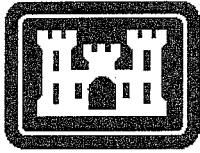


ENCLOSURE 2

**Supplemental Decision Document
for the
2007 Nationwide Permits Re-Issuance**



SUPPLEMENTAL DECISION DOCUMENT

**2007 Nationwide Permits Re-Issuance
U.S. Army Corps of Engineers
Alaska District**

April 2007

EXECUTIVE SUMMARY

This document is a supplement to the national decision documents for the Nationwide Permits (NWP) and addresses the regional modifications and conditions for these NWP. The Pacific Ocean division engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of these NWP in the Alaska District, including the need for additional modifications of these NWP by the establishment of regional conditions (RC) to ensure that those cumulative adverse effects on the aquatic environment are minimal. The division engineer has also considered the exclusion of these NWP from certain geographic areas or specific waterbodies. These RC are necessary to address important regional issues relating to the aquatic environment. These regional issues are identified in this document. These RC are being required to ensure that these NWP authorize activities that result in no more than minimal individual or cumulative adverse effects on the aquatic environment. This document also identifies regionally important high-value waters and other geographic areas in which these NWP should be regionally conditioned or excluded from NWP eligibility, as described in the following text, to further ensure that these NWP do not authorize activities that may exceed the minimal adverse effects threshold.

To reduce paperwork and minimize redundant discussions that are common to all the NWP, and their associated RC, the Alaska District has organized the supplemental decision documents for all 49 re-issued and new 2007 NWP as follows:

A master, or umbrella document, attached to this executive summary addresses elements common to all the NWP in the Alaska. Appendixes A and B contain the analysis of NWP specific issues and the Alaska District's RC for the 2002 NWP, respectively. Collectively, they address the regional modifications and conditions for each NWP.

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1.0 Proposed Nationwide Permits and Regional Conditions

1.1 Public Noticing: In the 26 Sep 2006, issue of the Federal Register (71 FR 56258), the Corps of Engineers (Corps) published its proposal to reissue the existing NWP's and issue six new NWP's. To solicit comments on its proposed RCs for these NWP's, the Alaska District issued a special public notice (SPN) on 26 Sep 2006 (SPN 2006-216). The issuance of the NWP's was announced in the 12 Mar 2007, Federal Register notice (72 FR 11092). After the publication of the final NWP's, the Alaska District continued evaluating the RCs.

Several meetings were held with state and Federal agencies to identify concerns regarding the Coastal Zone Management Act, Section 401 Water Quality Certifications, Endangered Species Act (ESA), Essential Fish Habitat (EFH) and other topics. Meeting records are in the administrative record.¹ Several modifications and additions to the proposed RCs were made as a result of these discussions as well as public comment (See 2.0 Consideration of Comments below).

The Alaska District findings are discussed below.

1.2 Development of Proposed Alaska District Regional Conditions: RCs are necessary to address important regional issues relating to the aquatic environment to ensure that the NWP's authorize activities that result in no more than minimal individual or cumulative adverse effects on the aquatic environment. Information pertaining to the use, modification, or deletion of the Alaska District's twenty RCs for the 2002 NWP's, the ten proposed RCs for the 2007 NWP's, and the comments received on the regional issues are discussed below (see 1.2.1 and 1.2.2).

1.2.1 Consideration of the Alaska District's 2002 NWP Regional Conditions: Due to some of the NWP's and their general conditions and definitions having substantial modifications, the Alaska District reviewed the twenty RCs from the 2002 NWP's with the 2007 NWP's in mind, to develop proposed RCs for the 2007 NWP's. (Appendix B contains the analysis of the 2002 RCs).

Some of the RCs developed for the 2002 NWP's work well, and if the applicable NWP's did not change, no modifications or slight modifications were proposed (e.g., RC B 2002 which was re-numbered to RC C 2007). Other RCs from the 2002 NWP's are so similar to the general conditions proposed by Headquarters that they would be redundant, thus were proposed for deletion or combined with other related RCs. We are encouraging use and enforcement of the general conditions rather than creating redundant RCs that do not add protection to aquatic resources. A third group proposed for deletion are those that require proof of application to State agencies for the application to be considered complete or that a permit (other than a 401 WQC or CZMA consistency determination) be issued from a state agency before the work can begin under the NWP; we believe such RCs do not add protection to aquatic resources (e.g. RC L from the 2002 NWP's which requires a Alaska Coastal Project Questionnaire for all projects on State lands or in State waters) and/or or have placed an administrative burden on the Corps. The

¹ Meetings were held on 10 Oct 2006, with state and Federal agencies; 24 Oct 2006, with the National Marine Fisheries Service (NMFS); 21 Nov 2006, with the state's Office of Project Management and Permitting (OPMP) which administers the Alaska Coastal Management Program (ACMP); 8 Jan 2007 with state and Federal agencies; 10 Jan 2007 with NMFS; and, 8 Mar 2007, with the state and federal agencies.

Corps will continue to provide such information to the public through coordinated agency reviews, pre-application meetings, and information on our website as well as continuing our practice of providing a copy of our NWP verification letters to other agencies. Additionally, the Alaska District's NWP verification letters will continue to contain this statement, "Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations."

1.2.2 Proposed Regional Conditions: The intent of the Alaska District is to develop RCs that are: 1. applicable across all activities with similar potential adverse effects and; 2. goal-oriented rather than prescriptive, since many times prescriptive measures are not applicable across all project types nor are they effective across all areas of the state. As stated above, on 26 Sep 2006, we published SPN 2006-216 to solicit comments on the proposed RCs. Below is a summary of the proposed RCs. (For the complete proposal see SPN 2006-216 in the Administrative Record).

Proposed RC A 2007 (Bank Stabilization Projects): This RC was developed to encourage use of environmentally-friendly designs for bank stabilizations and to eliminate excessive workload to review small projects which are proposed using proven designs. This condition requires that other designs have an agency review to determine if it is a good, practicable alternative for the site with minimal adverse impact, and to provide opportunity for special conditioning the NWP.

Proposed 2007 NWPs RC B (Agency Coordination): This RC was developed because there are certain circumstances where it may be necessary to add special conditions to NWP verifications, on a case-by-case basis. The use of special conditions in this manner is an important tool to assure a project does not result in more than minimal adverse impacts on the aquatic environment. To accomplish this, we proposed to coordinate additional NWPs that require a PCN to the Corps above the requirements of NWP general condition 27. This additional coordination would occur when projects are proposed in high value aquatic habitat. We proposed five areas that have origins to RC A from the 2002 NWPs and one new habitat area (marine habitat).

Proposed RC C – (Wood Preservatives): This RC is RC B from the 2002 NWPs. There were no proposed changes to the language. The RC identifies wood preservatives that are prohibited when in fresh and marine waters as well as requiring any allowable wood preservative be pressure treated. The prohibited wood preservatives cause more than minimal adverse impacts on the aquatic environment. The requirement for pressure treatment of wood preservatives is a minimization technique that allows the treated wood product to have less than minimal adverse impacts on the aquatic environment.

Proposed RC D (Activities Involving Trenching): The intent of this RC is to minimize impacts associated with the trenching of the aquatic environment such as detrimental hydrologic changes and insufficient backfilling that can retard the recovery of the site. Thus, the RC requires that drainage and other hydrologic changes not occur, but allows for a variety of methods to be used to prevent hydrologic changes. Likewise, achieving a natural, stable surface condition is required, but the methods are not prescribed. The time for achieving natural surface conditions was changed to allow more than one year if climatic conditions warrant the need for additional time. For example, in areas far north where backfilled material may take 2-3 years to fully thaw

and reach final settlement. Thermal stability for disturbed areas may take even longer to achieve in permafrost, thus the need for flexibility in trenching methods, remedial efforts, and monitoring of the site after trenching.

Proposed RC E 2007 (Site Restoration for Projects with Ground Disturbing Activities): This RC's purpose is to address several stabilization and revegetation issues which may be related to many NWP activities. Sites that are not stabilized and revegetated can erode and cause unnecessary turbidity in open waters. This can have secondary impacts, that are avoidable, such as, degradation of water quality, stressing juvenile fish (particularly salmonids), and altering the rate of photosynthesis of aquatic plants. The proposed condition is goal-driven, i.e., stabilization and revegetation to a natural-looking condition as soon as possible. Detailed methods can be found in BMPs, among other sources. Use of native materials and avoidance of non-native seed is intended to prevent introduction of either invasive weed species or inappropriate plants for the site which would fail to grow. Site-specific methods can be added to permit verifications through special conditions.

Proposed RC F - Equipment Standards: The RC was developed to cover equipment operation in aquatic habitats which can be easily damaged. If not addressed, soil compaction in wetlands and mudflats lowers the ground elevation (rutting) which can channelize surface flow and create erosion. Rutting also results in soil compression (thereby removing oxygen needed for plant roots) making the ground unsuitable for plant growth and preventing water percolation. Tundra and permafrost wetlands along with mudflats are particularly sensitive to damage and their recovery can take decades. This condition is applicable to a wide variety of projects, including maintenance, trenching, bank stabilization, temporary construction activities, restoration, and small fills. This proposed RC sets a higher standard than proposed general condition 11 which requires that such damage be "minimized." The standard in the proposed RC is to employ techniques that "prevent" impacts.

Proposed RC G- Seasonal Docks: This RC was simplified from the 2002 NWPs. The primary concern is to maintain navigation opportunities where seasonal docks are present, as Alaska's navigable waters are very diverse and range from marine waters, to narrow, tidally influenced sloughs, to substantial inland rivers.

Proposed RC H Agricultural Activities: This RC maintained some of the limitations that are contained in RC T of the 2002 NWPs, however, rather than restricting these activities in wetlands "contiguous" to anadromous waters, we proposed to replace "contiguous" with "adjacent" as adjacent is defined at 33 CFR 328.3(c) and there is no definition for "contiguous."

Proposed RC I Mining Activities: The proposed RC would apply to hard rock mines and the temporary stockpiling of sand and gravel in waters of the U.S. It is not anticipated that the inclusion of hard rock mining will result in many projects that will be able to meet the 1/2 acre loss of waters limit, but it could serve as an incentive and will ensure adequate protection will be provided by the NWP's general conditions and relevant proposed RCs. The restrictions to stockpiling sand and gravel have in the past, and will continue, to minimize project impacts so no more than minimal adverse impacts to the aquatic environment are felt.

2.0 Consideration of Public Comments and Alternative Regional Conditions In response to SPN 2006-216, comments were received from the Environmental Protection Agency (EPA) (9 Nov 2006), the U.S. Fish and Wildlife Service (FWS) (8 Nov 2006), NMFS (6 Nov 2006), the Sitka Tribe of Alaska (9 Nov, 2006), BP Exploration (Alaska), Inc. (9 Nov 2006), the Alaska Railroad Corporation (22 Nov 2006), Alyeska Pipeline Service Co. (9 Nov 2006), Marathon Oil (9 Nov 2006). Additionally, the State Office of Project Management/Permitting (OPMP) provided their Coastal Zone Management Act Proposed Consistency Response – Objection with Alternative Measures (19 Dec 2006) and the State of Alaska Department of Environmental Conservation (DEC) provided their draft Section 401 Water Quality Certifications (5 January, 2007).

Commenters suggested alternative language for specific RCs, additional aquatic habitat areas to include in RC B and additional PCN requirements for some NWP. We considered all comments received in response to SPN 2006-216. Comments and the consideration they were given follow.

2.1 Comments on Proposed Regional Conditions:

Proposed Regional Condition A – Some comments indicated to us that the RC was misunderstood to mean that a non-bioengineered project could not qualify for NWP 13. Alaska Railroad Corporation expressed concern about a PCN being required if a bioengineered design is not proposed for “critical infrastructure.” Alyeska Pipeline Service Company suggests that we should distinguish between small streams and large rivers where a bioengineered design may not be feasible.

The RC was written so that such projects could potentially qualify for the NWP. To clarify this, language has been added stating such projects may qualify for NWP 13 but an alternative analysis is necessary. Applicants can use the alternative analysis to explain why such alternatives are not practicable based on cost, logistics, and existing technology, and there will likely be cases where a non-bioengineered design is the only practicable alternative.

NMFS suggested a PCN for bank stabilization projects in estuarine or marine areas. There are very few bioengineered projects in coastal waters so the vast majority of such projects would trigger a PCN to the Corps under the proposed RC. FWS recommended a change in wording from “For projects in fish streams...” to “For projects in fish-bearing waters....” and to include a definition of the term used in the condition. We agree and have modified the language by deleting “in fish streams” due to the difficulty in identifying such waters in Alaska. By removing the language, the wording becomes neutral to the presence of fish and eliminates the need to define the term. The RC becomes more protective by requiring PCN for non-bioengineered projects in any water of the U.S.

Other comments were received pertaining to specific NWPs with recommendations for additional PCN thresholds. As a result of this, we are adjusting this regional condition by renaming it “Additional Pre-Construction Notification Requirements” and adding one NWP specific PCN threshold and one NWP wide PCN threshold. The first is NWP 6 when three dimensional seismic surveys employing ocean bottom cables are proposed. The second is for

any NWP activity proposing pile driving in marine waters, anadromous lakes or anadromous streams. The discussion for these changes is contained below in section 2.3 - NWP Specific Comments.

