STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE
OFFICE OF RENEWABLE ENERGY SITING
AND ELECTRIC TRANSMISSION

REGULATIONS IMPLEMENTING ARTICLE VIII OF THE PUBLIC SERVICE LAW

Chapter XI, Title 16 of NYCRR Part 1102
Major Electric Transmission Facility Siting

Effective March 9, 2026

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Chapter XI, Title 16 of NYCRR Part 1102 Major Electric Transmission Facility Siting

Subpart 1102-1. Major Electric Transmission Facility General Requirements.

Section 1102-1.1. Pre-application requirements.

(a) *Wetlands and surface waters.*

(1) *Wetlands and surface water preliminary screening.* The applicant shall conduct a wetland and surface water screening to determine the approximate boundaries of all freshwater and tidal wetlands and surface waters that intersect with the applicant's proposed transmission facility corridor. Screening shall be based on available data, including maps promulgated or developed pursuant to NYS ECL articles 15, 24 and 25, National Wetland Inventory (NWI) maps, the United States Geological Survey (USGS) National Hydrography Dataset, United States Department of Agriculture (USDA) soil maps, Federal Emergency Management Agency (FEMA) flood maps, and interpretation of current and historical aerial imagery. The applicant shall provide maps and associated spatial data depicting all wetlands and surface waters identified in the preliminary screening.

(2) *A*gency *consultation.* No less than 30 days after submittal of wetland and surface water preliminary screening maps, the applicant shall request a consultation with the office, which shall be scheduled by the office within 30 days of receiving the request. The office, in consultation with other relevant State and Federal agencies (e.g., NYSDEC, APA, USACE), shall determine additional information to be submitted in support of a wetlands and surface water detailed screening.

(3) *Wetlands and surface water detailed screening.* No less than six (6) months prior to filing an Article VIII application the applicant shall submit to ORES, with a copy to NYSDEC, and where applicable, the APA, a detailed screening that provides the applicant's assessment of the jurisdictional status (State, Federal, and Local) of the

wetlands and surface waters identified in the preliminary screening consistent with the substantive standards of 6 NYCRR Part 664 for freshwater wetlands for projects located outside of the Adirondack Park, 9 NYCRR Part 578 for projects located within the Adirondack Park, and 6 NYCRR 661 for tidal wetlands. In addition, the detailed screening shall include summary tables describing potential impacts to each jurisdictional category of wetland and surface waters (State, Federal, local) from the proposed project.

(4) *Alternative route screening.* For any alternative routing options that are identified and accepted by ORES as part of the pre-application procedures pursuant to this Part, the applicant shall follow the preliminary screening and detailed screening processes outlined in paragraphs (1) through (3) of this subdivision except that the timeframe for submittal of screening results shall be no less than three (3) months prior to application submission.

(5) *Application.* The applicant shall utilize the approved wetland and surface water detailed screenings to develop application exhibits and provide the detailed screening results and summary tables in the application as required in sections 1102-2.15 and 1102-2.16 of this Part.

(b) *NYS threatened or endangered species.*

(1) At the earliest point possible in the applicant's preliminary project planning and prior to proposing, designing, or commencing any wildlife surveys, the applicant shall conduct a wildlife site characterization summarizing existing public information on bird, bat, and other species, including, but not limited to, New York's Environmental Assessment Form (EAF) Mapper, New York Natural Heritage Program (NYNHP), United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation(iPaC) and Environmental Conservation Online System (ECOs) databases, New York's Environmental Resource Mapper, NYSDEC Nature Explorer, eBird, Audubon Christmas Bird Counts, United States Geological Survey (USGS) breeding bird surveys, the current New York Breeding Bird Atlas III program, New York State Ornithological Association, local birding organizations, and North American Bat Monitoring Program's data on bat species

ranges or NYSDEC bat information. With respect to NYS threatened and endangered species or species of special concern, the wildlife site characterization shall include:

(i) A list of NYS threatened or endangered species, and species of special concern documented within one thousand two hundred (1,200) feet on either side of the proposed facility corridor from available data sources. Species records identified within the last five (5) years shall be highlighted or otherwise identified within the list.

(ii) For each listed species documented from available data sources, provide an evaluation of current habitat suitability for those species within the proposed facility corridor.

(iii) Geographical, topographical, and other physical features within one thousand two hundred (1,200) feet on either side of the proposed facility corridor.

(iv) Wetlands, streams, waterbodies, and other resources that may be relevant to siting of the proposed facility.

(2) The applicant shall provide the results of the wildlife site characterization and project details, including as much information as is available for facility component plans, as well as spatial data, to the office and NYSDEC. A meeting shall be held by these agencies and the applicant within four (4) weeks of delivery of the draft wildlife site characterization, unless otherwise agreed upon by the applicant and the office. At this meeting, the agencies shall:

(i) Provide feedback as to the content and conclusions of the wildlife characterization study.

(ii) Enter into a non-disclosure agreement with the

applicant, if necessary, and provide all additional data points beyond those identified in the draft site characterization.

(iii) Indicate whether the agencies consider occupied habitat of NYS threatened or endangered species to be present within the proposed facility corridor based on existing information and, if so, indicate where such habitat is located.

(iv) Recommend habitat assessments (including directing the applicant to provide information regarding recent and planned future land uses) and/or species-specific field surveys that can be completed in the appropriate seasonal windows within one year of the applicant's meeting with the agencies; and provide the applicant with current applicable protocols to conduct such surveys.

(3) If the applicant conducts a habitat assessment and believes suitable habitat for a given species is no longer present within the proposed facility corridor, it shall provide a copy of the assessment report to the office and NYSDEC for review and a determination as to whether surveys shall be required.

(4) If the applicant elects to conduct field surveys, the applicant shall develop a pre-construction study work plan in consultation with the office and NYSDEC. Any preconstruction work plans shall be submitted before the start of the survey window. All surveys must follow current applicable protocols. If recommended field surveys are conducted:

(i) As applicable for each of the field surveys conducted, the applicant shall provide draft reports and relevant spatial data to the office and the NYSDEC within six (6) weeks of the completion of each study. If NYS threatened or endangered species are documented during the surveys, a summary of the detections (e.g., visual, acoustic, etc.) with detailed information including surveyor name, coordinates of detection, species name, species behavior, flight path, and flight

altitude, if applicable, and photographs, shall be provided.

(a) If subsequent to conducting surveys, additional surveys are recommended, or an alternative route alignment is proposed for inclusion the applicant may not be required to conduct additional surveys. In newly proposed areas, or other areas not previously surveyed, located within a justifiable proximity of the original facility boundary the office and the applicant may utilize the results of surveys previously conducted to extrapolate occupancy and designate such newly proposed areas as occupied habitat as appropriate. This determination of occupancy shall be used to inform the preliminary take estimate.

(ii) Within thirty (30) days of receipt of any survey reports, the office shall provide preliminary occupied habitat maps for any listed species determined to occupy the proposed transmission facility corridor, based on the applicant's surveys and any other relevant and credible data (e.g., New York Natural Heritage Program record). The applicant shall utilize this information to route the proposed facility corridor or design the facility to best avoid or minimize impacts to occupied habitat and listed species, and to inform project impact assessments.

(5) If adverse impacts to listed species or occupied habitat are unavoidable, the applicant shall submit a preliminary take estimate that identifies the species impacted, an estimate of the number of acres or individual animals that may be taken, the actions taken to minimize that impact, and a map indicating where the take is expected to occur. The preliminary take estimate shall include consideration of the type of activities being conducted, and time of year these activities will occur.

(6) Within thirty (30) days of receipt of the applicant's preliminary take estimate, the office and the applicant shall

hold a meeting to review the results of the habitat assessment(s) and any survey(s), the current facility design, and a preliminary estimate of impact. The office and the applicant shall also discuss the requirements for the Net Conservation Benefit Plan, if applicable.

(7) Within thirty (30) days of such conference pursuant to paragraph (6) of this subdivision, the office shall provide its draft determination regarding whether occupied habitat for one or more NYS threatened or endangered species exists within the proposed facility site, the boundary of the occupied habitat, whether de minimis levels as provided in section 1102-2.14 of this Part might be attainable for grassland birds, and, if applicable, the mitigation requirements that may be necessary if impacts cannot be avoided.

(8) If the applicant elects not to conduct recommended field surveys and the office agrees to foregoing the surveys, the applicant shall submit to the office a proposed preliminary take estimate based on the potential presence of habitat of listed species, based on existing information and subject to the office's approval and acceptance.

(9) The applicant shall provide the approved wildlife site characterization report, habitat assessment and/or survey reports, the office's take determination regarding impacts to listed species as required by paragraph (4)(iv) of this subdivision or preliminary take estimate as required by paragraph (5) of this subdivision, and a Preliminary Net Conservation Benefit Plan (if required) in the siting permit application as provided in section 1102-2.14 of this Part.

(c) *Cultural resources.*

(1) During the development of initial studies of the impacts on cultural resources within the project impact area (PIA) and at least 60 days prior to the filing of an application, the applicant shall consult with local historic preservation groups and any Indigenous Nations to identify cultural resources of concern which appear to be at least fifty (50)

years old and are potentially eligible for listing in the State/National Register of Historic Places (S/NRHP).

(2) All cultural resources studies, surveys, and reports must be prepared by individuals meeting the 36 CFR 61 professional qualifications established by the Secretary of the Interior.

