for FWS species and NOAA PRD species

ESA (Formal):

Enter one ESA entry for each letter (or email equivalent) to FWS/NMFS to initiate formal consultation for adverse effects to listed species or designated critical habitat for the purpose of obtaining a Biological Opinion. There may be multiple species in the letter (or e-mail equivalent) but a single ESA entry. Do not add ESA entries for exchange of information during the consultation.

ESA (Informal):

Enter one ESA entry for each letter (or e-mail equivalent) to FWS/NMFS requesting written concurrence that the project is not likely to adversely affect listed species or designated critical habitat. There may be multiple species in the letter (or e-mail equivalent) but a single ESA entry. Do not add ESA entries for exchange of information during the consultation. For districts with established SLOPES agreements, this subaction should be used for situations that require additional correspondence/consultation above and beyond routine procedures.

ESA (Programmatic):

Enter when using the NMFS NLAA ESA Program Verification Form

ESSENTIAL FISH HABITAT SUBACTION:

Enter SubAction for consultation for EFH, SAVs, HPCs, and Anadromous Fish Use Areas.

Enter if you receive recommendations from NMFS and you need to prepare response. Do not enter these if you only sent a public notice/LOP coordination or PCN, or made a no effect determination without official coordination. Create the SubAction if a dialog with NMFS on a project resulted in development of conservation recommendations or their stating satisfaction with the project in lieu of sending recommendations."

*** DO NOT use "EXETERNAL AGENCY COORDINATION" for ESA related coordination efforts

*** Add comments as needed to record timelines, revisions, or other helpful data.

*** DO NOT add a SubAction for NO EFFECT determinations