This regional condition is adopted with the modifications discussed above.

Proposed Regional Condition B – EPA suggested that we expand agency coordination to include all areas contiguous to anadromous fish streams; to use “anadromous waters” and “tributaries,” not just anadromous streams; and to include estuarine and tidal waters, vegetated shallows and macroalgae beds. EPA supports encouraging pre-application discussion with applicants, but wants a PCN to follow. EPA also requested a means of elevating a NWP verification decision much like the elevation procedure for individual permits (IP) when an agency disagrees with use of the NWP rather than an IP.

NMFS suggested clarifying the condition by summarizing the requirements of GC 27 in the RC. Also, to 1) revise the wording in the description of the 100 feet from OHW for anadromous fish streams; 2) expand to include all waters within 100 feet of the HTL; and 3) add other marine substrates to the eelgrass area so that “seagrass beds, marine algae, and corals” are included.

FWS suggested wording changes which incorporate the comment above about using “fish-bearing waters”, and also adding “estuarine and tidal waters, and vegetated shallow water habitat (including macroalgae beds)” to the list of areas always requiring a PCN. FWS also suggested that the area included in PCN requirements be within 500 feet of fish-bearing waters, rather than 100 feet. FWS noted the importance of the additional habitats for fish and wildlife.

Other suggested changes to the paragraph about applicants doing their own agency coordination included replacing “may choose” to “will be encouraged”, and replacing the last sentence about documentation of such coordination with a statement that the documentation “should be supplied with the PCN”. The Service notes that this would ensure that agencies decide if their concerns have been adequately represented.

The Sitka Tribe of Alaska recommended that PCN coordination be added for projects occurring within Sitka Sound’s Pacific herring spawning habitat. It was also suggested that no construction be allowed in these areas between March 1st and June 15th, the time for herring spawning, egg incubation, hatching, and dispersal, because of concerns about increasing development and dock construction.

Alyeska recommends a revision to exempt certain TAPS maintenance and repair activities from the agency coordination requirement of RC B 2007 because these projects are already coordinated with the Joint Pipeline Office, OHMP, and ADNR.

We will address comments by working through the frame work of the RC. Comments not relating well to the frame work will be addressed afterward. Responding to NMFS’s request to summarize general condition 27 we have added a footnote at the beginning of the RC to clarify the list of agencies the PCN will be coordinated with when the PCN proposes greater than 1/2 acre loss of waters of the U.S.

Several comments were received recommending adjustments be made to the geographic/habitat areas. There were no comments regarding the Municipality of Anchorage or “A” or “B” wetlands in Juneau. In the 2002 RCs, there was a reference to “High” value wetlands in Homer but as the City of Homer was developing a new functional assessment and ranking, we did not consider including in RC B until the City of Homer finalized their work. This was done on January 22, 2007 under when the city passed Homer Resolution 07-09. This resolution also states the City of Homer’s desire for the functional assessment and rankings to be used by the Corps in the RCs.²

For the habitat proposed as “anadromous fish streams” we received comments suggesting we use “fish bearing waters,” alter it to read “anadromous waters,” and add “tributaries to” these waters. The OPM&P stated in order to be consistent with the ACMP, adding anadromous lakes to the list was necessary. We explored with USFWS seeking a statewide atlas that identifies Alaska’s fish bearing waters because the area needs to be known and identifiable for the Corps to properly implement and the public to access for project formulation. While there is some local knowledge on non-anadromous fish bearing waters, the data is not in a consistent format or available for public use. Identifying the tributaries to anadromous waters is another way to capture non-anadromous fish bearing waters but it also captures non-fish bearing waters as well. Furthermore, it has been our experience that when coordinating PCNs with agencies, very few agency comments letters are received for projects in non-anadromous streams. One of our goals is to bring meaning back into the agency coordination process by identify special areas of high resource value. We believe that by including anadromous lakes or streams in the RCs will add additional protection to a critical resource in the state.

Comments received providing a distance to a project from the anadromous waterbody described above, which would trigger agency coordination ranged from 500 feet distance, to all jurisdictional areas “contiguous” to anadromous fish streams. The OPM&P also stated rather than use a distance, state jurisdictional areas that are “contiguous” to anadromous lakes or streams. Vast areas of the state contain areas with anadromous streams and lakes with adjacent wetlands that stretch miles away. It has been our experience that coordinating such projects with the agencies has generated little response. We maintain that to add value to the agency notification process, agency coordination should occur closer to the anadromous resource. Regarding the use of the word “contiguous” it is found in the definition of “adjacency” at 33 CFR 328.3(c) but the term itself is not defined by the Corps. Additionally, District Engineers are prohibited from altering their jurisdictional policies by HQUSACE as per instructs resulting from the SWANCC decision.

We believe establishing a distance will provide an incentive to applicants to site their projects beyond the distance to avoid the additional time agency coordination will take. We have worked with USFWS to understand why they suggested 500 feet. The USFWS provided a paper titled, “An Overview of Riparian Areas in Interior Alaska: Their Function and Processes U.S. Fish and Wildlife Service. September 2002.” The paper provides an analysis of buffer distances that are

² Resolution 07-09 reads, in part: “WHEREAS, Now is an important time for the City to support the wetlands rankings so ACOE may recognize it as a viable information source on Homer area wetlands in the nationwide permit RCs and future ACOE permit decisions.”

needed to maintain healthy functions, or services, in riparian corridors. The State of Alaska also has a "Riparian Management Area" contained at 11 AAC 112.300(c)(2) where a set distance is used in order to protect the natural vegetation along and around waterbodies.³ We believe that setting coordination requirements for projects within jurisdictional areas within 500-feet of anadromous lakes or anadromous streams is a reasonable approach to provide added protection to riparian zones of anadromous lakes and streams, provide a reasonable incentive to the regulated public, and to enrich the agency coordination process.

One commenter requested clarification that the intent of this provision does not mean "x" feet from bank to bank, but a buffer that begins at the OHW mark. The intent is the buffer concept beginning at the OHW mark described by the commenter. We have adjusted the language to clarify this point.

Several commenters agreed that for the last habitat area, eelgrass beds were not the only important type of marine based aquatic environment that should have agency coordination. Like non-anadromous fish bearing waters, none of the habitat types are well mapped nor contained in a single source available to all. We do not disagree with the importance of the areas described by the commenters and we are adjusting language from "eelgrass beds" to simply "marine waters." This will allow agency coordination to help us identify the exact habitat that could be impacted by a NWP and develop mitigation as necessary. We do not anticipate this to be too burdensome on applicants as a small minority of our NWPs is located in marine waters.

One commenter understood the optional applicant conducted agency coordination to mean that an applicant would simply hold a pre-application meeting with the agencies, and then seek NWP verification from the Corps. In this option, applicants need to follow the same process the Corps would follow in general condition 27(d). However, to clarify, we have added language, "in accordance with this regional condition" in the first sentence.

EPA requested we create an elevation procedure for NWP verification decisions. We acknowledge that commenting agencies may not always agree that the use of a NWP is appropriate for some projects. However, we do not believe it is necessary to create such a process as one already exists under the Part III of the 404(q) MOAs between the DA and EPA, Department of the Interior, and Department of Commerce. Part III allows the agencies to elevate issues pertaining to a particular resource, policy, procedure, or regulation interpretation. It is unclear if EPA could exercise Part III for specific NWP verifications, but they could if they feel there are repeated problems with the District Engineer's decision making.

The Sitka Tribe of Alaska requested we add "no work" windows to protect herring. We agree that the use of "no work" windows is an effective tool to mitigate adverse impacts to aquatic species. However, we believe that the application of this tool should be made on a case-by-case basis. NWPs that require a PCN in marine waters will be coordinated with the resource agencies and "no-work" periods can be developed and added as a special condition to NWP verifications

³ Per 11 AAC 112.300(c)(2), riparian management areas means as the area along or around a waterbody measured from the outmost extent of the ordinary high water mark within: (A) 500 feet on either side of the braided portions of a river or stream; (B) 200 feet on either side of the split channel portions of a river or stream; (C) 100 feet on either side of the single channel portions of a river or stream; and (D) 100 feet of a lake.

in order to achieve no more than minimal impacts, both individually and cumulatively, on the aquatic environment are felt.

One commenter suggested creating an exemption for certain maintenance activities associated with the trans-Alaska pipeline because these activities are coordinated under the Bureau of Land Management's (BLM) right-of-way grant and State of Alaska right-of-way lease. The Corps understands these activities are covered by many environmental regulations; however the Corps has determined that BLM's right-of-way grant, in its current form, does not remove the need, either legally or substantively, for independent authorization under Section 404 of the Clean Water Act. Likewise, the State of Alaska can not remove the Federal authority under their right-of-way lease. As such, establishing an agency coordination process for projects impacting less than 1/2 acre of waters of the U.S., that have ecological importance is necessary for the Corps to ensure impacts of such work have no more than minimal adverse impacts, both individually and cumulatively on the aquatic environment. Consequently, this RC does not duplicate the BLM or State right-of-way process. The Corps continues to work with the other agencies to avoid potential duplication of efforts and uses appropriate work and studies done by or for other agencies (e.g., surveys/findings under the Endangered Species Act or Section 106 of the National Historic Preservation Act as well as SMCRA permit documentation) in its analysis of the proposed project.

This regional condition is adopted with the modifications discussed above.

Proposed Regional Condition C – We did not propose any changes to the RC. EPA expressed support for this regional condition. NMFS suggested adding several paragraphs of information about alternatives to treated wood and types of treated wood that could be allowed. The Draft 401 WQC from DEC contained a stipulation stating “wood treated with Chromated Copper Arsenate may not be use for residential applications where the wood is readily available to contact.” The Corps understands that there is debate concerning the environmental impacts of certain wood preservatives in the aquatic environment. However, the we believe that so long as the product is allowed by EPA, the agency with the regulatory authority over these preservatives, it is not appropriate to ban the substance as long as the adverse environmental impacts on the aquatic environment are no more than minimal, individually and cumulatively.

During our review we engaged NMFS, ADEC and OPM&P concerning two matters that were brought to our attention by Regulatory Division staff. First we learned that the language requiring the wood preservatives be applied in a manner that “prevents” leaching is not technologically possible and we sought the opinions from these agencies on changing “prevents” to minimize since the industry has best management practices (BMPs) in place to minimize leaching. “Minimizes” is derived from the Western Wood Preservers Institute (www.wwpinstitute.org). The BMPs, including the American Wood-Preservers Association standards, are in place and prescribes different preservative treatments for different logs, where (location) they would be used and how the piles would be used. ADEC expressed concerns with the change but upon further research, they agreed to the adjustment.

ADEC also suggested that we require absorbent booms or barriers to be used to control and collect sheens should they appear. The discussion involving the placement of booms around

recently treated creosote pilings to address the visual impact of a sheen comes from the Western Wood Preservers Institute.⁴ The BMP states, "Installation of oil-borne preserved products may initially result briefly in a thin oily sheen on water surface. Such sheens are generally of an aesthetic rather than biological concern and will dissipate in a relatively short period of time. Absorbent booms or barriers can be used to control and collect the sheens." We believe that if conditions existed in Alaska that enabled more leaching, such as warmer water temperatures, it would be necessary to employ techniques to capture preservatives. However, the colder water temperature mitigates leaching and we do not anticipate these preservatives to have more than minimal adverse environmental impacts, individually and cumulatively, on the aquatic environment. Should a project occur in a closed basin that does not flush well, the District Engineers can, and is encouraged to, add special conditions to the NWP verification to reduce this impact to an acceptable level.

The second issue we brought to these agencies dealt with the reuse of previously treated wood products in marine waters. The issue was brought up by Regulatory Division staff as something they have been seeing in some permit applications that have been processed and issued as standard permits with no objection from the public or resource agencies. We provided a draft of the language that scoped out the manner in which these products could be reused with ADEC and NMFS making recommendations regarding the prohibition of applying additional wood preservatives (i.e. painting creosote). The language that was agreed to is, "For the reuse of previously treated wood products in marine waters the wood preservative product's use shall be consistent with its original use and may not be treated with any additional wood preservative. (e.g. the reuse for dock piling of creosote treated wood for dock piling is allowable, the reuse for a retaining wall of creosote treated railroad ties is not allowed, etc.)."

This regional condition is necessary to minimize potential impacts to water quality, and aquatic species and habitats, by reducing the potential for toxic leachate entering the water column (33 CFR 320.4(d)) and 33 CFR 320.4(r)). This regional condition is adopted with the modifications discussed above.

Proposed Regional Condition D – EPA and USFWS each suggested adding "including vegetative cover" after "surface condition." USFWS also recommended adding the statement "Surface restoration shall follow the process outlined in Regional Condition E" to the regional condition. The intent of this RC was not to specify the revegetation of the backfilled trench, thereby creating two locations for this information. We will add the statement concerning the applicability of regional condition E to this work, as that was the relationship we inferred.

BP commented on the difficulty of achieving the original surface condition within a year of disturbance, indicating that this version of the Regional Condition is not workable on the North Slope. The language does allow more time if needed and is approved by the Corps.