(3) *Archaeological resources consultation.*

(i) The applicant shall conduct a Phase IA archeological/cultural resources study for the proposed facility corridor.

(ii) The applicant shall submit the results of the Phase IA study, a proposed Phase IB scope of work for areas where the applicant has secured access permissions, and an Areas Proposed for Archaeological Survey figure (depicting any areas where additional survey is proposed to occur prior to submission of the Environmental Management & Construction Plan (EM&CP) per section 1102-1.1(c)(5) of this Part) to the office, the Office of Parks, Recreation, and Historic Places/State Historic Preservation Office (OPRHP/SHPO), and each Indigenous Nation. A separate Phase IB Scope of Work may be required for facilities with both terrestrial and offshore components. Within sixty (60) days of the applicant's submittal of the Phase IA results, the office, in consultation with OPRHP/SHPO, shall inform the applicant as to whether a Phase IB field study will be required.

(a) The application may not be filed less than sixty (60) days after receipt of the office's determination as described in this subparagraph or may be filed at any time following receipt of OPRHP/SHPO's effect or impact determination letter(s) consistent with section 1102-1.1(c)(5) of this Part, whichever is earlier.

(b) Any time prior to application filing, the office may schedule a meeting with the applicant, OPRHP/SHPO, and any Indigenous Nations to discuss the scope and content of the Phase IB field study.

(iii) If warranted, the applicant shall submit the results of the Phase IB study for areas where the applicant has secured access permissions, including a proposed Site Avoidance Plan, to the office, OPRHP/SHPO, and each Indigenous Nation. Within sixty (60) days of the applicant's submittal of the Phase IB results, the office, in consultation with OPRHP/SHPO, shall inform the applicant as to whether a Phase II site evaluation study will be required to assess the boundaries, integrity, and significance of cultural resources identified in the Phase IB study that cannot be avoided.

(a) The application may not be filed less than sixty (60) days after receipt of the office's determination as described in this subparagraph, or may be filed at any time following receipt of OPRHP/SHPO's effect or impact determination letter(s) consistent with section 1102-1.1(c)(7) of this Part, whichever is earlier.

(b) Any time prior to application filing, the office may schedule a meeting with the applicant, OPRHP/SHPO, and any Indigenous Nations to discuss the scope and content of the Phase II site evaluation study.

(iv) If warranted, the applicant shall submit the results of the Phase II study to the office, OPRHP/SHPO, and each Indigenous Nation. Within sixty (60) days of applicant's submittal of the Phase II study, the office, in consultation with OPRHP/SHPO, shall inform the applicant as to whether any S/NRHP listed or eligible sites are present that would require avoidance or mitigation.

(v) If warranted, for any sites that cannot be avoided the applicant shall conduct a Phase III data recovery investigation or propose alternative measures to mitigate impacts to any S/NRHP listed or eligible resources identified in Phase II studies. As required by section 1102-2.11(a)(6) of this Part the applicant shall

provide in its permit application the Phase IA study, Phase IB study, and, if applicable, Phase II study, Phase III study, site avoidance plan, preliminary mitigation plan, and an Areas Proposed for Archaeological Survey figure (depicting any areas where additional survey is proposed to occur prior to EM&CP submission per section 1102-1.1(c)(5) of this Part). These documents shall be submitted confidentially.

(4) *Above-ground resources consultation*.

(i) At least 60 days prior to the filing of an application, the applicant shall consult with the office and OPRHP/SHPO to establish a one- to three-mile Zone of Visual Impact (ZVI) for the proposed facility.

(ii) The applicant shall complete a viewshed spatial analysis and identify areas within the ZVI where the facility will be visible based upon topography and estimated existing vegetation and building heights.

(iii) The applicant shall submit the results of the ZVI spatial analysis along with a historic resources survey methodology and proposed survey boundary to the office and OPRHP/SHPO. A historic resources survey of all properties 50-years old or older with positive visibility based on the ZVI analysis may be required. Within sixty (60) days of applicant’s submittal of the ZVI analysis, historic resources survey methodology, and proposed historic resources survey boundary, the office, in consultation with OPRHP/SHPO, shall provide comments and issue a historic resources survey request.

(iv) Upon completion of the field work, the applicant shall submit the digital data and the historic resources survey report to the office, OPRHP/SHPO, and each Indigenous Nation. Within sixty (60) days of the applicant’s submittal of the digital data and report,

the office, in consultation with OPRHP/SHPO, shall inform the applicant as to whether any S/NRHP listed or eligible properties have been identified.

(a) The application may not be filed less than sixty (60) days after receipt of the office's determination above.

(v) If warranted, the applicant shall prepare a historic resources effects assessment. The applicant shall submit the assessment to the office, OPRHP/SHPO, and each Indigenous Nation. The applicant shall provide the ZVI, historic resources survey methodology, historic resources survey report, and, if applicable, the historic resources effects assessment in the permit application as required by section 1102-2.11(b) of this Part.

(5) For any areas where the applicant could not obtain access permissions during the pre-application phase, the applicant shall provide a narrative explanation and figure distinguishing areas where survey has been completed pursuant to sections 1102-1.1(c)(3) and (4) of this Part from areas where additional survey is proposed to occur prior to EM&CP submission. The applicant shall provide a proposed schedule for completing any required studies in the permit application as required by section 1102-2.11(a)(7) of this Part.

(6) For any areas of the proposed electric transmission facility where documents, correspondence, and studies have been adopted as part of a Federal agency's National Historic Preservation Act section 106 review, the applicant may propose that such studies be used to satisfy the requirements of section 1100-1.3(c) of this Title, or sections 1102-1.1(c) or 1102-2.11 of this Part by providing:

(i) copies of such documents, correspondence, and studies, as applicable;

(ii) documentation confirming that such information has been adopted by a Federal agency pursuant to its National Historic Preservation Act Section 106 review;

(iii) a narrative explanation detailing which documents, correspondence, and studies satisfy each applicable regulatory requirement; and

(iv) a narrative explanation and figure distinguishing areas where the applicant proposes that documents, correspondence, and studies produced as part of a Federal agency's National Historic Preservation Act Section 106 review satisfy each applicable regulatory requirement from areas where such studies shall be prepared in accordance with section 1100-1.3(c) of this Title, or sections 1102-1.1(c) or 1102-2.11 of this Part.

Within sixty (60) days of the applicant's submittal of information satisfying section 1102-1.1(c)(6) of this Part, the office, in consultation with OPRHP/SHPO, shall inform the applicant as to which, if any regulatory requirements have been satisfied as part of a Federal agency's National Historic Preservation Act Section 106 review, and which, if any, documents, correspondence, and studies shall be prepared in accordance with section 1100-1.3(c) of this Title, or sections 1102-1.1(c) or 1102-2.11 of this Part.

(7) As required by section 1102-2.11 of this Part, the applicant shall provide in the permit application the effect or impact determination letter(s) for the areas where survey has been completed pursuant to sections 1102-1.1(c)(3) and (4) of this Part.

(d) *Visual resources*.

(1) For all projects, at least sixty (60) days before filing an application, the applicant shall consult with the office to establish a visual resources study area for the proposed facility.

(2) For all projects, excluding facilities proposed substantially within existing electric transmission rights-of-way, at least sixty (60) days before filing an application, the applicant shall provide a preliminary visual impact assessment addressing the following:

(i) a description of the project setting consistent with section 1102-2.10(a)(1)(i) of this Part;

(ii) a description of the proposed facility consistent with section 1102-2.10(a)(2)(ii) of this Part;

(iii) a preliminary list and description of visual resources consistent with section 1102-2.10(b)(1) within the visual study area;

(iv) a viewshed analysis of the facility components consistent with sections 1102-2.10(b)of this Part;

(v) a photolog of photographs depicting views from viewpoints identified consistent with 1102-2.10(b) of this Part; and photographs of existing or co-located structures;

(vi) a preliminary list of resources with potential visibility of the facility to be studied in more detail in the application for permit; and

(vii) a preliminary summary of potential visual impacts of the project consistent with section 1102-2.10(c) of this Part.

(e) *In-water facilities*. Prior to filing an application for an in-water transmission facility, the applicant shall engage in the following pre-application consultations:

(1) *State agencies*.

(i) The applicant shall consult with ORES, NYSDEC, and NYSDOS (as applicable) for in-water facilities to identify sediment sampling and modeling requirements.

(ii) The applicant shall consult with ORES, NYSDEC, and NYSDOS (as applicable) on resources and data sources used for desktop analysis of benthic habitat and fisheries resources.

(a) At the earliest point possible in the applicant's preliminary project planning, the applicant shall conduct a benthic habitat site characterization summarizing existing public information on benthic characteristics including, but not limited to, sediment type, including the percent sand and gravel, Coastal and Marine Ecological Classification Standard (CMECS) classification, submerged aquatic vegetation (SAV), complex and sensitive habitats, proximity to artificial reefs, known shipwrecks, hard bottom habitats, commercial shellfish beds, salt marshes, corals, and mobile sediments (i.e., sandwaves and megaripples). Benthic habitat site characterization shall contain the entirety of the proposed in-water facility corridor, landfall locations, and any intercoastal waterways, if applicable.