This condition is required to maintain normal drainage patterns and water fluctuation, as well as to minimize adverse impacts outside of the project area (33 CFR 320.4(b), 33 CFR 320.4(r), 40 CFR 230.24 (b) 40 CFR 230.74, and 40 CFR 230.77) and to minimize adverse impacts to wetlands and other waters outside of the project area (33 CFR 320.4(b), 33 CFR 320.4(r), 40

⁴ See page 24, Best Management Practices, August 1, 2006

CFR 230.23, 40 CFR 230.70, and 40 CFR 230.75). The regional condition is adopted with the modifications discussed above.

Proposed Regional Condition E – EPA expressed support for this regional condition. USFWS suggested language containing specific procedures and requirements for site restoration, particularly the handling of soil, backfilling a trench, standards of success for percent of cover, type and timing, and establishing a process for remedial action. Citing the difficulty in achieving site restoration in one year, BP requested adding “...unless climatic conditions warrant additional time and is approved by the Corps” to the first sentence. OPM&P recommended that measures to stabilize the site are done in the same growing season as the disturbance. They also inquired if the “conditions” found in the first sentence refers to the site conditions or the permittee’s economic condition. USFWS suggested simply removing “as soon as conditions allow.”⁵

The purpose of this RC is to compliment the terms of NWP (e.g., 6, 12, and 47) and NWP general condition #12, (Soil Erosion and Sediment Controls) with the goal of beginning the revegetation process in a timely manner using native soils and plant material so that the site is stabilized and secondary impacts to the aquatic environment are minimized. We believe the methods for handling soils and backfilling trenches are adequately addressed by the terms contained within NWP such as NWP 6, 12 and 47, NWP general condition 13, (Removal of Temporary Fills) and RC D (Activities Involving Trenching). We agree that in some circumstances, there are challenges with beginning the stabilization process. We did not intend to infer that “condition” is based on the applicant’s economic condition; it is the site conditions. The Corps will insert “site” before “conditions” to clarify, rather than remove the phrase. Removing the phrase potentially leaves the timeframe up in the air which creates a concern when the RC applies to a non-notifying NWP. To address these concerns we are modifying the first two sentences of the regional condition to, “Disturbed areas shall be stabilized immediately after construction to prevent erosion. Revegetation of the site shall begin as soon as site conditions allow and in the same growing season as the disturbance unless climatic conditions warrant additional time and is approved by the Corps.”

We do not believe that adding language specifying standards of success is appropriate because such measures do not guarantee the goal of successful stabilization will occur and it can create situations where a permittee may achieve the standard of success but erosion continues. We do not believe that establishing a process for remedial action is necessary as the District Engineer will assess situations that do reach compliance with the goal of this RC in accordance with 33 CFR 326.4 and take any appropriate measures, as allowed by same. However, to emphasize the goal of the regional condition and compliment general condition 14, we added the following statement at the end, “Revegetated areas eventually shall have enough cover to sufficiently control erosion without silt fences, hay bales, or other mechanical means.”

This condition is required to minimize adverse impacts to wetlands and other waters outside of the project area. (33 CFR 320.4(b), 33 CFR 320.4(r), 40 CFR 230.73 and 40 CFR 230.75). The regional condition is adopted with the modifications discussed above.

⁵ See January 8, 2007 Multi-Agency Meeting Record in the administrative record.

Proposed Regional Condition F – EPA expressed support for this regional condition. In their proposed consistency determination OPM&P desired to add “riparian management areas”⁶ after “wetlands” as an additional important aquatic system due to the large acreage of riparian areas in Alaska and their proximity to high-value water bodies that sustain anadromous and important resident fish. OPM&P stated this addition was necessary for the State to concur that the regional condition is consistent with the ACMP. We have communicated to the OPM&P that we do not dispute the importance of these areas for their contribution towards healthy watersheds, however, riparian areas are not always aquatic sites, since they can contain areas that contain wetlands and non-wetlands. Thus they can contain areas within and outside of our jurisdiction. When riparian areas contain wetlands under our jurisdiction, the regional condition applies. When riparian areas contain non-jurisdictional areas, full consistency with the ACMP is prohibited (see 15 CFR 930.32(a)(1)) because the upland areas are beyond the Corps’ statutory authority. After this discussion OPM&P has removed this requirement.

This condition is required to minimize adverse impacts to wetlands and other waters outside of the project area (33 CFR 320.4(b), 33 CFR 320.4 (r), 40 CFR 230.21(b) and 40 CFR 230.73(c)). This regional condition is adopted as proposed.

Proposed Regional Condition G – There were no comments suggesting changes to this regional condition as a result of SPN 2006-216. EPA expressed support for this regional condition. On November 9, 2006, we were contacted by Pamela Retz with H-K Law in Portland, Oregon. Ms. Retz’s firm represents the Annette Island Indian Reservation through the City of Metlakatla. Mrs. Retz stated that the physical conditions on Annette Island are such that a dock reaching less than or equal to 50’ from the MHW would ground on ebb tides. We informed Ms. Retz that if the City had recommendations for seasonal dock specifications that would be more functional and not negatively affect navigation; we would like the City to provide us their recommendations in order to improve the regional condition. The City, nor Ms. Retz, supplied any specifications.⁷

This condition is required to minimize adverse impacts to wetlands and other waters outside of the project area (33 CFR 320.4(b), 33 CFR 320.4 (r), 40 CFR 230.21(b) and 40 CFR 230.73(c)). This regional condition is adopted as proposed.

Proposed Regional Condition H – There were no comments suggesting changes to this regional condition as a result of SPN 2006-216. EPA expressed support for this regional condition. After we proposed this regional condition Regulatory Division staff suggested altering the prohibition on mechanized land clearing in wetlands adjacent to anadromous waters to a prohibition of mechanized land clearing within 500’ of anadromous lakes or streams. The change would allow an incentive to applicants to design projects outside the 500’ buffer and avoid the lengthier standard permit process. This incentive would not exist under the proposed regional condition. The distance also allows a reasonable amount of protection to anadromous lakes and streams as discussed above in regional condition B.

⁶ Per 11 AAC 112.300 (b)(8)(C), and as defined in 11 AAC 112.990 (23).

⁷ The conversation record dated, 9 Nov 2006, is in the administrative record.

On 12 Jan 2007, we spoke with OPM&P about incorporating this change and they stated no objections.⁸ The revised language was then coordinated with the other State and Federal agencies involved in the review. No negative comments were received.

This condition is required to (a) prevent degradation of existing waters of the U.S. and riparian areas, which could change the functions of wetlands adjacent to the permitted area (33 CFR 320.4(b), 40 CFR PART 230.21, 40 CFR PART 230.23), and (b) maintain the integrity and functions of the riparian buffer adjacent to anadromous lakes or streams (40 CFR PART 230.21 and 40 CFR PART 230.31). The regional condition is adopted with the modification discussed above.

Proposed Regional Condition I – EPA expressed support for this regional condition.

In their proposed consistency determination OPM&P requested we alter this regional condition to restrict its use to exploratory trenching, rather than the mine operation as proposed. Also they requested the NWP authorize stormwater management and sediment erosion controls. We have not incorporated the requests. The inclusion of exploratory trenching into NWP 6 makes it the appropriate NWP to authorize this activity because it now contains the necessary restrictions specific to the activity. The same can be said for NWP 43 for stormwater management activities. It is also true that NWP general condition 24 (Use of Multiple Nationwide Permits) allows the stacking of NWPs 43 and 44. There is redundancy in authorizing sediment and erosion control under NWP 44 when general condition 12 (Soil Erosion and Siltation Controls) and regional condition E will apply to NWP 44.

Since the creation of NWP 44 in 2000, the Alaska District, through its RCs, has prohibited its use for hard rock mining. The regional condition changes this but given the size of the hard rock mines in Alaska and the abundant amount of waters of the U.S., including wetlands, the Alaska District does not expect many hard rock mines would qualify for the NWP since it is limited to the loss of no more than 1/2 acre of non-tidal waters of the U.S. None-the-less, the regional condition would create a possible incentive for an applicant to reduce their impact to waters of the U.S., and avoid the lengthier standard permit process. We believe that since the use of NWP 44 is anticipated to be limited, however, despite this, the applicability of the general conditions and RCs would cause NWP 44 to have no more than minimal adverse impacts, both individually and cumulatively, to the aquatic environment. While not stated in the regional condition, this NWP 44 may be used only once per hard rock mine.

The only modification made has been to the current Alaska District's regional general permit (RGP) for placer mining. The new RGP number is 2006-1944, not 88-02P as stated in the proposal.

This condition is required to prevent degradation of existing waters of the U.S. and riparian areas, to facilitate reclamation of tailing piles and to prevent sedimentation outside the permitted area (33 CFR 320.4(b), 40 CFR PART 230.21, 40 CFR PART 230.23, 40 CFR PART 230.24, 40 CFR 230.72 and 40 CFR 230.73). The regional condition is adopted with the modification discussed above.

⁸ The conversation record dated, 12 Jan 2007, is in the administrative record.

2.2 Comments on Alternative Regional Conditions Not Proposed in SPN 2002-216:

2002 NWP RC A (excluded areas): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. The rationale for this change is in Appendix A.

2002 NWP RC D (identify project limits): One comment was received from USFWS recommending this regional condition be retained, and that we make an effort to enforce it, because projects often end up with fill outside the authorized footprint. As discussed in Appendix A, in cases where the permittee causes a loss of waters greater than the amount authorized, the potential non-compliance enforcement action would hinge primarily on the excess acreage of loss waters of the U.S., not for the failure to identify the project limits. Despite our not proposing this RC, there may be occasions where it is deemed appropriate to add this requirement as a special condition on a case-by-case basis.

2002 NWP RC E (minimization plan): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. The rationale for this change is in Appendix A.

2002 NWP RC I (utility lines and hydrology): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. The rationale for this change is in Appendix A.

2002 NWP RC J (300' limit to stream loss): Marathon Oil Company wrote in support the removal of this regional condition because the Corps "may not assert jurisdiction over *all* ephemeral and intermittent streams." The rationale for this change is in Appendix A. A discussion of the jurisdictional status of ephemeral and intermittent streams is contained below in Section 2.4 - Other Comments.

2002 NWP RC L (proof of application for a State permit): This RC required proof of application for projects on State lands or in State waters, to the State land manager. OPM&P requested that this regional condition be retained and modified because it helps to protect the aquatic environment through an established network of agency coordination and ensures that the State land manager is aware of the project. The suggested modification would require applicants to provide a fully completed Alaska Coastal Project Questionnaire with their pre-construction notification.

We do support the protection of the aquatic environment. However, as stated in Appendix A, we believe the absence of this regional condition will not degrade the protection of the aquatic environment. Adopting the regional condition will not aid our decision making process. If adopted, such a condition will not be enforced. Project proponents are still required to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects. We have communicated this to OPM&P and they have not voiced any further objections.

2002 NWP RC N (sediment control): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. The rationale for this change is in Appendix A.

2002 NWP RC Q (outfall structures authorized by NWP 7): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. The rationale for this change is in Appendix A.

2002 NWP RC R (proof of application to ADEC for a wastewater discharge permit for NWP 7 activities): Marathon Oil Company wrote in support the removal of this regional condition to the extent that the Alaska District is simplifying the regulatory requirements for NWP applicants. OPM&P requested that this regional condition be retained because it alerts the applicant regarding requirements under 18 AAC 72 and helps protect water quality. We do support the protection of water quality. However, as stated in Appendix A, we believe the absence of this regional condition will not degrade the protection of the aquatic environment. Adopting the regional condition will not aid our decision making process. The State agency responsible for the wastewater discharge permit will continue to receive our permit decisions and thus, continue to be made aware of projects. Project proponents, of course, are still require to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects. For these reasons we do not believe the regional condition is necessary. We have communicated this to OPM&P, as well as DEC, and they have not voiced any further objections.

2002 NWP RC V (proof of permit to ADEC on-site sewage system or marine outfalls): This RC required the prospective permittee obtain a State permit for projects with on-site sewage system or marine outfalls prior to filling wetlands. OPM&P requested that this regional condition be retained because the condition alerts the applicant to the need for ADEC on-site sewage system approval and helps protect water quality.

We do support the protection of water quality. However, as stated in Appendix A, we believe the absence of this regional condition will not degrade the protection of the aquatic environment. Adopting the regional condition will not aid our decision making process. Furthermore, in effect, the requirement necessitated that a permit other than a 401 Water Quality Certification and/or a Coastal Zone Management Consistency Determination were needed for the NWP to be valid. The State agency responsible for these permits will continue to receive our permit decisions and thus, continue to be made aware of projects. Project proponents still need to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects. For these reasons we do not believe the regional condition is necessary. We have communicated this to OPM&P, as well as DEC, and they have not voiced any further objections.

2.3 NWP specific comments: Comments pertaining to specific NWPs are contained in Appendix A.

2.4 Other Comments: NMFS expressed concerned about the potential for pile-driving associated with marina reconfiguration (NWP 28) and suggested that timing restrictions and use

of a vibratory method be evaluated in the EFH assessment. When examining this issue we concluded this work could be done under NWP's other than NWP 28 (e.g. NWP 3). Furthermore, OPM&P expressed an interest in the impacts of pile driving occurring in anadromous lakes and anadromous streams. Since the vast majority of Alaska's marinas are in marine waters, developing statewide timing windows becomes problematic as there are numerous species of fish, marine mammals, crab, etc. to consider. As such, when we discussed developing timing windows with the State and Federal resource agencies, it was clear that a consensus would not emerge. Further complicating the matter is the consideration of impact versus vibratory hammers. Where one type of hammer can mitigate impacts for some species, it can cause other species to experience adverse impacts. Some agencies expressed that there are times that working within the fringes of a "no-work" window is acceptable to them. After these discussions we conclude that developing timing restrictions statewide was not a useful tool to mitigate impacts on the aquatic environment.