(b) The applicant shall consult with NYSDEC, NYSDOS, and ORES to discuss items identified in the benthic habitat site characterization and to identify any additional critical data sources that should be included. This consultation shall also serve as an opportunity to discuss parameters for benthic sampling and the development of a Benthic Monitoring Plan, as well as any other surveys necessary given the results of the benthic habitat site characterization.

(c) At the earliest point possible in the applicant's preliminary project planning, the applicant shall conduct a desktop analysis of available data on sediment conditions within the in-water facility corridor. The applicant shall consult with NYSDEC, NYSDOS, and ORES to discuss this information, and to identify any additional critical data sources that should be included. This consultation shall also serve as an opportunity to discuss parameters for geotechnical and geophysical surveys, as well as any other surveys necessary to characterize the sediment conditions within the in-water facility corridor.

(d) At the earliest point possible in the applicant's preliminary project planning, the applicant shall conduct a desktop analysis of available data on commercial and for-hire fishing activity within the in-water facility corridor. The applicant shall consult with NYSDEC, NYSDOS, NYSAGM and ORES to discuss this information, as well as parameters for any fisheries compensation plans and to identify any additional critical data sources that are missing from the desktop analysis of commercial fishing activity.

(2) Consultation with the host municipalities of the proposed landfall location(s) and any terrestrial route(s), as well as with adjacent municipalities and counties if the jurisdictional boundaries of the adjacent municipality or county is located within one (1) mile of the facility corridor.

(3) Consultation with NYSDOS regarding Federal coastal consistency for all components requiring Federal authorization within or affecting the New York State Coastal Area.

(f) *Alternative route scoping.*

(1) *Applicability.* This subdivision applies to major electric transmission facilities except:

(i) a proposed major electric transmission facility that would be constructed substantially within existing electric transmission rights-of-way.

(2) *Alternative route scoping procedure.*

(i) *Consultation with local agencies.* No less than six (6) months before the date on which an applicant files an application, the applicant shall offer to conduct pre-application meeting(s), at a reasonable time and in a reasonable location, with the chief executive officer of the municipality(ies) in which the proposed facility

will be located and any local agencies of such municipalities identified by the chief executive officer or their designee to identify reasonable alternative routes for study and consideration in the application. For any project proposed within the New York City watershed, New York City shall be treated as a municipality in which the proposed facility will be located. In the event the applicant is unable to secure a meeting with a municipality, the applicant shall provide the office with a detailed explanation of all of the applicant's best efforts and reasonable attempts to secure such meeting, including, but not limited to, all written communications between the applicant and the municipality. Meetings required by this paragraph may be conducted together with any other pre-application meetings required by Parts 1100 and 1102 of this Title. During such pre-application meeting(s), the applicant shall provide:

(a) a summary of the preliminary preferred and reasonable alternative routes, including identification of all publicly-owned property, proposed to be included for analysis in the application; and

(b) an anticipated application date and information regarding the availability of local agency account funds, citing to the requirements set forth in Subpart 1100-5 of Part 1100 of this Title, including, but not limited to, the requirement that any local agency or potential community intervenor shall submit a request for initial funding within thirty (30) days of the date of the six-month notice of intent to file an application and that such request be made to the Office of Renewable Energy Siting and Electric Transmission, at the Albany, New York office, Attention: Request for Local Agency Account Funding.

(ii) *Meeting with community members.* No less than six (6) months before the date on which an applicant files

an application, and following the meeting(s) held pursuant to subparagraph (i) of this paragraph, the applicant shall conduct at least one meeting with arrangements to include an in-person meeting location meeting all State and Federal accessibility requirements along with a concurrent remote option for community members who may be adversely impacted by the siting of the facility. The purpose of the meeting is to educate the public about the preliminary preferred and reasonable alternative routes proposed for study and consideration in the application, including the anticipated application date and information regarding the future availability of local agency account funds, citing to the requirements set forth in Subpart 1100-5 of Part 1100 of this Title, including, but not limited to, the requirement that any local agency or potential community intervenor shall submit a request for initial funding within thirty (30) days of the date of the six-month notice of intent to file an application and that such request be made to the Office of Renewable Energy Siting and Electric Transmission, at the Albany, New York office, Attention: Request for Local Agency Account Funding. The applicant shall provide notice of the meeting no sooner than thirty (30) days and no later than fourteen (14) days prior to the meeting in accordance with the publication requirements of section 1100-1.6(c) of Part 1100 of this Title. Meetings required by this paragraph may be conducted together with any other pre-application meetings required by Parts 1100 and 1102 of this Title.

(iii) At least six (6) months before the date an applicant files an application, the applicant shall publish a notice of intent to file an application in accordance with the publication requirements of section 1100-1.6(c) of Part 1100 of this Title and provide a copy thereof to the office, to all local agencies in attendance at the pre-application meeting(s), and to any reasonably identifiable stakeholders. The notice of intent to file an application may be included as part of the notice requirement of paragraph (2) of this subdivision. The notice shall contain, at a minimum, the

following:

(a) a summary of the preferred and reasonable alternative routes proposed to be included for analysis in the application;

(b) a designated contact person, with a telephone number, email address and mailing address, from whom information will be available on a going-forward basis, and the address of a project website or webpage to disseminate information to the public; and

(c) a statement of future availability of local agency account funds, citing to the requirements set forth in Subpart 1100-5 of Part 1100 of this Title, including, but not limited to, the requirement that any local agency or potential community intervenor shall submit a request for initial funding within thirty (30) days of the date of the six-month notice of intent to file an application and that such request be made to the Office of Renewable Energy Siting and Electric Transmission, at the Albany, New York office, Attention: Request for Local Agency Account Funding.

(iv) The copy of the six (6) month notice of intent to file an application required by subparagraph (iii) of this paragraph provided to the office shall be accompanied by the local agency account fee required by section 1100-1.4(a)(8) of Part 1100 of this Title.

(v) The administrative law judge shall award local agency account funds pursuant to section 1100-5.1 of Part 1100 of this Title within five (5) days after the deadline for requests for funds from the local agency account pursuant to this subdivision.

(vi) Within sixty-five (65) days following the date of the six (6) month notice of intent to file an application, any municipality, person, or potential

party may serve on the office and the applicant, and file with the secretary, proposed reasonable alternative routes for analysis in the application and include a description of additional data and information needed to propose such alternative if not known during this timeframe. A reasonable alternative route is a route that would reasonably be expected to avoid and minimize significant adverse impacts to identified environmental resources, or public health and safety, or is in the public and ratepayer interest.

(a) In support of any proposed alternative route, the proponent shall provide a statement that describes the proposed alternative route, identifies the environmental or public health and safety impacts sought to be avoided or minimized, or the public and ratepayer interest to be served, and describes how the alternative would likely avoid or minimize the identified impacts or would further the identified public and ratepayer interest.

(b) Any municipality, relevant stakeholder, or potential party that fails to raise a proposed alternative route for analysis in the application pursuant to this subparagraph shall be barred from raising their proposed alternative route in any hearing conducted on the application unless the party complies with the provisions of paragraph (3) of this subdivision.

(vii) The applicant and any municipality, person, or potential party may respond to any alternative route proposed within fifteen (15) days.

(viii) Within thirty (30) days following the deadline for responses authorized by subparagraph (vii) of this paragraph, office staff shall issue a final written scope specifying the alternative routes that must be presented and analyzed in the application. Prior to issuing any decision hereunder, office staff may request assignment of an administrative law judge to conduct an

alternative route scoping conference.

(3) *Late-raised alternative routes.*

(i) All proposed alternative routes should be raised before issuance of a final written scope pursuant to subparagraph (viii) of paragraph (2) of this subdivision to be considered in any subsequent proceedings on the application. Any municipality, relevant stakeholder, or potential party proposing an alternative route after that time, and in any event no later than sixty (60) days after the date of application filing, must serve on the office and the applicant, and file with the secretary, a written statement that identifies:

(a) the proposed alternative route;

(b) the environmental or public health and safety impacts sought to be avoided or minimized, or the public and ratepayer interest to be served, and describes how the alternative route would likely avoid or minimize the identified impacts or would further the identified public and ratepayer interest; and

(c) the reason(s) why the alternative route could not reasonably have been identified during scoping and a compelling reason why it should be included at this stage of the review.

(ii) The applicant and any municipality, person, or potential party may respond to any late-raised alternative route proposed within thirty (30) days.

(iii) Within thirty (30) days following the deadline for responses authorized by subparagraph (ii) of this paragraph, office staff shall issue a final written scope specifying whether the late-raised alternative route must be presented and analyzed in the application.

(iv) No alternative route proposed more than sixty (60) days after the date an application is filed will be considered.

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Subpart 1102-2. Major Electric Transmission Facility Application Exhibits.

Section 1102-2.1. Exhibit 1: General Information Regarding Application, Overview, and Executive Summary.

Exhibit 1 shall contain:

(a) the name, address, telephone number, and e-mail address of the applicant;

(b) the address of the website or webpage established by the applicant to disseminate information to the public regarding the application;

(c) the name, address, telephone number, and e-mail address of a representative of the applicant that the public may contact for more information regarding the application;

(d) the name, business address, telephone number, and e-mail address of the principal officer of the applicant;

(e) if the applicant desires service of a document or other correspondence upon an agent, the name, business address, telephone number, and e-mail address of the agent for service;

(f) an overview of the proposed facility including a brief description of the major components of the facility, which may include conductors, structures/towers, insulators, splice vaults, transition vaults, interconnection facilities, substations and switching stations, converter stations, access roads, and related facilities;

(g) an executive summary describing the proposed project, identifying the potential significant adverse environmental impacts of the proposed project, including environmental, and public health and safety impacts, and explaining how such impacts will be avoided, minimized, or mitigated through the application of the relevant uniform standards and conditions, or site-specific conditions. The executive summary shall be a brief, clearly, and concisely written overall analysis in plain language that assembles and presents relevant and material facts regarding the

facility upon which the applicant proposes that the office make its decision. The analysis shall be analytical and not encyclopedic and shall specifically address each required finding, determination, and consideration the office shall make or consider in its decision and explain why the applicant believes that the requested permit should be granted;

(h) an identification of any site-specific adverse environmental impacts of the proposed facility that are unable to be addressed by the uniform standards and conditions set forth in Subpart 1102-3 of this Part, as applicable, a site-specific condition the applicant proposes to address those site-specific adverse environmental impacts, and an explanation as to why such site-specific condition is required;

(i) a map and all related spatial data showing geophysical, environmental, cultural resource, local law, land use, and other constraints impacting facility design and layout within the facility corridor. Constraints shall include but are not limited to: state protected wetlands and waterbodies, lands used in agricultural production, mineral soils groups (MSG) 1-4, environmentally sensitive areas (e.g., threatened or endangered species locations, archaeologically sensitive areas), and ORES and local setbacks; and

(j) a detailed summary identifying any particular requirement(s) of the application exhibits that are not applicable, or not available based on the applicant’s preliminary design and desktop analysis, including supporting justification and confirmation that such information, as applicable, will be provided in the EM&CP.

Section 1102-2.2. Exhibit 2: Public Involvement.

Exhibit 2 shall contain:

(a) proof of consultation with the municipality(ies) or political subdivision(s) where the proposed facility will be installed as required by Public Service Law section 144(1) , including a description of the applicant’s good faith efforts to resolve any disputes regarding compliance with applicable substantive local laws and any requests for a finding by the office that as applied to the proposed facility, such substantive local laws are

unreasonably burdensome; and

(b) a brief description of the applicant's local engagement and outreach efforts as required in section 1100-1.3 of Part 1100 of this Title.

Section 1102-2.3. Exhibit 3: Location of Facilities and Surrounding Land Use.

Exhibit 3 shall contain:

(a) A base map depicting recent-edition transportation network, topography, and built environment information, showing:

(1) the proposed facility corridor, including proposed substations, switchyards, points of interconnection, and converter stations (if applicable), as well as ancillary infrastructure associated with the facility to the extent known and envisaged, such as access roads and laydown yards, co-located infrastructure and asset crossings, and similar facilities;

(2) known environmental, cultural, and visual resources within one thousand two hundred (1,200) feet of either side of the facility corridor, based on publicly available information;

(3) the proposed limits of clearing and disturbance for construction of all facility components and ancillary features; and

(4) nearby, crossing, or connecting rights-of-way or facilities of other utilities, including confirmed or approximate locations of known ECL article 23 regulated wells within one hundred (100) feet of any areas to be disturbed during construction of the facility.

(b) Most recent publicly available aerial imagery, showing at least one thousand two hundred (1,200) feet on either side of the proposed facility corridor, showing, to the extent known, access routes, limits of disturbance (LOD), areas requiring vegetative clearing, and the proposed permanent right-of-way. Aerial

imagery shall reflect current land conditions to the extent practicable and shall indicate the source and date of the imagery.

(c) Maps clearly showing the location of the proposed facility, including all ancillary features, in relation to municipal boundaries, taxing jurisdictions, and transportation agency jurisdictions, at a scale sufficient to determine and demonstrate relation of facilities to those geographic and political features.

(d) A map showing existing land or water uses within and adjacent to the proposed facility corridor.

(e) A map of all properties within the facility corridor, including properties adjacent thereto, that shows the current land or water uses, tax parcel number and owner of record of each property, and any publicly known proposed land or water use plans for any of these properties.

(f) A map of all publicly known proposed land or water uses within and adjacent to the facility corridor, as determined in consultation with State and local planning officials, from any public involvement process, or from other sources.

(g) Maps showing designated NYS coastal areas; significant coastal fish and wildlife habitats; scenic areas of statewide significance; inland waterways; regional coastal management programs and any other special management area enumerated in a local waterfront revitalization program; local waterfront revitalization program boundaries (pursuant to 19 NYCRR Part 600, et seq.); groundwater management zones; agricultural districts designated pursuant to Agriculture and Markets Law article 25-AA; flood-prone areas; critical environmental areas designated pursuant to article 8 of the ECL; and coastal erosion hazard areas designated pursuant to article 34 of the ECL, including whether or not the coastal erosion hazard area is locally delegated, that are located within one thousand two hundred (1,200) feet of either side of the proposed facility corridor; existing and planned flood risk reduction projects.

(h) Maps showing recreational and other land or water uses

within and adjacent to the facility corridor that might be affected by the sight or sound of the construction or operation of the facility, interconnections and related facilities, including wild, scenic and recreational river corridors, open space, and any known archaeological, geologic, historical or scenic area, park, designated wilderness, forest preserve lands, scenic vistas specifically identified in the Adirondack Park State Land Master Plan, State parks, NYSDEC lands, conservation easement lands, Federal or State designated scenic byways, nature preserves, designated trails, public-access fishing areas, major communication and utility uses and infrastructure, and institutional, community, and municipal uses and facilities.

(i) For facilities at locations within the boundary of the federally approved NYS designated coastal area, which may include a locally adopted, state-approved and federally-approved Local Waterfront Revitalization Programs or regional coastal management Programs (19 NYCRR Part 601), or within the boundaries of a locally-adopted and state-approved Local Waterfront Revitalization Program or regional coastal management Program adjacent to a designated inland waterway, provide an analysis of impacts to coastal resources and uses with the relevant policies of the article 42 of the Executive Law and the relevant implementing regulations at 19 NYCRR sections 600.5 and 600.6, Local Waterfront Revitalization Program and regional coastal management programs, as applicable, including an assessment of the project's impacts to any designated Significant Coastal Fish and Wildlife Habitats (SCFWH) and Scenic Areas of Statewide Significance (SASS) where geographically available. For facilities located within or adjacent to areas mapped by the National Oceanographic and Atmospheric Administration (NOAA), mapping of the proposed facility's location on the most recent edition of NOAA navigation charts shall be provided. The applicant shall separately submit to NYSDOS a Federal consistency certification and data and information as required pursuant to the NYS Coastal Management Program and the Federal regulations at 15 CFR Part 930 for their review and issuance of a determination in accordance with sections 912(9) and 913 of the Executive Law and applicable Federal law.

(j) A map delineating existing slopes (0-3 percent, 3-8 percent,

8-15 percent, 15-25 percent, 25- 35 percent, greater than 35 percent) along the facility corridor.

(k) Spatial data for all maps, exhibits and analysis shall be provided to the office in an ArcGIS Geodatabase, organized in Feature Datasets by exhibit number. Hard copies of all maps shall be provided at the office's request.

Section 1102-2.4. Exhibit 4: Real Property.

Exhibit 4 shall contain:

(a) A map(s) of the proposed right-of-way depicting: (1) any parcel where facility components are proposed, including parcels where ancillary facility components are proposed, such as interconnection facilities, converter station, substation, access roads, construction laydown yards, and preparation areas for interconnection; and (2) all parcels adjacent thereto. Such map(s) shall show property boundaries and include parcel identification number(s), as well as the name(s) of the owner(s) of record. Additionally, for any parcel where facility components or ancillary facility components are proposed such map(s) shall depict any/all easements, grants, deed restrictions, and/or encumbrances on such parcel, including location of collocated infrastructure.

(b) A demonstration that the applicant has or will obtain site control over any real property within the proposed right-of-way that is required to construct, operate, and/or maintain the facility. Site control may be demonstrated through fee ownership, lease, easement, option, license, permit, or equivalent. State whether the applicant is registered as a transportation corporation.

(c) An identification of any parklands indicating whether such lands are State or municipal parks and whether use of such lands may require alienation, conversion, or other legislation.

(1) Identify whether any State funding for acquisition and improvement of municipal parkland or Federal Land and Water Conservation funding restricts the ability to convey land for installation of electric transmission facilities.

(2) Discuss all efforts made to avoid and minimize use of State parkland.

(d) A table summarizing the information required by subdivision (a) and (b) of this section.

Section 1102-2.5. Exhibit 5: Route Selection and Alternatives.

Exhibit 5 shall contain:

(a) A statement describing any reasonable alternatives, such as alternative routes, facility types (e.g., overhead versus underground), installation methods, and location or locations for the proposed facility for the entire length, or portions of, the proposed facility. The description of reasonable alternatives shall include all alternative routes identified in the determination by the office regarding the scope of alternative routes issued during the pre-application process pursuant to section 1100-1.3(g)(1) of Part 1100 of this Title and section 1102-1.1(f) of this Part, a description of the comparative merits and detriments of each alternative route identified, including cost and environmental impact, and a statement of justification supporting addressing whether the preferred route is best-suited for the proposed facility.