To assure that pile driving activities, which could be authorized under different NWP's, do not have more than minimal adverse impacts on the aquatic environment, both individually and cumulatively, we believe it is appropriate to require a PCN when these activities are located in "marine waters, anadromous lakes or anadromous streams." Of course, the freshwater systems, a permit would only be required in Section 10 waters and the PCN would thus, follow. None-the-less, added protection to anadromous lakes or anadromous streams would be allow us to consider a timing window and hammer method to reduce impact on salmonids, which is a substantial economic resource across Alaska. The PCN in Section 10 waters also allows us the ability to consider the impacts to navigation.

With the PCN requirement, the projects would be coordinated with the agencies as per regional condition B and allow the District Engineer to consider imposing special conditions on NWP verifications to ensure that the NWP authorizes only activities that result in minimal individual and cumulative effects on the aquatic environment and are in the public interest. On 12 Jan 2007, we spoke with OPM&P about incorporating this change and they stated no objections.⁹ The revised language was then coordinated with the other State and Federal agencies involved in the review. No negative comments were received.

Marathon Oil Company wrote disputing the Corps authority over ephemeral and intermittent streams. As is stated in the March 12, 2007, Federal Register notice (72 FR 11092) on page 11098, "The Rapanos decision, as well as other court decisions made in the past several years, raises questions about the jurisdiction of the Clean Water Act, including Section 404, over some intermittent and ephemeral streams and their adjacent wetlands. The Corps will assess jurisdiction regarding such waters on a case-by-case basis in accordance with evolving case law and any future guidance that may be issued by appropriate Executive Branch agencies (e.g., the Corps, U.S. Environmental Protection Agency). Under the current regulations and guidance, intermittent and ephemeral streams may meet the regulatory definition of "waters of the United States" and be subject to Clean Water Act jurisdiction. Regulatory jurisdiction over these waterbodies will be determined on a case-by-case basis by district engineers, in accordance with current and future regulations and guidance."

⁹ Ibid.

OPM&P requested clarification as to whether or not the state's refuges, critical habitat areas and sanctuaries are considered special aquatic sites. The term "special aquatic site" is defined by the EPA (see 40 CFR Subpart E 230.40-45) as "wetlands, mudflats, coral reefs, sanctuaries & refuges, riffle & pool complexes, and vegetated shallows." We believe that these areas are special aquatic sites as they met the EPA's definition of "Sanctuaries and Refuges." We have communicated this to OPM&P¹⁰ and they have stated due to this they have not requested a regional condition to address these areas.

3.0 Endangered Species Act Consultation – Under the understanding that Corps districts were to engage NMFS and USFWS regarding any local ESA procedures for the NWP, we sent each agency a letter requesting a species list on 31 Oct 2006. The USFWS did not supply a species list nor did their ESA staff participate in any of the meetings held to discuss the development of the RCs. NMFS did respond to the species request and it was determined that the headquarter level Endangered Species Act Section 7(a)(2) consultation for the NWPs should conclude prior to moving forward with NMFS. NMFS did have ESA staff participate in the development of the RCs. They did not suggest any RCs pertaining to threatened or endangered species they manage.

The 12 Jan 2007 Federal Register notice states, "The requirements of general condition 17 and 33 CFR 330.4(f) will ensure compliance with the ESA. We anticipate that the programmatic consultation will result in a biological opinion that provides tools that districts can use to better address potential impacts to the endangered and threatened species that occur in their areas of regulatory jurisdiction. Corps districts will conduct their own formal Section 7 consultations as necessary. The programmatic consultation will be conducted for the NWP program; its applicability to NWP 21 and other NWPs will be addressed as part of the programmatic consultation itself."

On a case-by-case basis, the Alaska District has procedures in place requiring an effect determination be made for all NWP verification requests. Information available to the District Engineer includes information provided by the USFWS and NMFS regarding threatened and endangered species as well as critical habitat. The District Engineer can consult with USFWS or NMFS during the NWP review process and consider imposing special conditions on NWP verifications to ensure that the NWP authorizes only activities that result in minimal individual and cumulative effects on the aquatic environment and are in the public interest or when necessary, assert discretionary authority to require an IP for proposed work and initiate consultation through the IP process.

4.0 Essential Fish Habitat Consultation - On 12 Mar 2007, we provided NMFS our Essential Fish Habitat (EFH) Assessment and requested a General Concurrence (GC) under the Magnuson-Stevens Fishery Conservation and Management Act. After receiving feedback from NMFS, slight modifications were made and the EFH Assessment resubmitted it on 16 Mar 2007. Some of the changes to the RCs as discussed in Section 2 - Consideration of Public Comments and Alternative RCs above, have been a result of the EFH consultation and add necessary protections to EFH. Furthermore, the agency coordination required in proposed RC B will allow the district engineer to consider imposing special conditions on NWP verifications to ensure that the NWP authorizes only activities that result in minimal individual and cumulative effects on

¹⁰ See 8 Jan 2007 Multi-Agency Meeting Record in the administrative record.

the aquatic environment and are in the public interest. NMFS has until 12 Apr 2007 to provide a decision on the EFH General Concurrence.

5.0 Government to Government Consultation – Major General Don T. Riley, Chief of Civil Works, HQUSACE, informed each Indian Tribe in the United State of the Corps effort to reauthorize the NWP and expressed the Corps desire to formally consult with each Tribe regarding the proposed NWP. On 23 Oct 2006, the Alaska District Engineer, Colonel Kevin J. Wilson, wrote to the 229 Federally recognized Tribes in Alaska to reiterate the Corps desire to formally consult with each Tribe over the Alaska District's proposed RCs.

We received one comment letter from the Sitka Tribe of Alaska. While they provided comments, as discussed in part 2.0 above, the Tribe did not express a desire to enter into formal Government-to-Government consultation in their letter.

The Regulatory Division spoke with the Douglas Indian Association on November 29, 2006¹¹, regarding the NWP and regional condition effort. The Tribes expressed that they did not have any comments but they would continue to review the information. The Tribe also stated that they do not wish to engage the Corps in formal Government-to-Government consultation. The Tribe did not engage the Alaska District again.

No other Tribes contacted the Corps regarding Government-to-Government consultation.

6.0 National Historic Preservation Act

6.1 General Considerations: On a project-by-project basis, the Alaska District has procedures in place requiring an effect determination be made for all NWP verification requests. Information available to the district engineer includes Alaska's State Historic Preservation Officer's (SHPO) database of cultural resources in Alaska. The district engineer may: (1) consult with SHPO or Tribes during the NWP review process or, (2) the district engineer may assert its discretionary authority to require an IP for proposed work and initiate consultation through the IP process. Option 2 would only be used if there is value added that compensates for the added workload due to processing more IPs. If the consultation is conducted under the nationwide permit process without the district asserting discretionary authority, then under general condition 18, the applicant may not proceed until the consultation is complete.

6.2 Local Operating Procedures for National Historic Preservation Act: The Alaska District has not identified a need to develop these procedures with SHPO. The Alaska District will take the necessary steps to create this tool with SHPO should the need arise.

6.3 Local Operating Procedures for Tribal Consultation: The Alaska District has not identified a need to develop these procedures with any of the Federally recognized Tribes in Alaska. The Alaska District will take the necessary steps to create this tool with a Tribe should the need arise.

¹¹ The administrative record contains the Conversation Record dated 11 Nov 2006.

7.0 Final Alaska District Regional Conditions: These RCs are being required to ensure that the NWP authorizes activities that result in no more than minimal individual or cumulative adverse effects on the aquatic environment. This document also identifies regionally important high-value waters and other geographic areas in which NWP that require a PCN will be coordinated with the agencies beyond the requirements of general condition 27(d), to further ensure that NWP do not authorize activities that may exceed the minimal adverse effects threshold.

REGIONAL CONDITION A - Additional Pre-Construction Notification (PCN) Requirements¹

1. NWP 6, Survey Activities: 3-D seismic surveys employing ocean bottom cables.
2. NWP 13, Bank Stabilization: Projects require a PCN when specified by NWP 13 and/or the proposed methods and techniques are not included in Streambank Revegetation and Protection: A Guide for Alaska Revised 2005 (Walter, Hughes and Moore, April 2005) (Guide) or its future revisions.

The Guide is available at <http://www.sf.adfg.state.ak.us/sarr/restoration/techniques/techniques.cfm>

Furthermore, applicants proposing projects not contained in the Guide may still qualify for NWP 13 but they shall provide an alternative analysis to the district engineer with the PCN consisting of the bioengineered methods that were considered and rationale as to why these alternatives are not in the applicant's preferred alternative. Applicants subject to the PCN due to a design that is not included in the Guide are encouraged to include measures that minimize impacts to the aquatic environment including methods that improve fish habitat such as vegetated riprap.

3. Any activities proposing pile driving in the following Navigable (Section 10) waters: marine waters, anadromous lakes or anadromous streams.

¹ Where required by the terms of the NWP or Regional Condition A, a prospective permittee must notify the district engineer by submitting a preconstruction notification (PCN) as early as possible. See General Condition 27 of the NWPs for the contents of the PCN or visit www.poa.usace.army.mil/reg/NWPs. This Regional Condition does not apply to NWP 47.

REGIONAL CONDITION B – General Permit Agency Coordination

This Regional Condition establishes geographic and habitat areas that will require agency coordination for projects that are less than 1/2 acre.¹

For projects requiring a Pre-Construction Notification (PCN) and occurring within any of the following geographic/habitat areas, the Corps will conduct agency coordination with the appropriate agencies according to General Condition No.27, regardless of the amount of loss of waters of the U.S.

- 1) The Municipality of Anchorage.

- 2) Areas designated as "A" or "B" wetlands in the Juneau Wetlands Management Plan.
- 3) Areas designated as "High" or "Moderate" value wetlands in the Homer Wetland Functional Assessment.
- 4) Anadromous lakes or anadromous streams including, but not limited to catalogued streams identified in the Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes (available at <http://www.sf.adfg.state.ak.us/SARR/FishDistrib/anadcat.cfm>)
- 5) Jurisdictional areas within 500 feet (measured from OHW or HTL) of anadromous lakes or anadromous streams as identified above.
- 6) Marine waters.

Local, State or Federal applicants may choose to conduct agency coordination in accordance with this regional condition for projects in the above geographic areas having less than 1/2 acre loss of waters of the U.S. The documentation of agency coordination shall be supplied with the PCN and if the Corps determines the applicant's proposal adequately addresses agency concerns, the project will not be coordinated again.

The Corps (or local, State or Federal applicant, as described above) will coordinate such projects with the Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service and State Historical Preservation Officer or Tribal Historical Preservation Officer. Additionally, project coordination will occur with the State of Alaska's Department of Natural Resources, Office of Project Management and Permitting for projects that are within the coastal zone or when outside the coastal zone, coordination will occur with the Department of Environmental Conservation, the State of Alaska's Department of Natural Resources, Office of Habitat Management and Permitting, and the Department of Fish and Game for activities within State Refuges, Critical Habitat Areas and Sanctuaries.

¹For activities requiring a PCN that result in the loss of greater than 1/2-acre of waters of the U.S., agency coordination will occur according to general condition 27(d) but also include the agencies as specified above.

REGIONAL CONDITION C - Wood Preservatives

This Regional Condition applies to all NWP's when the regulated activity involves the use of wood preservative products in waters of the U.S.¹

1. For new materials²:

- a) Preservatives for wooden structures shall be applied by pressure treatment.
- b) In fresh waters, wood structures treated with creosote or pentachlorophenol preservative shall not be used.
- c) In marine waters, wood structures treated with pentachlorophenol preservative shall not be used.

2. For the reuse of previously treated wood products in marine waters the wood preservative product's use shall be consistent with its original use and may not be treated with any additional wood preservative. (e.g. the reuse for dock piling of creosote treated wood for dock piling is allowable, the reuse for a retaining wall of creosote treated railroad ties is not allowed, etc.).

¹ Wood preservative products allowed for use in the aquatic/marine environments is determined by the Environmental Protection Agency.

² Treated wood products are produced and installed in accordance with the "Best Management Practices for the Use of Treated Wood in Aquatic and Other Sensitive Environments" (August 2006), including amendments published by the Western Wood Preservers Institute (WWPI) (www.wwpinstitute.org) including the standards set forth by the American Wood-Preservers Association (AWPA) (www.awpa.com), the Timber Piling Council (TPC) (www.timberpilingcouncil.org) and/or the American Lumber Standards Committee as appropriate.

REGIONAL CONDITION D - Activities Involving Trenching

Trenches cannot be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a french drain effect). Ditch plugs or other methods shall be used to prevent this situation.

Except for material placed as minor trench over-fill or surcharge necessary to offset subsidence or compaction, all excess materials shall be removed to a non-wetland location. The backfilled trench shall achieve the original surface condition, within a year of disturbance unless climatic conditions warrant additional time and is approved by the Corps.

Revegetation of the trench should follow the process outlined in RC E.