(b) A base map depicting recent-edition transportation network, topography, and built environment information, showing:

(1) the preferred route and reasonable alternative(s), including proposed substations, switchyards, points of interconnection, and converter stations (if applicable), as well as ancillary infrastructure associated with the facility to the extent known, such as access roads and laydown yards, co-located infrastructure and asset crossings, and similar facilities; and

(2) cultural, environmental, and visual resources within one thousand two hundred (1,200) feet on either side of the proposed facility corridor for the preferred route and reasonable alternative(s). The proposed limits of clearing and disturbance for construction of all facility components

and ancillary features for all alternative locations identified; and

(3) latest- or recent-edition maps (USGS 100K topographic edition to the extent available or equivalent, created with GIS), showing:

(i) the preferred route and reasonable alternative(s), including proposed substations, switchyards, points of interconnection, and converter stations (if applicable); and

(ii) nearby, crossing, or connecting rights-of-way or facilities of other utilities.

(c) Most recent publicly available aerial imagery, showing at least one thousand two hundred (1,200) feet on either side of the proposed right-of-way or facility corridor, for the preferred route and reasonable alternative(s), showing, to the extent known, access routes, limits of disturbance, areas requiring vegetative clearing, and the proposed permanent right-of-way. Aerial imagery shall reflect current land conditions to the extent practicable and shall indicate the source and date of the imagery.

(d) Written descriptions of:

(1) pre-application consultations regarding alternative locations with the office pursuant to section 1102-1.1(f) of this Part, and the outcome of those consultations;

(2) pre-application consultations regarding alternative locations with local agencies pursuant to section 1102-1.1(f)(2)(i) of this Part and meetings with community members pursuant to section 1102-1.1(f)(2)(ii) of this Part, if any. The applicant shall provide as part of the application copies of transcripts (if any), presentation materials, and a summary of questions raised and responses provided during the pre-application meeting(s). In the event the applicant is unable to secure a meeting with a municipality, the application shall contain a detailed explanation of all of the applicant’s best efforts and reasonable attempts to secure such meeting, including, but not limited to, all

written communications between the applicant and the municipality; and

(3) the pre-application alternative route scoping procedures conducted pursuant to section 1102-1.1(f)(2) of this Part, and the outcome of that procedure including any alternative route scoping decision issued by the office.

Section 1102-2.6. Exhibit 6: Design Drawings.

Exhibit 6 shall contain:

(a) Plan and profile drawings of all facility components at a legible common engineering scale (recommended at a scale minimum 1 inch = 200 feet or other scale acceptable to the office). A full-size physical set (22” x 34” paper) shall be provided with the application. As applicable, the drawings shall include the following:

(1) a drawing index and drawing index map (with matching spatial data);

(2) a legend identifying existing and proposed features shown on site plans;

(3) a proposed site plan showing existing and proposed contours at five-foot intervals, for the facility site and interconnections, at a scale sufficient to show proposed buildings, structures, paved and vegetative areas, laydown areas and other temporary work areas, and construction areas (contours may be provided in stand-alone mapping or included as part of site plans required in this subpart);

(4) existing and proposed major electric transmission facility right-of-way boundaries (including an indication of permanent rights-of-way (ROW)or easement boundaries), locations of any existing transmission line structures and access ways, and the approximate locations of any proposed permanent structures (underground and overhead); buildings or structures to be acquired, demolished, moved, or removed;

(5) existing electric transmission lines that cross or are

adjacent to the proposed major electric transmission facility;

(6) location of any known co-located infrastructure and associated ROW within the facility site;

(7) location of any known oil and gas wells within one hundred (100) ft of the facility corridor, identifying minimum clearance distances from wells to permanent structures and buildings and a minimum twenty (20) feet access corridor to such wells, other than for plugged or abandoned wells;

(8) proposed and existing overhead and underground features that will be components of the proposed facility, differentiated by unique legends and symbols;

(9) location of mid-span splices, if any are anticipated. If mid-span splices are proposed above wetlands, at road crossings, or in areas of limited accessibility due to particular encumbrances, then explanation and justification shall be provided for each proposed location;

(10) proposed trenchless and in-water installations, including the approximate lengths of such electric line segments. This information may be included in site plans or provided as a stand-alone map set;

(11) extents of proposed access road travel lanes, including indications of any existing access roads to be utilized and any turn-around areas and temporary road improvements for use during construction or for permanent access to project facilities;

(12) proposed grading areas including stockpiling locations;

(13) proposed new and extensions of existing stormwater management features;

(14) approximate clearing limits, including temporary clearing needed for construction, with notes regarding how danger trees will be addressed;

(15) substations, switchyards and converter stations, and any applicable setbacks;

(16) clearances and setbacks consistent with section 1102-2.26 of this Part – Electric and Magnetic Fields;

(17) site security features, including approximate location of perimeter fencing, where required;

(18) any existing natural protective features or erosion protective structures or other existing or proposed structures including but not limited to berms, retaining walls, fences, and other landscaping improvements (included in general site plans or provided as a stand-alone map set);

(19) typical underground infrastructure section details with dimensions of proposed depth, trench width, level of cover, separation requirements between circuits/cables, clearing width limits for construction and operation of the facility, temporary stockpile width, limits of disturbance, required permanent ROW, and a description of the cable installation process (may be provided in the Preliminary Description of Construction Practices section 1102-2.7 of this Part); and

(20) stormwater practices consistent with the draft Stormwater Pollution Prevention Plan (SWPPP) required in section 1102-2.15(c)(1) of this Part (included in general site plans or provided as a stand-alone set).

(b) A profile of the centerlines or proposed electric lines at an exaggerated vertical scale and typical elevation views including height above grade and structure layouts.

(c) Typical details including:

(1) anticipated tower foundation(s);

(2) any proposed vaults (splice, transition, etc.), including vault dimensions (length, width, and depth), level of cover, clearing limits for construction and operation, and LOD for installation;

(3) mid-span splices, if any are anticipated;

(4) for substation(s), converter station(s), other buildings, and interconnection facilities (including fencing, gates, all station equipment and infrastructure):

(i) typical detail drawings including: the length, width, height, material of construction, color and finish of all such buildings, structures, and other fixed equipment; and

(ii) a general arrangements drawing showing elevation mark pointers (arrows) with reference to associated elevation views (including views of all components of the station);

(5) for each proposed permanent point of access or access type a typical installation plan view, cross section and side view with appropriate dimensions (temporary and permanent width(s)) and identification of materials to be used along with corresponding material thickness. Where existing accessways will be used, a description of proposed upgrades for facility construction shall be provided. Additionally, typical details of any other proposed access (e.g., helicopter or barge placement) shall be provided;

(6) proposed protections for crossings of Unknown or Unresponsive co-located infrastructure, if any are anticipated;

(7) proposed agricultural resource protection measures, including, to the extent known, topsoil segregation stockpiling, fencing requirements, trench breakers, preservation of surface drainage, and sub-surface drainage structure repairs;

(8) typical plan and profile drawing of horizontal directional drilling (HDD) bore path and entry/exit pits.

(d) A list of engineering codes, standards, guidelines, and practices that the applicant has or intends to conform with when

planning, designing, constructing, operating, and maintaining the substation(s), switchyard(s), converter station(s), transmission line, inter-connection, and associated structures.

(e) Manufacturer (or potential manufacturer, if procurement not yet completed) provided information regarding the design, safety, and testing information for associated components of the major electric transmission facility including, but not limited to inverters, transformers, cables and conductors, circuit breaker, relay protection and communication system to be installed during construction, or as related to the transmission facility for operation.

(f) All drawings submitted pursuant to this section shall be prepared by or under the direct supervision of a professional engineer, architect, or landscape architect, as appropriate, licensed and registered in New York State, whose name and license number shall be clearly printed on the drawings. Drawings may be labeled "preliminary" or "not for construction" to indicate preliminary status as appropriate, and shall be developed using computer graphics, or computer-aided design software, drawn to scale or to an exaggerated scale, as appropriate, or required herein.

Section 1102-2.7. Exhibit 7: Preliminary Description of Construction Practices.

Exhibit 7 shall contain:

(a) A brief narrative of the facility's design features including siting of facility components, stormwater, fire code compliance, security, lands used in agricultural production, wetland, terrestrial and marine habitat protection, and any special design challenges or unique design, access, or construction features including minimization of mid-span splices, and, as applicable:

(1) A draft Blasting Plan for all anticipated blasting, including in-water blasting, if proposed, consistent with subdivision 1102-4.4(l) of this Part.

(2) A description of anticipated types of excavation techniques (including rock removal) to be employed, including

a list of excavation equipment for each excavation type. An assessment of potential impacts to environmental features, above-ground structures, and below-ground structures and infrastructure. Include a reuse/disposal plan for excavated materials indicating how topsoil will be preserved and reused.

(3) A description of anticipated grading techniques and a list of the anticipated equipment for grading. An assessment of potential impacts to environmental features, above-ground structures, and below-ground structures such as pipelines and wells. A reuse/disposal plan for graded materials including plans regarding how topsoil will be preserved during grading.

(4) For underground construction if any portion of the proposed transmission line is to be built underground, the applicant shall:

(i) indicate the type of cable system to be used;

(ii) provide the design standards for that system;

(iii) provide an assessment of potential impacts to environmental features, above-ground structures, and below-ground structures such as pipelines and wells; and (iv) indicate the type, number, and size of conductors to be used. Additionally, provide maps or profiles of the line, as applicable to facility design: the depth of the cable and the location, of oil pumping or storage stations, transition vaults, cooling equipment, and manholes.