REGIONAL CONDITION E - Site Restoration for Projects with Ground Disturbing Activities

Disturbed areas shall be stabilized immediately after construction to prevent erosion. Revegetation of the site shall begin as soon as site conditions allow and in the same growing season as the disturbance unless climatic conditions warrant additional time and is approved by the Corps. Native vegetation and soils removed for project construction shall be stockpiled separately and used for site rehabilitation. If soil and/or organic materials are not available from the project site for rehabilitation, other locally-obtained native materials may be used. Other topsoil or organic materials (including seed) may be used only if identified in the PCN and approved in the NWP verification. Species to be used for seeding and planting shall follow this order of preference: 1) species native to the site; 2) species native to the area; 3) species native to the state. Revegetated areas eventually shall have enough cover to sufficiently control erosion without silt fences, hay bales, or other mechanical means.

REGIONAL CONDITION F - Equipment Standards

Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures (e.g. ice roads, compacted snow, low psi ground bearing weight, etc) must be taken to prevent soil disturbance.

REGIONAL CONDITION G- Seasonal Docks Authorized by NWP 11, Temporary Recreational Structures

Small, seasonal docks shall not extend more than 50 feet waterward of the ordinary high water mark or mean high water mark, or exceed more than 25 percent of the width of the waterbody, whichever is less.

REGIONAL CONDITION H – NWP 40 Agricultural Activities

The following activities are not authorized by NWP 40: a. Drain tiles, ditches, or levees or; b. Mechanized land clearing and land leveling in jurisdictional wetlands within 500' of anadromous lakes or anadromous streams.

REGIONAL CONDITION I – NWP 44 Mining Activities

Placer mining activities are excluded from coverage by NWP 44 (Mining Activities). Placer mining may be authorized by Regional General Permit 2006-1944. In Alaska, NWP 44 will only authorize the following activities:

1. Hard rock mining, not including trenching, drilling, or access road construction. (Applicable to Section 404 only).
2. Temporary stockpiling of sand and gravel in waters of the U.S., limited to seasonally dewatered unvegetated sand/gravel bars. Stockpiles shall be completely removed and the area restored to pre-project contours within one year, in advance of seasonal ordinary high water events, and/or prior to equipment being removed from site, whichever comes first.

REGIONAL CONDITION J – NWP 48 Existing Commercial Shellfish Aquaculture Activities¹²

NWP 48 is revoked in Alaska. Applicants seeking authorization for this work are encouraged to apply for Regional General Permit 1991-7-P, Mariculture Activities in Alaska.

8.0 Compliance with Other Federal, State, or Local Laws

8.1 Section 401 Water Quality Certifications

8.1.1 State of Alaska 401 Water Quality Certification (WQC): On 29 Mar 2007, the Alaska Department of Environmental Conservation certified that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable

¹² See Appendix A.48 – Nationwide Permit 48 for details concerning this regional condition.

provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70.

The 401 WQC applies to all areas of the State of Alaska except the Annette Island Indian Reservation. The certification contains no stipulations beyond the Alaska District's RCs, as stated in section 7.0 above.

8.1.2 EPA 401 Water Quality Certification for the Annette Island Indian Reservation: EPA has not yet made a decision on the WQC. The district engineer requested EPA take final positions on WQC as soon as they are able. EPA has been told that their final decision must be submitted by 11 May 2007 (60 days after publication of the final NWP in the Federal Register) as provided by Corps regulations. Additionally, if EPA does not reach a final position on WQC by 11 May 2007, the Corps will presume that the WQC is waived.

As discussed in the 12 Mar 2007, Federal Register notice, until 11 May 2007, authorization by NWP is contingent upon the permittee obtaining an individual WQC or a case-specific WQC waiver.

In accordance with Corps regulations at 33 CFR 330.4(c), if EPA denies WQC for activities authorized by the NWP within the Annette Island Indian Reservation, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must first obtain a project specific WQC or waiver thereof from you before proceeding under the NWP.

The Corps will generally defer to EPA regarding conditions for WQCs. Any conditions of the WQC provided by the EPA become conditions of issued NWP authorizations. However, if the Corps believes conditions do not meet our permit conditioning policy at 33 CFR 325.4, the Corps may use its enforcement discretion on those conditions. Moreover, if a WQC condition would impose an unacceptable level of additional work by the Corps, we will view the conditions as a denial without prejudice.

8.2 Coastal Zone Management Act Consistency Determinations

8.2.1 State of Alaska Coastal Zone Management Consistency Determination: On 27 Mar 2007, OPM&P issued a Coastal Zone Management Consistency Determination for all the NWP, except for NWP 48, Existing Commercial Shellfish Aquaculture Activities. The consistency determination applies to all areas of the State of Alaska except the Annette Island Indian Reservation. The consistency determination has found that the NWP and Alaska District's RCs, as stated in section 7.0 above, are consistent with the Alaska Coastal Management Program to the maximum extent practicable. The consistency determination contains no stipulations beyond the Alaska District's RCs.

8.2.2 City of Metlakatla Coastal Zone Management Consistency Determination for the Annette Island Indian Reservation: The City of Metlakatla (COM) has not yet made a decision on their CZMA consistency determination. The district engineer requested COM take final positions on their consistency determinations as soon as they are able. COM has been told

that their final decision must be submitted by 11 May 2007 (60 days after publication of the final NWP in the Federal Register) as provided by Corps regulations. Additionally, if COM does not reach a final position by 11 May 2007, the Corps will presume CZMA concurrence.

As discussed in the 12 Mar 2007, Federal Register notice, until 11 May 2007, authorization by NWP is contingent upon the permittee obtaining an individual CZMA consistency determination or a case-specific presumption of CZMA concurrence.

In accordance with Corps regulations at 33 CFR 330.4(d), if COM disagrees with the Corps CZMA consistency determination for certain activities authorized by the NWPs, then the Corps will deny authorization for those activities without prejudice. Anyone wanting to perform such activities must present a CZMA consistency determination to the COM. Upon concurrence by the COM, the activity would be authorized by the NWP.

The Corps will generally defer to Tribes regarding conditions for CZMA consistency agreements. Any conditions of the CZMA consistency agreement provided by the Tribe become conditions of issued NWP authorizations. However, if the Corps believes conditions do not meet our permit conditioning policy at 33 CFR 325.4, the Corps may use its enforcement discretion on those conditions. Moreover, if a CZMA consistency agreement condition would impose an unacceptable level of additional work by the Corps, we will view the conditions as a denial without prejudice.

8.3 Endangered Species Act: The Alaska District will analyze and implement, as appropriate the tools from the national level programmatic consultation's biological opinion. No comments were received from the USFWS or NMFS concerning the development of other RCs and/or processes (such as Standard Local Operating Procedures for Endangered Species (SLOPES)) that would address the ESA. On a case-by-case basis, the district engineers' existing procedures and ability to consult with USFWS or NMFS during the NWP review process and consider imposing special conditions on NWP verifications to ensure that the NWP authorizes only activities that result in minimal individual and cumulative effects on the aquatic environment and are in the public interest or when necessary, assert discretionary authority to require an IP for proposed work and initiate consultation through the IP process. Furthermore, under general condition 17, no activity is authorized under any NWP which "may effect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been complete.

8.4 Essential Fish Habitat: NMFS has until 12 Apr 2007 to provide a decision on the EFH General Concurrence.

Appendix A

Appendix A identifies specific concerns within the Alaska District for each Nationwide Permit (NWP) such as comments the Alaska District received regarding a regional conditions for a specific NWPs and the Alaska District's cumulative impact assessment. Each of the 49 NWPs are represented in Appendix A and numbered A.1 for NWP 1, A.2 NWP 2, etc. The format and complete list of NWPs follows:

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis

1.1 Public interest review factors (33 CFR 320.4(a)(1))

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F)

2.0 NWP specific comments

3.0 Regional Conditions Applicable to NWP

4.0 Cumulative Impacts

5.0 Final Determination

Appendix A.1 - NATIONWIDE PERMIT 1	Appendix A.26 - RESERVED
Appendix A.2 - NATIONWIDE PERMIT 2	Appendix A.27- NATIONWIDE PERMIT 27
Appendix A.3 - NATIONWIDE PERMIT 3	Appendix A.28 - NATIONWIDE PERMIT 28
Appendix A.4 - NATIONWIDE PERMIT 4	Appendix A.29 - NATIONWIDE PERMIT 29
Appendix A.5 - NATIONWIDE PERMIT 5	Appendix A.30 - NATIONWIDE PERMIT 30
Appendix A.6 - NATIONWIDE PERMIT 6	Appendix A.31 - NATIONWIDE PERMIT 31
Appendix A.7 - NATIONWIDE PERMIT 7	Appendix A.32 - NATIONWIDE PERMIT 32
Appendix A.8 - NATIONWIDE PERMIT 8	Appendix A.33 - NATIONWIDE PERMIT 33
Appendix A.9 - NATIONWIDE PERMIT 9	Appendix A.34 - NATIONWIDE PERMIT 34
Appendix A.10 - NATIONWIDE PERMIT 10	Appendix A.35 - NATIONWIDE PERMIT 35
Appendix A.11 - NATIONWIDE PERMIT 11	Appendix A.36 - NATIONWIDE PERMIT 36
Appendix A.12 - NATIONWIDE PERMIT 12	Appendix A.37 - NATIONWIDE PERMIT 37
Appendix A.13 - NATIONWIDE PERMIT 13	Appendix A.38 - NATIONWIDE PERMIT 38
Appendix A.14 - NATIONWIDE PERMIT 14	Appendix A.39 - NATIONWIDE PERMIT 39
Appendix A.15 - NATIONWIDE PERMIT 15	Appendix A.40 - NATIONWIDE PERMIT 40
Appendix A.16- NATIONWIDE PERMIT 16	Appendix A.41 - NATIONWIDE PERMIT 41
Appendix A.17 - NATIONWIDE PERMIT 17	Appendix A.42 - NATIONWIDE PERMIT 42
Appendix A.18 - NATIONWIDE PERMIT 18	Appendix A.43 - NATIONWIDE PERMIT 43
Appendix A.19 - NATIONWIDE PERMIT 19	Appendix A.44 - NATIONWIDE PERMIT 44
Appendix A.20 - NATIONWIDE PERMIT 20	Appendix A.45 - NATIONWIDE PERMIT 45
Appendix A.21 - NATIONWIDE PERMIT 21	Appendix A.46 - NATIONWIDE PERMIT 46
Appendix A.22- NATIONWIDE PERMIT 22	Appendix A.47 - NATIONWIDE PERMIT 47
Appendix A.23 - NATIONWIDE PERMIT 23	Appendix A.48 - NATIONWIDE PERMIT 48
Appendix A.24 - NATIONWIDE PERMIT 24	Appendix A.49 - NATIONWIDE PERMIT 49
Appendix A.25 - NATIONWIDE PERMIT 25	Appendix A.50 - NATIONWIDE PERMIT 50

Appendix A.1 - NATIONWIDE PERMIT 1

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 1. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 1, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 1: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 time per year, resulting in the loss of approximately 0.003 acres of waters of the United States. A PCN is not required for NWP 1 therefore our estimate based on past records may be an underestimate. RC A now requires a PCN for any activity involving pile driving in marine waters, anadromous lakes or anadromous streams which may now result in an increase in the number of NWP 1 which are verified by the Alaska District. Nevertheless because of the generally minor nature of the work and impacts involved in the installation of aids to navigation the Alaska District does not anticipate an adverse cumulative impact from use of NWP 1.

POA NWP SUPPLEMENTAL DECISION DOCUMENT FOR 2007 NATIONWIDE PERMITS

The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.2 - NATIONWIDE PERMIT 2

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 2. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 2, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 2: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 or 2 times per year, resulting in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

POA NWP SUPPLEMENTAL DECISION DOCUMENT FOR 2007 NATIONWIDE PERMITS

The district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.3 - NATIONWIDE PERMIT 3

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 3. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 3, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 3, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: National Marine Fisheries Service (NMFS) recommended that the Essential Fish Habitat (EFH) assessment address adverse effects of activities where NWP 3 could be used. This was accomplished through the Alaska District's EFH assessment where the Alaska District determined that activities under NWP 3(a) are not likely to adversely affect EFH because these activities are minor in nature and the RCs provide adequate mitigation. For example, an activity such as pile driving bridge piers in EFH (e.g. in anadromous streams) a pre-construction notification (PCN) would be required through RC A and agency coordination would occur through RC B. The EFH assessment also states that NWP 3(b) may adversely affect EFH. Activities under NWP 3(b) require a PCN, which would be coordinated with the resource agencies according to RC B and its list of high value aquatic sites. We anticipate the agency coordination will generate meaningful comments and additional measures the district engineer will consider when determining if the project qualifies for the NWP.

Finally, district engineers may impose special conditions on NWP verifications to ensure that the NWP authorizes only activities that result in minimal individual and cumulative effects on the aquatic environment and are in the public interest. In addition, special conditions may include compensatory mitigation requirements to reduce the project impacts to the minimal level. Compensatory mitigation may include the restoration, establishment, enhancement, and/or preservation of aquatic habitats, as well as the establishment and maintenance of riparian areas next to streams and other open waters. Compensatory mitigation can be provided through permittee responsible mitigation, mitigation banks, or in-lieu fee programs.

3.0 Regional Conditions Applicable to NWP 3: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 73 times per year, resulting in the loss of approximately 7.6 acres per year of waters of the United States. This estimate is based on data from Regulatory databases.

The Alaska District estimates that, in most cases, no compensatory mitigation will be required to offset the authorized losses of waters of the United States. Part (a) of NWP 3 authorizes repair, rehabilitation, or replacement of previously authorized, currently serviceable, structures or fills. Since a structure or fill is already in place and only minor deviations are allowed, adverse effects would be minimal and mitigation would not be required. Part (b) of NWP 3 authorizes discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures. It also authorizes the placement of new or additional riprap to protect a structure. Part (b) activities require a PCN. In some cases in certain geographic areas, such as those identified in RC B, compensatory mitigation may be necessary to ensure that adverse effects to the aquatic environment are minimal. Part (c) authorizes temporary structures, fills, and work necessary to conduct maintenance. Upon completion of maintenance, these must be removed and the area restored. Therefore, no additional mitigation would be required.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those

activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.4 - NATIONWIDE PERMIT 4

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 4. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 4, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 4, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: In their December 19, 2006, proposed consistency response, the Office of Project Management and Permitting (OPMP) requested on behalf of the State of Alaska that a new RC be created to include the use of fish monitoring weirs under NWP 4. OPMP explained that frequently, fisheries management agencies seasonally place weirs in streams to monitor fish run timing and size. In the past, some of these projects have been authorized under NWP 4, although they are not specifically listed in the NWP. They opine this would simplify the permitting process for a routine agency management project.

These structures would only require a Corps permit when they are located in Section 10 waters or when they involve the placement of dredge and/or fill material into waters of the United States; otherwise a Corps permit is not required for this activity. In the event a permit is required, NWP 4 contains a list of authorized activities that is inclusive ("such as") and is not exclusive ("limited to"). Furthermore, this activity is not specifically prohibited from the NWP. For these reasons we do not believe it is necessary to develop a RC specifically for this activity.

In their November 6, 2006 letter the National Marine Fisheries Service recommended excluding large commercial scale activities that may be better addressed under draft NWP D (final NWP 48). NWP 4 does not authorize impoundment or semi-impoundment of motile species (fish farms) or the type of commercial shellfish aquaculture activities which are authorized under NWP 48 which is revoked in Alaska by RC J. Therefore the Alaska District believes NMFS concerns have been adequately addressed through the NWP 4 restrictions and implementation of

RC J revoking NWP 48. Applicants seeking authorization for this work are encouraged to apply for Regional General Permit 1991-7-P, Mariculture Activities in Alaska.

This condition is required to prevent degradation of waters of the U.S. and adverse impacts to navigation (33 CFR 320.4(b), 40 CFR 230.21, 40 CFR 230.23, 40 CFR 230.24, 40 CFR 230.72 and 40 CFR 230.73).

3.0 Regional Conditions Applicable to NWP 4: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 5 times per year, resulting in an impact to approximately 0.46 acres/year in waters of the United States. A PCN is not required for NWP 4 therefore our estimate based on past records may be an underestimate. Impacts from fish and wildlife harvesting, enhancement, and attraction devices generally do not result in a permanent loss of waters of the U.S. but may result in a minor or temporary disturbance impact. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized impact of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.5 - NATIONWIDE PERMIT 5

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 5. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 5, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 5, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 5: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 4.6 times per year, resulting in the impacts to approximately 0.63 acres per year of waters of the United States. A PCN is not required for NWP 5 therefore our estimate based on past records may be an underestimate. RC A now requires a PCN for any activity involving pile driving in marine waters, anadromous lakes or anadromous streams which may now result in an increase in the number of NWP 5 which are verified by the Alaska District. Impacts to waters of the U.S. from installation of scientific measuring devices are generally minor in scale and may be temporary as many scientific

measuring devices are only deployed for a specific period for data collection purposes. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized impacts to of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.6 - NATIONWIDE PERMIT 6

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 6. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 6, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 6, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: National Marine Fisheries Service (NMFS) stated this NWP predates the current three-dimensional (3-D) seismic surveys commonly used now by the oil and gas industry. They recommended that a pre-construction notification (PCN) for this activity be required, since sound waves generated by seismic surveys can have a variety of harmful effects on fish, including physical injury and dispersement and can adversely affect commercial fishing activities. The preamble to the 1997 NWPs¹ states "Of course, use of towed explosive, pneumatic or seismic devices that do not involve construction, excavation, or other work in sediments do not require any permit from the Corps." There are two types of 3-D seismic surveys conducted by ships. One involves placing cables on the sea floor (ocean bottom cables) the other tows cables called "streamers." Each type of cable records data when air cannons are discharged. The Alaska District will add a PCN requirement in RC A stating a PCN is required for "NWP 6, Survey Activities: 3-D seismic surveys employing ocean bottom cables."

This condition is required to prevent degradation of waters of the U.S. and adverse impacts to navigation (33 CFR 320.4(b), 40 CFR 230.21, 40 CFR 230.23, 40 CFR 230.24, 40 CFR 230.72 and 40 CFR 230.73).

For surveys using towed streamers, no permit is required. On January 12, 2007, the Alaska District spoke with the Office of Project Management and Permitting about incorporating this

¹ See page 65883 of Federal Register Vol. 61, No. 241, Friday, December 13, 1996.

change and they stated no objections.² The revised language was then coordinated with the other state and Federal agencies involved in the review. No negative comments were received.

3.0 Regional Conditions Applicable to NWP 6: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 45 times per year, resulting in the loss of approximately 6 acres per year of waters of the United States. This estimate is based on data from Regulatory databases. The Alaska District estimates that no compensatory mitigation, beyond the restoration already required by NWP 6, will be necessary to offset the authorized losses of waters of the United States. RC A.1 will ensure adequate review and impact minimization for 3-D seismic surveys employing ocean bottom cables.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

² The conversation record dated, 12 Jan 2007, is in the administrative record.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.7 - NATIONWIDE PERMIT 7

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 7. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 7, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 7, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 7: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 14 times per year, resulting in the loss of approximately 0.3 acre per year of waters of the United States. This estimate is based on data from Regulatory databases. The Alaska District estimates that, in most cases, no compensatory mitigation will be required to offset the authorized losses of waters of the United States. In previous years, NWP 7 has resulted in an average loss of 0.02 acre of waters of the U.S. per project. In some circumstances in certain geographic areas, such as those identified in RC B,

compensatory mitigation may be necessary to ensure that adverse effects to the aquatic environment are minimal.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.8 - NATIONWIDE PERMIT 8

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 8. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 8, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 8: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately three times during the five years in which it will be in effect. This estimate is based on data from Regulatory databases. NWP 8 has been issued under Section 10 of the Rivers and Harbors Act. Corps review will be limited to the effects on navigation and national security. The Alaska District estimates that no compensatory mitigation will be required to offset losses of waters of the United States.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.9 - NATIONWIDE PERMIT 9

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 9. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 9, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 9: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP may be used only once in the next 5 years, resulting in impacts to approximately 0.5 acres of waters of the United States. A PCN is not required for NWP 9 therefore our estimate based on past records may be an underestimate. RC A requires a PCN for any activity involving pile driving in marine waters, anadromous lakes or anadromous streams which may result in an increase in the number of NWP 9 verified by the Alaska District if the structures would involve pile driving. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized impacts of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.10 - NATIONWIDE PERMIT 10

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 10. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 10, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 10: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. The RCs do not appear to be applicable to mooring buoys authorized under NWP 10.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 4 times per year, resulting in impacts to approximately 0.07 acres of waters of the United States. A PCN is not required for NWP 10 therefore our estimate based on past records may be an underestimate of the number of times NWP 10 was actually used. Nevertheless because of the generally minor nature of the impacts to aquatic resources from the installation of mooring buoys the Alaska District does not anticipate an adverse cumulative impact from use of NWP 1. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

POA NWP SUPPLEMENTAL DECISION DOCUMENT FOR 2007 NATIONWIDE PERMITS

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.11 - NATIONWIDE PERMIT 11

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 11. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 11, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 11: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, will apply to this NWP, as well as with RC G.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 34 times per year, resulting in temporary impacts to approximately 0.2 acres per year of waters of the United States. A PCN is not required for NWP 11 therefore our estimate based on past records may be an underestimate. Nevertheless because of the minor nature of the work and the temporary impacts involved in the installation of temporary recreational structures associated with NWP 11 the Alaska District does not anticipate an adverse cumulative impact. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

POA NWP SUPPLEMENTAL DECISION DOCUMENT FOR 2007 NATIONWIDE PERMITS

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.12 - NATIONWIDE PERMIT 12

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 12. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 12, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 12, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: National Marine Fisheries Service (NMFS) suggested that in addition to Note #1 in the NWP 12 language, which requires a pre-construction notification (PCN) for a utility line constructed or installed in navigable waters be sent to the National Oceanic and Atmospheric Administration and National Ocean Service, the regional NMFS office should also receive the PCN. The PCN will be coordinated with NMFS when the navigable water involved is subject to the ebb and flow of the tide, as stated under RC B.6 (marine waters).

3.0 Regional Conditions Applicable to NWP 12: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 47 times per year, resulting in the loss of approximately 7.9 acres per year of waters of the United States. This estimate is based on data

from Regulatory databases. The Alaska District estimates that, in most cases, no compensatory mitigation beyond the mitigating factors already found in NWP 12 will be necessary to offset the authorized losses of waters of the United States. In some circumstances, such as those activities requiring a PCN, and in certain geographic areas, such as those identified in RC B, compensatory mitigation may be necessary to ensure that adverse effects to the aquatic environment are minimal.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.13 - NATIONWIDE PERMIT 13

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 13. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 13, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 13, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 13: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 55 times per year, resulting in the loss of approximately 4.7 acres per year of waters of the United States. This estimate is based on data from Regulatory databases. The Alaska District estimates that, in most cases, no compensatory mitigation will be required to offset the authorized losses of waters of the United States. RC A.2 will encourage the use of environmentally sound techniques. In cases where bioengineering is not reasonable or practicable, particularly in areas such as those identified in RC B,

compensatory mitigation may sometimes be necessary to ensure that adverse effects to the aquatic environment are minimal.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.14 - NATIONWIDE PERMIT 14

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 14. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 14, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 13, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 14: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 39 times per year, resulting in the loss of approximately 3.5 acres per year of waters of the United States. This estimate is based on data from Regulatory databases. The Alaska District estimates that, in most cases, no compensatory mitigation will be required to offset the authorized losses of waters of the United States. In previous years, NWP 14 has resulted in an average loss of 0.09 acre of waters of the U.S. per project. In some circumstances in certain geographic areas, such as those identified in RC B,

compensatory mitigation may be necessary to ensure that adverse effects to the aquatic environment are minimal.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.15 - NATIONWIDE PERMIT 15

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 15. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 15, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 15, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 15: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used less than once per year, resulting in impacts to approximately 0.003 acres of waters of the United States. Although a PCN is not required for NWP 15 and our estimate based on past records may be an underestimate, the Alaska District does not anticipate an adverse cumulative impact from use of NWP 15. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.16 - NATIONWIDE PERMIT 16

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 16. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 16, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 16, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 16: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 to 2 times per year, resulting in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. The district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.17 - NATIONWIDE PERMIT 17

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 17. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 17, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 17, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 17: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used one time during the five years in which it will be in effect, resulting in the loss of approximately 0.3 acre of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States, unless the project is located in an area of high value or special concern such as those identified in RC B. The preceding information was based on data from Regulatory databases.

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The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.18 - NATIONWIDE PERMIT 18

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 18. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 18, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 18, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 18: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 83 times per year, resulting in the loss of approximately 4 acres of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that approximately 0.5 acre of compensatory mitigation will be required to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic

environment. There will also be instances where a fee-in-lieu of compensatory mitigation will be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.19 - NATIONWIDE PERMIT 19

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 19. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 19, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 19, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 19: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 7 times per year, resulting in impacts to approximately 0.5 acres per year to waters of the United States. A PCN is not required for NWP 19 therefore our estimate based on past records may be an underestimate. Nevertheless based on the generally temporary impacts to benthic and aquatic resources associated with minor dredging activities the Alaska District does not anticipate an adverse cumulative impact from use of NWP 19. The Alaska District estimates that no compensatory mitigation will be required to offset the

authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.20 - NATIONWIDE PERMIT 20

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 20. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 20, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 20, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 20: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 3 times per year, resulting in the loss of approximately 0.25 acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on

the aquatic environment. We anticipate that the impacts to the aquatic environment will be higher due to the oil spill itself compared to the work authorized by this NWP.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.21 - NATIONWIDE PERMIT 21

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 21. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 21, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 21, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 21: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 time per year, resulting in the loss of approximately 6 acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.22 - NATIONWIDE PERMIT 22

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 22. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 22, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 22, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 22: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 time per year, resulting in the loss of approximately less than 0.01 acre of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.23 - NATIONWIDE PERMIT 23

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 23. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 23, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 23, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 23: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 22 times per year, resulting in the loss of approximately 32 acres of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that approximately 5 acres of compensatory mitigation will be required to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic

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environment. There will also be instances where a fee-in-lieu of compensatory mitigation will be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.24 - NATIONWIDE PERMIT 24

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 24. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 24, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Final Determination: This NWP is not used in the State of Alaska. As of the date of the promulgation of this NWP, only New Jersey and Michigan administer their own section 404 permit programs. Should the State of Alaska and/or a Federally recognized Tribe in Alaska assume the 404 program, the division engineer will make a determination regarding the appropriateness of this NWP in Alaska.