(5) For trench installations, provide a list of the anticipated equipment and trench excavation methodology, including back fill requirements, and a spoil and topsoil management plan.

(6) For trenchless installations, including horizontal directional drilling (HDD), provide the following:

(i) description of the proposed trenchless method and the anticipated equipment;

(ii) map(s) depicting the proposed location of the anticipated entry/exit pits, including typical drawings;

(iii) spoils Management Plan; and

(iv) draft Inadvertent Returns Plan (if applicable), consistent with the requirements of section 1102-4.3(h) of this Part.

(7) Provide a description of proposed aviation construction, if anticipated, including but not limited to conductor pulling, vegetation clearing, and structure installations. Provide a list of the anticipated aviation equipment, staging or landing locations, and preliminary refueling procedures and locations. Additionally, provide status reports and all consultations with the Federal Aviation Administration.

(8) Provide a description of proposed vegetation management during construction, if anticipated, including a list of the anticipated equipment, clearing locations, an assessment of potential impacts to environmental features, and a preliminary vegetation clearing and disposal methods plan.

(b) For in-water facilities, exhibit 7 shall contain:

(1) Description of the equipment and construction methods of any proposed in-water facility construction methods, including but not limited to:

(i) dredging details, include method (e.g., mechanical, hydraulic), and area to be disturbed and volume of sediment expected to be excavated;

(ii) jetting technologies and other direct burial methods;

(iii) mass flow excavation;

(iv) measures for minimizing water quality impacts;

(v) discussion of avoidance/minimization measures to

demonstrate need for boulder removal, sandwave leveling etc.

(vi) measures minimizing sediment disturbance and transport; and

(vii) trenching and dredging, including any proposed permanent or temporary containment structures, and additional best management practices.

(2) Route preparation and clearance methods, such as:

(i) pre-Lay grapnel runs;

(ii) boulder removal and/or relocation following the required demonstration in 1102-2.7(b)(v); and

(iii) sandwave leveling, including a map showing locations where sandwave leveling is anticipated.

(c) Description of any proposed pre-installation trials for proposed in-water cable installation methods to establish operating conditions that will minimize the suspension of in-situ sediments and contaminants along representative sections of the in-water cable route.

(d) Description and assessment of proposed cable protection measures, including a written evaluation of the efficacy of alternative cable protection measures that may be required along the in-water cable export route, discussion of how use of cable protection measures have been avoided or minimized to the extent practicable, and justification for why the selected cable protection method is preferred at each site. The evaluation shall:

(1) include, to the extent available, technical documentation from cable protection manufacturers;

(2) evaluate a range of all appropriate cable protection measures (e.g., concrete mattresses with tapered edges, dagger boards, self-burying, crushed rock, and rock bags) with respect to their ability to maintain overtrawlability,

minimize shifting over time, and avoid creating a discernable berm on the seafloor; and

(3) map(s) showing areas where subsea cable protection is anticipated to be needed, including associated spatial data.

Section 1102-2.8. Exhibit 8: Public Health, Safety and Security.

Exhibit 8 shall contain:

(a) A statement and evaluation that identifies, describes, and discusses all efforts made to avoid and minimize potential adverse impacts from construction of the facility, interconnections, and related facilities on the environment, public health and safety, other than those already detailed in other relevant exhibits, at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence, identifies the current applicable statutory and regulatory framework, and addresses:

(1) the anticipated gaseous, liquid, and solid wastes to be produced at the facility during construction and under representative operating conditions of the facility, including their source, anticipated mass or volume (excluding estimates for minor waste volumes such as concrete washout wastes), other information needed to support such estimates, and any studies used in the analyses with the author and date for each study;

(2) the anticipated amounts of such wastes to be released to the environment during construction and under any operating condition of the facility;

(3) the processes to eliminate, minimize, and treat wastes to be released at the site;

(4) the manner of collection, handling, storage, transport, and disposal for wastes retained and not released at the site, or to be disposed of;

(5) maps of the study area and analysis showing relation of the facility site (to the extent locations are publicly

available) to: public water supply resources; community emergency response resources and facilities including police, fire, and emergency medical response facilities and plans; emergency communications facilities; hospitals and emergency medical facilities; existing known hazard risks including flood hazard zones, storm surge zones, areas of coastal erosion hazard, landslide hazard areas, areas of geologic, geomorphic, or hydrologic hazard; dams, bridges, and related infrastructure; explosive or flammable materials, transportation, or storage facilities; contaminated sites; and other local risk factors;

(6) all significant impacts on the environment, public health, and safety associated with the information required to be identified pursuant to paragraphs (1) through (5) of this subdivision, including all reasonably related short-term and long-term effects;

(7) any measures proposed by the applicant to minimize such impacts;

(8) any measures proposed by the applicant to mitigate such impacts; and

(9) any monitoring of such impacts proposed by the applicant.

(b) A draft Site Security Plan for the operation of the proposed facility, including site plans and descriptions of the following site security features for the substation(s), switchyard(s), and/or converter station(s), if applicable:

(1) access controls including fences, gates, bollards, and other structural limitations;

(2) electronic security and surveillance facilities; and

(3) a preliminary Facility Lighting Plan(s), which shall address:

(i) security lighting, designed to avoid off-site light trespass, at substations, switchyards, and converter stations, and any exterior equipment storage yards;

(ii) plan and profile figures demonstrating proposed lighting arrangement and illumination levels (including lumens, location, and direction of lights for the facility or task use, worker safety, and tall structure marking requirements);

(4) a description of a cyber security program for the protection of digital computer and communication systems and networks that supports the facility demonstrating compliance with current standards issued by a standards setting body generally recognized in the information technology industry, including, but not limited to, the Federal Department of Commerce's National Institute of Standards and Technology, the North American Electric Reliability Corporation, or the International Organization for Standardization, and providing for periodic validation of compliance with the applicable standard by an independent auditor.

(c) If the facility is to be located within any part of a city with a population over one million (1,000,000), a statement that the applicant has provided a copy of the plan and requested review and comment of the plans required in subdivision (b) of this section to the local office of emergency management.

Section 1102-2.9. Exhibit 9: Noise and Vibration.

Exhibit 9 shall contain:

(a) A study of the noise and vibration impacts of the construction and operation of the facility including the name(s) of the preparer(s) of the study and qualifications to perform such analyses. If the study is prepared by a certified member(s) of a relevant professional society or state, the details of such certification(s) shall be provided.

(b) *Design goals*. The study shall demonstrate that noise levels from noise sources at the facility will comply with the following design goals at sensitive sound receptors pursuant to section 1102-2.9(f) of this Part:

(1) All applicable operational noise limits pursuant to

section 1102-3.5(a) of this Part.

(2) For substations not located in cities with a population over one million:

(i) A maximum noise limit of forty (40) dBA Leq (1-hour) from the substation outside of any type 1 sensitive sound receptors.

(ii) A maximum noise limit of fifty-five (55) dBA Leq (1-hour) from the substation outside of any type 5 sensitive sound receptors. No penalties for prominent tones will be added in this assessment.

(3) For converter stations (including any adjoining substations) and any substations not located in cities with a population over one million:

(i) Prominent tones are defined in and shall use the constant level differences listed under ANSI/ASA S12.9-2013/Part 3 Annex B, Section B.1 (see section 1100-17.1(a)(1)(ii) of this Title). Should a prominent tone occur or be expected to occur outside of the type 1 sensitive sound receptor, the broadband overall (dBA) noise level at the evaluated sensitive sound receptor shall be increased by 5 dBA for evaluation of compliance with sections 1102-2.9(b)(2)(i) and 1102-3.5(a)(2)(i) of this Part.

(ii) A maximum noise limit of 45 dBA Leq-(1-hour), short-term equivalent continuous average sound level from a converter station or substation across any portion of a type 2 sensitive sound receptor, except for portions identified as wetlands pursuant to section 1102-1.1(a)(3) of this Part, electric generation or transmission facilities, transportation corridors , or utility ROW. The applicant shall demonstrate compliance with this design goal through the filing of noise contour drawings and sound levels evaluated at discrete worst-case locations. No penalties for prominent tones will be added in this assessment.

(iii) A maximum noise limit of 70 dBA Leq (1-hour), short-term equivalent continuous average sound level from the converter station or substation across any portion of a type 3 property. The applicant shall demonstrate compliance with this design goal through the filing of noise contour drawings and sound levels evaluated at discrete worst-case locations. No penalties for prominent tones will be added in this assessment.

(4) For substations and converter stations, cumulative noise impacts obtained as specified in subdivision (c) of this section shall not exceed:

(i) non-cumulative design goals specified in paragraphs (b)(1) through (b)(3) of this section, plus 1 dBA Leq; or

(ii) cumulative noise impacts from any substations and converter stations permitted or built after the effective date of Article VIII for major transmission facilities, plus one (1) dBA Leq.

(c) *Sound study area and radius of evaluation*. Evaluation of the maximum noise levels to be produced during operation of the substations or converter stations shall be conducted on a cumulative (if any) and non-cumulative basis, as follows:

(1) For substations and converter stations not located in a city with a population of over one million, the evaluation shall include, at a minimum:

(i) a non-cumulative noise analysis for any sensitive sound receptors existing as of the date of application filing, within the thirty (30) dBA noise contour from any proposed substation(s), converter station(s), and components associated with those facilities; and

(ii) a cumulative noise analysis for any sensitive sound receptors existing as of the date of application filing, within the thirty (30) dBA noise contour from any proposed substation(s), converter station(s), and components associated with those facilities; and within the 30 dBA noise contours from any other substation and converter station and facility components proposed, permitted, or constructed after the effective date of

Article VIII for major electric transmission facilities as of the date of application filing, that intersect or fall within the 30 dBA noise contour from the substation(s), and converter station(s), and any associated facility components proposed in the application.

(2) For substations and converter stations located in a city with a population of over one million, the evaluation shall be consistent with the evaluation required in paragraph (1) of this subdivision except that it shall be conducted within the 40 dBA noise contour rather than the 30 dBA noise contour.

(3) For evaluation of construction noise at switchyards, substations, or converter stations, the evaluation shall include, at a minimum, all sensitive sound receptors within a one thousand five hundred (1,500) foot distance from any switchyard, substation, or converter station, or within the fifty-five (55) dBA noise contour, whichever is greater.

(4) For evaluation of construction noise within the facility corridor the evaluation shall include, at a minimum, all sensitive sound receptors within a one thousand five hundred (1,500) foot distance from any edge of the temporary right-of-way, or within the fifty-five (55) dBA noise contour, whichever is greater.

(d) Operational Modeling standards, input parameters, assumptions, and reporting requirements.

(1) The evaluation shall use computer noise modeling software that follows the ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD) (see section 1100-17.1(a)(1)(v) of this Title) or the ISO-9613-2:1996 propagation standards (see section 1100-17.1(g)(1)(i) of this Title) with no meteorological correction (Cmet) or additional types of attenuation (A_{misc}) added. The model shall:

(i) set all noise sources operating simultaneously at maximum sound power levels;

(ii) use a ground absorption factor of no more than

G=0.5, and G=0 for hard ground and waterbodies; and

(iii) use a temperature of ten (10) degrees Celsius and seventy (70) percent relative humidity.

(2) For substations and converter stations, the model shall use a minimum height of one and a half (1.5) meters above the ground for single story receptors, four (4) meters above the ground for two story receptors, and one and a half (1.5) meters above the highest floor elevation for receptors with more than two stories. The addition of an uncertainty factor greater than zero (0) dBA is optional.

(3) For noise sources that are assumed or behave as point sources, computer noise modeling shall use the maximum height of the equipment for both the unmitigated and mitigated noise assessments.

(4) Cut sheets and sound information from the manufacturers for all noise sources including overall (dBA and dB) and full-octave band (dB) sound power levels shall be provided. If no manufacturer's information is available, sound power levels can be estimated by using acoustical formulas or pre-construction field test(s) as follows:

(i) For electric transformers:

(a) Using the algorithms recommended by the Electric Power Plant Environmental Noise Guide (Volume 1, 2nd edition. Edison Electric Institute. Bolt Beranek and Newman Inc. Report 3637. 1983 Update) when only the electrical power is known (e.g., MVA).

(b) Using the formulas and guidelines specified in the IEEE C57.12.90-2021 standard (see section 1100-17.1(p)(1)(i) of this Title) (for the loudest operational noise condition, at full electrical load, with all the fans operating) when the NEMA rating (or sound pressure level at associated distance), the dimensions, and the maximum electrical power is known. Full octave

band sound power levels can be estimated by using correction factors approved by the office.

(c) NEMA ratings will be reported.

(ii) For converter station valve buildings, derivation of sound power levels shall be based upon:

(a) sound power level information from the manufacturers for indoor noise sources, building dimensions, interior absorption coefficients, and transmission losses of envelope materials; and/or

(b) test results from similar indoor noise sources or converter station halls adjusted to account for any differences in specifications as appropriate. The application shall report any differences between the proposed and tested converter halls and noise source specifications.

(iii) For any other noise sources, sound power levels can be:

(a) Estimated by using algorithms approved by the office.

(b) Obtained from test(s) of the same or similar equipment. Any such test shall include a narrative explaining any differences in equipment or testing conditions, and shall report, at a minimum, measured sound pressure levels along with clear explanations about how the test was conducted, any standards followed, and any correction factors applied.

(iv) When acoustical formulas are used, the application will explain the algorithms used along with a clear derivation of how the sound power levels (dB) were obtained. All overall (dBA and dB) and full-octave band (dB) sound power levels shall be reported.

(5) Software input parameters, assumptions, and associated data used for the computer modeling shall be provided as follows:

(i) spatial data used for the computer noise modeling, including the location of all noise sources, and barrier locations, heights above the ground, or ground and top elevations; topography and proposed grading; and receptor and boundaries (differentiating boundaries and lands by receptor Type);

(ii) computer noise modeling files for all computer noise runs shall be submitted by digital means;

(iii) site plans and elevation drawings, consistent with section 1102-2.6 of this Part, including details for all noise sources; and manufacturer sound and technical specifications for any noise sources (sound power/pressure levels) and any identified mitigation features; and

(iv) appropriate clearances.

(6) Report, at a minimum, the maximum A-weighted dBA Leq (1-hour) sound pressure levels, and the maximum linear/unweighted/Z dB Leq (1-hour) sound pressure levels in a year, from the thirty-one and a half (31.5) Hz up to the eight thousand (8,000) Hz full-octave band, at all sensitive sound receptors within the sound study area or radius of evaluation indicating the use, property type classification, and Type of each receptor.

(7) Report the maximum A-weighted dBA Leq (1-hour) sound pressure levels in a year at the most critically impacted portion of each external property boundary line of the facility site within the sound study area or radius of evaluation; indicating the use, property type classification, and Type of each receptor.

(8) Report the information in tabular and spreadsheet

compatible format differentiating between “unmitigated” and “mitigated” as well as “cumulative” and “non-cumulative” results, as applicable, and summarizing maximum and minimum values for each sound descriptor. A summary of the number of sensitive sound receptors exposed to sound levels equal to or greater than thirty-five (35) dBA (for evaluation of operational noise) or equal to or greater than 55 dBA (for construction noise) within the sound study area or radius of evaluation shall also be reported in tabular format grouped in one (1)-dB bins by the use, property type classification, and Type of each receptor.

(9) The application shall report estimates of the number of sensitive sound receptors that will be exposed to noise levels that exceed any design goal or noise limit (in total as well as grouped in one (1)-dB bins).

(10) Sound impacts shall be reported with sound level contours on the map described in subdivision section 1102-2.9(f) of this Part.

(e) Evaluation of prominent tones for the design of substations and converter stations, shall be conducted using:

(1) Manufacturer sound information or pre-construction field tests. For sound sources where no one-third octave band manufacturer’s information or pre-construction field tests are available, sounds will be assumed to be tonal and prominent. Field test(s) shall report, at a minimum, sound pressure and sound power levels, and provide clear explanations of how the test was conducted and how sound power levels were obtained.

(2) The ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD) (see section 1100-17.1(a)(1)(v) of this Title) or the ISO 9613-2:1996 propagation standard (see section 1100-17.1(g)(1)(i) of this Title) attenuations (Adiv, Aatm, Agr, and Abar) and the definition for “prominent discrete tone” and constant level differences (Kt) specified in ANSI/ASA S12.9-2013/Part 3 Annex B, Section B.1 (see section 1100-17.1(a)(1)(ii) of this Title), as follows: fifteen (15) dB in low-frequency one-third-octave bands (from twenty-five (25) up to one hundred twenty-five (125) Hz); eight (8) dB in middle-

frequency one-third-octave bands (from one hundred sixty (160) up to four hundred (400) Hz); and five (5) dB in high-frequency one-third-octave bands (from five hundred (500) up to ten thousand (10,000) Hz).

(3) Transformers shall be assumed to be tonal and prominent.

(f) *Sensitive sound receptor and sound contour maps.* Sensitive sound receptor map(s) of the study area showing, at a minimum, the location of all sensitive sound receptors and sound contours within the sound study area or radius of evaluation as follows:

(1) Type 1 receptors: consist of discrete sensitive sound receptors subject to the design goals specified in section 1102-2.9(b)(2)(i) of this Part for substations, and regulatory noise limits specified in section 1102-3.5(a)(2)(i) of this Part for converter stations and any adjoining substations, as follows: residences, including year-round residences and any seasonal residences with sewer/septic systems and running/potable water identified by property type classification; places of hospitality (e.g., hotels, motels, inns); hospitals, schools, libraries, places of worship and any enclosed historic structures listed or eligible for listing on the State or National Register of Historic Places.

(2) Type 2 receptors: consist of any portion(s) of properties subject to the design goals and exceptions specified in section 1102-2.9(b)(3)(ii) of this Part: cemeteries; outdoor public facilities and public areas, parks; any public (Federal, State, and local) lands; campgrounds; summer camps; commercial lands; and any historic resources listed or eligible for listing on the State or National Register of Historic Places with open areas or developed lands.

(3) Type 3 receptors: consist of any portion(s) of an industrial properties subject to the design goals specified in section 1102-2.9(b)(3)(iii) of this Part.

(4) Type 4 receptors: Are composed by discrete sensitive sound receptors which shall be evaluated but will not be subject to design goals: uninhabitable structures, except any

historic resources listed or eligible for listing on the State or National Register of Historic Places, and Type 2 or 3 receptors for which there is an enforceable agreement between the applicant and the property owner(s) waiving applicable limits.