Appendix A.25 - NATIONWIDE PERMIT 25

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 25. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 25, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 25, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 25: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately once per year, resulting in the loss of approximately 0.005 acres per year of waters of the United States. A PCN is not required for NWP 25 therefore our estimate based on past records may be an underestimate. Nevertheless because of the minor scale of the impacts associated with past NWPs for structural discharges the Alaska District does not anticipate an adverse cumulative impact from use of NWP 25.

The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.26 - RESERVED

This space is reserved and it is included to provide continuity with the numbering within the Appendix.

Appendix A.27 - NATIONWIDE PERMIT 27

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 27. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 27, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 27, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 27: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. However, this NWP now requires projects have a net increase in aquatic resource functions and services. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 25 times per year, resulting in the restoration, enhancement and establishment of approximately 20 acres of waters of the United States. Due to the terms of this NWP, the Alaska District estimates that no compensatory mitigation will be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.28 - NATIONWIDE PERMIT 28

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 28. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 28, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: The National Marine Fisheries Service (NMFS) commented in their November 6, 2006 letter they were concerned that NWP 28 may allow pile driving during reconfiguration of existing marinas. NMFS stated that several studies have documented the adverse effects on fish and suggested that possible ways to address this issue include timing restrictions and the possibility of using a vibratory method of pile driving and recommended the Alaska District address this in the EFH assessment. Alaska District met with NMFS on multiple occasions and developed RC A which requires a PCN for any pile driving activities in marine waters, anadromous lakes, and anadromous streams. Alaska District determined that activities under NWP 28 are not likely to adversely affect EFH because these activities are minor in nature and the RCs provide adequate mitigation. Pile driving activities associated with NWP 28 would therefore require a PCN and result in agency coordination with NMFS under RC B in marine or anadromous lakes and streams. During agency coordination with NMFS specific and case by case timing windows and pile installation methods can be determined to avoid any adverse impacts to fish and aquatic resources.

3.0 Regional Conditions Applicable to NWP 28: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately once per year, and would not result in a loss of waters of the United States since this NWP only allows reconfiguration of the docking facilities within existing marinas. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.29 - NATIONWIDE PERMIT 29

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 29. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 29, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 29, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 29: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 15 times per year, resulting in the loss of approximately 2 acres of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that approximately 3 acres of compensatory mitigation will be required to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic

environment. There will also be instances where a fee-in-lieu of compensatory mitigation will be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.30 - NATIONWIDE PERMIT 30

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 30. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 30, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 30, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 30: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 2 times per year, resulting in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

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The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. The district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.31 - NATIONWIDE PERMIT 31

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 31. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 31, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 31, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 31: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 times per year, resulting in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.32 - NATIONWIDE PERMIT 32

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 32. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 32, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 32, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 32: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. However, this NWP requires projects have environmental benefits to an equal or greater degree than the environmental detriments caused by the unauthorized activity. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately three times per year, resulting in the restoration, enhancement and establishment of approximately 1.25 acres of waters of the United States. Due to the terms of this NWP, the Alaska District estimates that no compensatory mitigation will be required for this NWP. The preceding information was based on data from Regulatory databases.

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The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.33 - NATIONWIDE PERMIT 33

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 33. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 33, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 33, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 33: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 7 times per year, resulting in impacts to approximately 1.5 acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

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27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.34 - NATIONWIDE PERMIT 34

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 34. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 34, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 34, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 34 The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will not be used, resulting in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

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27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.35 - NATIONWIDE PERMIT 35

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 35. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 35, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): This NWP has been issued under Section 10 of the Rivers and Harbors Act and therefore, the Section 404(b)(1) Guidelines Impact Analysis is not applicable.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 35: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. No RCs appear to be applicable to NWP 35 maintenance dredging of existing basins.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 3 times per year, resulting in temporary impacts to approximately 0.2 acres per year of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.36 - NATIONWIDE PERMIT 36

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 36. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 36, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 36, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 36: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 4 times per year, resulting in the loss of approximately 0.2 acre of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that approximately 0.1 acre of compensatory mitigation will be required to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic

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environment. There will also be instances where a fee-in-lieu of compensatory mitigation may be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.37 - NATIONWIDE PERMIT 37

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 37. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 37, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 37, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 37: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately once per year, resulting in the loss of approximately five acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.38 - NATIONWIDE PERMIT 38

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 38. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 38, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 38, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 38: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately four times per year, resulting in the loss of approximately 1.2 acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

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The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment. We anticipate that the impacts to the aquatic environment will be higher due to the spill of Hazardous and Toxic itself, compared to the work authorized by this NWP.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.39 - NATIONWIDE PERMIT 39

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 39. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 39, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 39, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 39: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 20 times per year, resulting in the loss of approximately 3 acres of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that approximately 0.05 acres of compensatory mitigation will be required to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic

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environment. There will also be instances where a fee-in-lieu of compensatory mitigation will be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.40 - NATIONWIDE PERMIT 40

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 40. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 40, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 40, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 40: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs B, C, D, E and F will apply to this NWP as well as RC H which reads,

“Regional Condition H – NWP 40 Agricultural Activities: The following activities are not authorized by NWP 40: a. Drain tiles, ditches, or levees or; b. Mechanized land clearing and land leveling in jurisdictional wetlands within 500’ of anadromous lakes or anadromous streams.”

This condition is required to prevent degradation of waters of the U.S. and adverse impacts to navigation (33 CFR 320.4(b), 40 CFR 230.21, 40 CFR 230.23, 40 CFR 230.24, 40 CFR 230.72 and 40 CFR 230.73).

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the

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types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately one time per year, resulting in the loss of no of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.41 - NATIONWIDE PERMIT 41

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 41. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 41 including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 41, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 41: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs B, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. This type of activity was suspended for use in the Alaska District during previous years. The Alaska District estimates that this NWP will not be used and will result in the loss of no waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

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27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.42- NATIONWIDE PERMIT 42

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 42. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 42, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the proceeding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 42, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the proceeding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 42: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 5 times per year, resulting in the loss of approximately 0.41-acre of waters of the United States each year. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data retrieved from REGDIS, for the replacement NWPs issued in 2000, as well as from ORM for the 2002 NWPs.

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The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.43- NATIONWIDE PERMIT 43

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 43. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 43, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the proceeding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 43, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the proceeding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 43: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 1 time during the next five years, resulting in the loss of approximately 0.057-acre of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data retrieved from REGDIS, for the replacement NWPs issued in 2000, as well as from ORM for the 2002 NWPs.

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The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.44 - NATIONWIDE PERMIT 44

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 44. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 44, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 44, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 44: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP, as well as RC I.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 3 times over the next five years, resulting in the total loss of approximately 0.250-acre of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data retrieved from REGDIS, for the replacement NWPs issued in 2000, as well as from ORM for the 2002 NWPs.

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The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.45 - NATIONWIDE PERMIT 45

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 45. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 45, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 45, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 45: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 25 times per year, resulting in the loss of approximately 6.5-acres of waters of the United States. Because NWP 45 is new, and was created out of the need to simplify NWP 3 (this NWP is one of three NWPs that cover activities authorized by the 2002 NWP 3) these numbers were estimated based on one-third of NWP 3's 10-year historical data.

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To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that mitigation may be required on a case-by-case basis to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment. There will also be instances where a fee-in-lieu of compensatory mitigation may be required. The preceding information was based on data retrieved from REGDIS, for the replacement NWPs issued in 2000, as well as from ORM for the 2002 NWPs.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.46 - NATIONWIDE PERMIT 46

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 46. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 46, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 46, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 46: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on an analysis of the types of activities authorized by the Alaska District during previous years, the Alaska District estimates that this NWP will be used approximately 25 times per year, resulting in the loss of approximately 6.5-acres of waters of the United States. Because NWP 46 is new, and was created out of the need to simplify NWP 3 (this NWP is one of three NWPs that cover activities authorized by the 2002 NWP 3) these numbers were estimated based on one-third of NWP 3's 10-year historical data.

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To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that mitigation may be required on a case-by-case basis to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment. There will also be instances where a fee-in-lieu of compensatory mitigation may be required. The preceding information was based on data retrieved from REGDIS, for the replacement NWPs issued in 2000, as well as from ORM for the 2002 NWPs.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.47 - NATIONWIDE PERMIT 47

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 47. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 47, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 47, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 47: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. RCs A and B will not apply to this NWP due to the note associate with the NWP that prohibits division engineers from adding RCs that require pre-construction notification or other actions that would delay the work. However, under the applicable circumstances RCs C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. In the past, it is likely that such repairs were authorized by either NWPs 3 or 12. The Alaska District estimates that this NWP will be used approximately 5 to 10 times per year, causing the loss of approximately 4 acres of waters of the United States. The Alaska District estimates that no compensatory mitigation will be required to offset the authorized losses of waters of the United States. The preceding information was based on data from Regulatory databases.

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The terms and conditions of the NWP and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.48 - NATIONWIDE PERMIT 48

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 48. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 48, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 48, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: The RC stating the revocation of NWP 48 was not proposed in Special Public Notice 2006-216. However, in their proposed consistency determination, the Office of Project Management and Permitting (OPMP) stated they may request NWP 48 be excluded in Alaska. OPMP explained that since the Alaska District is working to re-issue Regional General Permit (RGP) 1991-7- P Aquatic Farm Structures in Alaska, they believe the RGP better addresses the issues surrounding this activity. National Marine Fisheries Service (NMFS) commented that they recommend suspending the use of this NWP in state waters and employ regional general permit (RGP) 1991-7- P instead. In addition, NMFS recommend a pre-construction notification be required for all projects beyond the State water boundary of three nautical miles.

We agree with OPMP and NMFS that NWP 48 should not be used in Alaska given the successful use of the RGP. The RGP and NWP 48 are similar in that they both prohibit the farming of fin-fish. The RGP has allowed the Alaska District to manage Aquatic Farm Structures located in state managed waters in a manner that minimizes impacts to navigation and has no more than minimal adverse impacts, both individually and cumulatively, on the aquatic environment. The Alaska District anticipates re-issuing this RGP in the immediate future. We believe that revoking the NWP in the Alaska District is appropriate in light of the concerns expressed by OPMP and NMFS. RC J was created to state the revocation. It reads,

“Regional Condition J - NWP 48 Commercial Shellfish Aquaculture Activities: NWP 48 is revoked in Alaska. Applicants seeking authorization for this work are encouraged to apply for Regional General Permit 1991-7-P, Mariculture Activities in Alaska.”

This condition is required to prevent degradation of waters of the U.S. and adverse impacts to navigation (33 CFR 320.4(b), 40 CFR 230.21, 40 CFR 230.23, 40 CFR 230.24, 40 CFR 230.72 and 40 CFR 230.73).

OPMP did not provide a coastal zone consistency determination for NWP 48.

3.0 Regional Conditions Applicable to NWP 48: The Alaska District’s RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. RC J is the only RC applicable to NWP 48.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. Based on RC J, the NWP will not be used and will not result in the loss of any waters of the United States.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, I have determined that this NWP, including its terms and conditions, and limitations, should be revoked in Alaska.

Appendix A.49 - NATIONWIDE PERMIT 49

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 49. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 49, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 49, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 49: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. This is not a common activity in the Alaska District and the Alaska District estimates that this NWP will be used approximately once per year. Due to the terms of this NWP no compensatory mitigation will be required and there will be a net increase in aquatic resource functions. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition

27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix A.50 - NATIONWIDE PERMIT 50

This document identifies specific concerns within the Alaska District for Nationwide Permit (NWP) 50. The Pacific Ocean Division Engineer has considered the potential cumulative adverse effects on the aquatic environment that could result from the use of this NWP, including the need for additional modifications of this NWP by the establishment of regional conditions (RCs) to ensure that individual and cumulative adverse effects on the aquatic environment are no more than minimal.

1.0 Supplement to National Impact and Section 404(b)(1) Guidelines Impact Analysis:

1.1 Public interest review factors (33 CFR 320.4(a)(1)): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 50, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the public interest review factors for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

1.2 Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F): The Alaska District has considered the local impacts expected to result from the activities authorized by NWP 50, including the reasonably foreseeable cumulative effects of those activities. The national decision document for this NWP adequately addresses the Section 404(b)(1) Guidelines Impact Analysis (Subparts C-F) for the Alaska District. Where additional resource concerns were raised, they were analyzed and addressed in the preceding document.

2.0 NWP specific comments: No comments were received regarding this NWP.

3.0 Regional Conditions Applicable to NWP 50: The Alaska District's RCs are either process oriented (RCs A and B), activity based (RCs A, C, D, E and F), and/or specific to individual NWPs (RC A, G, H, I and J). The applicability of each RC on a case-by-case basis is determined by the proposed construction techniques, materials, and project location. For example, RC C (Wood Preservatives) would not apply to this NWP when the proposal does not involve the use of any treated wood products. Under the applicable circumstances, RCs A, B, C, D, E and F will apply to this NWP.

4.0 Cumulative Impacts: The cumulative impacts of this NWP on the aquatic environment are dependent upon the number of times the NWP is used and the quantity and quality of waters of the United States lost due to the activities authorized by this NWP. This is not a common activity in the Alaska District and the Alaska District estimates that this NWP will be used approximately once per year, resulting in the loss of approximately 5 acres of waters of the United States. To ensure that these activities result in minimal adverse effects on the aquatic environment, individually and cumulatively, the Alaska District estimates that mitigation may be required on a case-by-case basis to offset the authorized losses of waters of the United States and ensure that the NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment. There will also be instances where a fee-in-lieu of

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compensatory mitigation may be required. The preceding information was based on data from Regulatory databases.

The terms and conditions of the NWP, including the pre-construction notification (PCN) requirements (to include RC A), agency coordination procedures (contained in general condition 27 and RC B), and the RCs described in Part 3.0 above, will ensure that this NWP authorizes only activities with minimal individual and cumulative adverse effects on the aquatic environment.

High value waters will be protected by the restrictions in general condition 19 and the RCs. Through the PCN process, the Alaska District will review activities on a case-by-case basis to ensure the activities result in less than minimal adverse effects on the aquatic environment, individually and cumulatively. Additionally, the agency coordination of procedures will allow the district engineer to gather the recommendations from state and federal resource agencies when projects are proposed in aquatic environments having high ecological value. In either case (with or without agency coordination), the district engineer can add special conditions to the NWP authorization on a case-by-case basis to ensure that the activity results in minimal adverse effects on the aquatic environment, individually and cumulatively. During the PCN process, the district engineer will exercise discretionary authority and require an individual permit for those activities that result in more than minimal individual and cumulative adverse effects on the aquatic environment.

If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually or cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used.

5.0 Final Determination: Based on the considerations discussed above, and in accordance with 33 CFR 330.4(e)(1) and 330.5(c), I have determined that this NWP, including its terms and conditions, all RCs, and limitations, will authorize only those activities with minimal adverse effects on the aquatic environment, individually or cumulatively.

Appendix B

Appendix B contains the consideration given to the Alaska District's 22 regional conditions (RCs) to the 2002 Nationwide Permits (NWP) for use as RCs to the 2007 NWPs.

2002 NWP RC A (excluded areas): RC A identified specific geographic and ecological areas that were excluded from various NWPs unless, after telephonic communication, seven agencies (eight if the project was located in Alaska's coastal zone) all agreed the NWP could be used. If one agency objected or if any agency could not be reached, the project could not qualify for the NWP and an individual permit was required.

This RC was not proposed as a RC for the 2007 NWPs for two reasons. First, it allows other agencies the ability to make Corps permit decisions and this is contrary to Regulatory Guidance Letter 92-1, Federal Agencies Roles and Responsibilities. Additionally, as the RC was implemented the Regulatory Program found RC A to be an unacceptable administrative burden due to the telephonic communication, the requirement all agencies must be reached, and agencies' inability to fulfill their responsibilities due to fluctuating staff levels (e.g. EPA did not have the necessary staffing to implement this process during the five years it was in effect).

2002 NWP RC B (wood preservatives): RC B identified acceptable wood preservatives and how to apply such preservatives to wood products that are used in freshwaters and marine waters. This RC is proposed RC C for the 2007 NWPs (Wood Preservatives) with one addition that concerns the reuse of wood products that were used in marine waters.

2002 NWP RC C (notification): RC C identified additional NWPs that required a pre-construction notification (PCN) in Alaska and how the PCNs would be coordinated with the State and Federal resource agencies. RC C was not proposed as a 2007 NWP RC. However, the Alaska District proposed two RCs for the 2007 NWPs to manage additional NWP PCN requirements (proposed RC A) and to establish when agency coordination (proposed RC B) will occur for a NWP that requires a PCN and is less than 1/2 acre in order to supplement NWP general condition No. 27 of the 2007 NWPs.

2002 NWP RC D (identify project limits): RC D required permittees to identify their project limits. While it can be a good technique to help prevent an unpermitted loss of waters for many projects, the RC was not proposed as a RC for the 2007 NWPs because it is not a realistic cause for finding non-compliance by itself (meaning if a permittee stays within their authorized acreage limit but does not identify project limits, the Corps does not exercise its enforcement capabilities). Additionally, in cases where the permittee causes a loss of waters greater than the amount authorized, the potential non-compliance enforcement action would hinge primarily on the excess acreage of loss waters of the U.S., not for the failure to identify the project limits. Despite our not proposing this RC, there may be occasions where it is deemed appropriate to add this requirement as a special condition on a case-by-case basis.

2002 NWP RC E (minimization plan): RC E covers several different issues, including erosion, water quality, revegetation, seeding guidelines, streambank restoration, and measures to avoid and minimize disturbance. This RC was not proposed as a RC for the 2007 NWPs because we believe many of the concepts could be better communicated by splitting the issues and addresses

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them in separate RCs (proposed RCs A, D, E and F) which would be applicable to all projects involving a specific type of activities rather than listing specific NWPs included or excluded as in the 2002 version.

2002 NWP RC F (vegetated buffers): This RC concerns projects that require a vegetated buffer for maintenance of water quality and the specifications of the buffer. We believe that vegetated buffers adequately address with the modifications to the 2007 NWP's general conditions 2 (Aquatic Life Movements), 3 (Spawning Areas), and 20 (Mitigation), and also by proposed RC B 2007 which requires agency review for work near anadromous and other fish-bearing waters.

2002 NWP RC G (screening intake structures): This RC stated intake structures require devices that prevent entrainment or capture of fish. We believe that the RC is redundant with general condition GC 2 (aquatic life movements) from the 2007 NWPs and therefore we did not propose to retain it.

2002 NWP RC H (seasonal docks): This RC specified size limits for seasonal docks but dock size alone does not mean navigation impacts are minimal. Due to changes occurring within the Alaska Coastal Management Program (ACMP) the decision was made to propose only the size limitations that pertain to maintaining open navigation and allow the ACMP to specify their standards as we seek the Coastal Zone Management Act consistency determination. The seasonal dock RC for the 2007 NWPs is proposed RC G (Season Docks).

2002 NWP RC I (utility lines and hydrology): This RC address techniques for installing utility lines in peat soils so the site's hydrology is maintained. It applied to seven NWPs. We continue to share the concern for maintaining the hydrologic characteristics but have proposed to expand the applicability to the 2007 NWPs in proposed RC D (Activities Involving Trenching) which is applicable to any type of trenching activity in wetlands and is intended to prevent the same adverse hydrologic effects.

2002 NWP RC J (300' limit to stream loss): This RC prohibited the loss of greater than 300 feet of stream loss of ephemeral, intermittent and perennial streams. Changes to the definition of "loss of waters" for the 2007 NWPs to include ephemeral waters and the prohibition of the DE waiving the loss of more than 300 feet of a perennial stream provides more protection to streams than the 2002 NWPs. This RC was not proposed for the 2007 NWPs.

2002 NWP RC K (stream channelization & dams): RC K was similar to RC A from the 2002 NWPs in that it also required the same type of telephonic communication with agencies and each needed to agree to the stream channelization or dam for the NWP to be used. As before, if one agency objected or if any agency could not be reached, the project could not qualify for the NWP and an individual permit was required. The reason for not proposing this RC for the 2007 NWPs is the same as the reasoning for RC A discussed above. Also, due more PCN requirements in the 2007 NWPs, proposals for this work will very likely trigger a PCN so the Regulatory Program will review these projects, whereas in the past this was not always the case. We anticipate that these projects will also trigger agency coordination under proposed RC B of the 2007 NWPs. Many may not qualify for NWPs given the changes to the modified definition of "loss of waters."

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2002 NWP RC L and M (proof of application for a State permit): These RCs require proof of application to the State land manager and for a State fish habitat permit, respectively. Such conditions do not improve protection of the aquatic environment and does not aid in our decision making process. The State agencies responsible these authorizations will continue to receive our permit decisions and thus, continue to be made aware of projects. Project proponents, of course, are still require to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects.

2002 NWP RC N (sediment control): This RC contained several prescriptive techniques to assure waters beyond the work area are not polluted with suspended sediment and turbidity. The RC was not proposed as a RC for the 2007 NWPs. We believe that goal-oriented and not prescriptive methods (that may not work at the wide range of sites in Alaska) are appropriate. To address this secondary impact the Regulatory Program will rely on 2007 NWPs general conditions 2 (Aquatic Life Movements), 3 (Spawning Areas), 6 (Suitable Material), and especially 12 (Soil Erosion and Sediment Controls). These general conditions are fully enforceable.

2002 NWP RC O (mitigation before construction): This RC addressed the timing of mitigation required by special condition, the use of a mitigation bank and/or the payment of an in-lieu fee. The RC was not proposed as a RC for the 2007 NWPs. We believe the timing of the mitigation should be considered on a case-by-case basis and will be addressed in the NWP verification. As we have implemented this RC, we have occasionally determined it to be not practicable which results in this condition/issue being considered on a case-by-case basis.

2002 NWP RC P (maintain fish habitat under NWP 3 and provide State application): This RC required maintenance work in fish-bearing waters must maintain fish habitat to the maximum extent practicable and the applicant provided proof of application for a State fish habitat permit. As written, the RC is vague and redundant with RC M from the 2002 NWPs. Furthermore, it was only applicable to NWP 3. While the RC was not proposed as a RC for the 2007 NWPs we agree that that intention is good, but it is unclear and enforceable. However, such conditions do not improve protection of the aquatic environment and do not aid in our decision making process. Prospective permittees for the 2007 NWPs will need to comply with various RCs to include GCs 2 (Aquatic Life Movements), 3 (Spawning Areas), 6 (Suitable Material), 8 (Adverse Effects from Impoundments), 9 (Management of Water Flows), and 12 (Soil Erosion and Sediment Controls). Project proponents, of course, are still required to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects.

2002 NWP RC Q (Outfall Structures authorized by NWP 7): This RC required that flood flows not be impeded; required, to the extent practicable, equipment work from an upland site; directed impacts shall be minimized when an upland site is not available; and, addressed certain information that is required in the PCN. The RC was not proposed as a RC for the 2007 NWPs. Depending on the design, outfall structures could have several general conditions that apply the to work, such as, GCs #2 (Aquatic Life Movements), 3 (Spawning Areas), 6 (Suitable Material), 8 (Adverse Effects from Impoundments), 9 (Management of Water Flows), 10 (Fills Within 100-Year Floodplains), and 12 (Soil Erosion and Sediment Controls). Working from an upland site is

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a mitigation measure that should be looked at on a case-by-case basis with decisions regarding equipment location and timing of work being made in the same manner. Information necessary for the PCN is contained in general condition 27.

2002 NWP RC R (proof of application to ADEC): This RC required the prospective permittee provide proof to the Regulatory Program that they have applied for a State wastewater discharge permit for NWP 7 activities. The RC was not proposed as a RC for the 2007 NWPs. Such conditions do not improve protection of the aquatic environment and does not aid in our decision making process. The State agency responsible for the wastewater discharge permit will continue to receive our permit decisions and thus, continue to be made aware of projects. Project proponents, of course, are still require to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects.

2002 NWP RC S (restrictions on NWP 27): This RC addressed NWP 27 and listed activities that are excluded in Alaska. We did not propose the RC as a 2007 NWP RC because we believe that modifications made to NWP 27 include new safeguards that address the previous RC. These restrictions improve NWP 27 activities that will occur in Alaska.

2002 NWP RC T (exclusions for NWP 40): This RC contained a list of activities that are not allowed in wetlands contiguous with anadromous waters; required a fenced, vegetated buffer from streams; and, directed that surface drainage from farmlands into standing or flowing water be controlled and treated so that State water quality standards are not exceeded.

This RC was proposed as RC H (Agricultural Activities) for the 2007 NWPs and contains the same list of prohibited activities but limits them in wetlands adjacent (rather than contiguous) to anadromous waters. The remaining portions of the old RC were not proposed in the new RC. As NWP 40 will require a PCN for all activities, and will be coordinated with the State and Federal resource agencies when the work is near anadromous waters the secondary impacts of these activities and decisions on mitigation measures can made on a case-by-case basis.

2002 NWP RC U (placer mining excluded from NWP 44): This RC allowed NWP 44 to be used for hard rocking mining exploration activities and the temporary stockpiling of sand and gravel in unvegetated and seasonally dewatered, waters of the U.S. The RC was modified and proposed as RC I (Mining) for the 2007 NWP. Changes were made to reflect the changes in NWP 6 and to allow an applicant the opportunity to qualify for NWP 44 to develop a hard rock mine.

2002 NWP RC V (proof of permit from ADEC): This RC required the prospective permittee obtain a State permit for projects with on-site sewage system or marine outfalls prior to filling wetlands. The RC was not proposed as a RC for the 2007 NWPs. This RC does not aid in our decision making process. In effect, it required that a permit other than a 401 Water Quality Certification and/or a Coastal Zone Management Consistency Determination were needed for the NWP to be valid. The State agency responsible for these permits will continue to receive our permit decisions and thus, continue to be made aware of projects. Project proponents, of course, are still need to obtain all applicable permits and we will continue to state this point in NWP verification letters and inform State agencies of our permit decisions so that they are aware of projects.