(5) Type 5 receptors: consist of any Type 1 receptors for which there is an enforceable agreement between the applicant and the property owner(s) waiving applicable limits, which shall be subject to the design goals specified in section 1102-2.9(b)(2)(ii) of this Part for substations, and regulatory noise limits specified in section 1102-3.5(a)(2)(ii) of this Part for converter stations.

(6) Maps shall include all property boundaries differentiated by use and property type classification, and all noise sources.

(7) Sound contours shall be rendered, at a minimum, down to the 30 dBA or 40 dBA contour respectively for the sound study area indicated in paragraphs (c)(1) and (c)(2) of this section, in one (1) dBA steps, with sound contour multiples of five (5) dBA differentiated.

(8) Full-size hard copy map(s) (22 inches x 34 inches) of appropriate legible scale shall be provided.

(g) An evaluation of ambient pre-construction baseline noise conditions at proposed substation and converter station locations by using the L90 statistical and the Leq energy based noise descriptors with and without the application of the ANS frequency filter, and by following the recommendations included in ANSI/ASA S3/SC 1.100-2014-ANSI/ASA S12.100-2014 American National Standard entitled Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas (see section 1100-17.1(a)(1)(iv) of this Title). Sound surveys shall be conducted for, at a minimum, a four (4) day-long typical period (including one weekend and two weekdays).

(h) An evaluation of future noise levels during construction of the facility including predicted A-weighted/dBA sound levels using computer noise modeling as follows:

(1) the model shall use the ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD) (see section 1100-17.1(a)(1)(v) of this Title) or the ISO-9613-2:1996 propagation standard (see section 1100-17.1(g)(1)(i) of this Title) for the main phases of construction, and from activities at any proposed batch plant area/laydown area;

(2) the model shall include, at a minimum, all noise sources and construction sites that may operate simultaneously for the most critical activities to meet the proposed construction schedule;

(3) consistent with the preliminary description of construction practices and activities described pursuant to sections 1102-2.7 and 1102-2.9 of this Part, indicate:

(i) the procedures to be followed to minimize noise impacts from construction of the facility;

(ii) the types of major equipment and/or construction technique (e.g., blasting) that will be used during construction;

(iii) the sound power and/or sound pressure levels with distance of evaluation- produced by the operation of that equipment or construction technique;

(iv) the days of the week and hours of the day during which construction activities are proposed to take place, along with any exceptions to these schedules;

(v) any identified exceedances to construction noise requirements and the magnitude of those exceedances, if any; and

(vi) consistent with the requirements of section 1102-2.28 of this Part, an analysis of whether the construction sound levels will comply with the substantive requirements of local regulations.

(4) for construction of the project, the applicable modeling and reporting requirements included in section

1102-2.9(d) of this Part shall be used for modeling of construction noise for each construction phase; and

(5) sound impacts shall be reported on the map with sound level contours specified in section 1102-2.9(f) of this Part and sound levels at the most critically impacted receptors in tabular format as specified section 1102-2.9(d)(8) of this Part.

(i) A tabular comparison between maximum sound impacts and any design goals, noise limits, and local requirements for the facility, and the degree of compliance at all sensitive sound receptors and at the most impacted non-participating boundaries within the sound study area or radius of evaluation.

(j) An evaluation as to whether any of the following potential community noise impacts will occur:

(1) Hearing loss for the public, as addressed by the World Health Organization (WHO) Guidelines for Community Noise published in 1999 (see section 1100-17.1(d)(1)(i) of this Title). The requirements for the public are not to exceed an average sound level of seventy (70) dBA from operation of the facility and one hundred twenty (120) dB-peak for children and one hundred forty (140) dB-peak for adults for impulsive sound levels (e.g., construction blasting).

(2) The potential for structural damage from some construction activities (e.g., blasting, pile driving, excavation, HDD, or rock hammering) to produce any cracks, settlements, or structural damage on any Type 1, Type 3, or Type 5 sensitive sound receptors, and public or private infrastructure.

(k) An identification and evaluation of reasonable noise abatement measures for facility construction activities. This will include measures to be taken to minimize noise impacts at sensitive sound receptors and any measures to reduce audible noise levels caused by construction to the maximum extent practicable, including but not limited to, any temporary movable sound barriers.

(l) An identification and evaluation of noise abatement measures for the design and operation of the facility to comply with the design goals set forth in section 1102-2.9 (b) of this Part and the regulatory noise limits set forth in section 1102-3.5(a) of this Part. For substations, and converter stations, if noise mitigation measures are necessary for the design and operation, details such as dimensions, appropriate clearances, and specifications shall be included and those mitigation measures shall be described in the application and implemented no later than the day before the start date of operations.

(m) The application shall include a glossary of terminology, definitions, abbreviations, and references mentioned in the application.

Section 1102-2.10. Exhibit 10: Visual Impacts.

Exhibit 10 shall contain:

(a) A visual impact assessment (VIA) to determine the extent and assess the significance of facility visibility. The components of the VIA shall include identification of visually sensitive resources, viewshed mapping, confirmatory visual assessment fieldwork, visual simulations (photographic overlays), cumulative visual impact analysis, and a proposed draft Visual Resources Management Plan as outlined in subdivision (c) of this section. The VIA shall address issues as identified by the office during pre-application consultation, which may include the following:

(1) For all facilities:

(i) a general narrative description of the regional visual setting of the proposed transmission corridor, including the visual properties of the topography, vegetation, water features, and any modifications to the landscape as a result of human activities;

(ii) the appearance of the facility converter stations, substations, support structures, poles, buildings, light fixtures, fencing, screening walls, plantings, and other appurtenances upon completion, including architectural design, facade colors, and surface textures;

(iii) a discussion of the cumulative visual impacts from planned development in the visual study area and time frame for such development (if available).

(2) For any major electric transmission facility proposed in new electric transmission rights-of-way, or any portion of major electric transmission facilities located substantially within existing electric transmission rights-of-way where an increase in structure height of twenty-five (25) percent or more is proposed:

(i) the visibility of the facility, including visibility of facility operational characteristics, such as roadway use, warning lights, glint or glare, and converter station and substation lighting;

(ii) the visibility of all above-ground structures, interconnections, converter stations, substations, and roadways to be constructed within the transmission corridor as determined by the viewshed analysis;

(iii) representative views (photographic overlays) of the transmission corridor alignment, support structures, converter stations, substations, buildings, and other facility structures, including relevant front, side, and rear views, indicating approximate elevations;

(iv) the nature and degree of visual change resulting from construction of the facility support structures, transmission lines, electrical stations, substations, and converter stations;

(v) the nature and degree of visual change resulting from operation and maintenance of the facility;

(vi) a description of all resources of statewide concern and locally designated visually significant resources that would be affected by the facility.

(vii) a discussion of the potential impacts on visual resources that may occur from the future construction,

operation, or maintenance of electric transmission line structures within the corridor, including what specific measures could be taken to avoid or mitigate any potentially significant adverse impacts; and

(viii) assumptions, evidence, and references used to support the descriptions, discussions, and analyses required in this section.

(b) For any major electric transmission facility proposed in new electric transmission rights-of-way, or any portion of major electric transmission facilities located substantially within existing electric transmission rights-of-way where an increase in structure height of twenty-five (25) percent or more is proposed, the analysis component of the VIA shall be conducted as follows:

(1) In developing the application, the applicant shall confer with municipal planning representatives, the office, and where appropriate, OPRHP, Indigenous Nations, NYSDOS (as applicable), and/or APA, in its selection of important or representative viewpoints; providing copies of all related correspondence to the office. Viewpoint selection is based upon the following criteria:

(i) representative or typical views from unobstructed or direct line-of-sight views;

(ii) significance of viewpoints, designated scenic resources, areas, or features, which typically include, but are not limited to: resources of statewide concern and locally designated visually significant resources;

(iii) level of viewer exposure (i.e., frequency of viewers or relative numbers in residential areas or high-volume roadways);

(iv) proposed land uses; and

(v) assessment of visual impacts pursuant to the requirements of adopted local laws or ordinances.

(2) A viewshed analysis shall be conducted as follows:

(i) Viewshed maps depicting areas of facility visibility within the visual study area established in consultation with the office, as well as any potential visibility from specific significant visual resources beyond the visual study area, shall be prepared and presented on a base map depicting recent-edition transportation network, topography, and built environment information. A line-of-sight profile shall also be done for resources of statewide concern located within one thousand two hundred (1,200) feet on either side of the facility corridor. The viewshed maps shall provide an indication of areas of potential visibility based on topography and vegetation, the highest elevation of facility structures, and distance zone (foreground, midground, and background areas). The potential screening effects of existing vegetation shall also be shown. Visually-sensitive sites, cultural and historical resources, representative viewpoints, photograph locations, and public vantage points within the viewshed study area shall be included on the map(s) or an overlay. An overlay indicating landscape similarity zones shall be included.

(ii) The VIA shall include a description of the methodology used to develop the viewshed maps, including software, baseline information, and sources of data.

(iii) The viewshed mapping shall be used to determine the potential visibility from viewpoints to be analyzed pursuant to paragraph (1) of this subdivision and locations of viewer groups in the vicinity of the facility, as determined pursuant to the pre-application meeting(s) held pursuant to section 1100-1.3(a) of this Title.

(3) The Visual Contrast Evaluation shall include:

(i) Photographic simulations of the facility shall be prepared from the representative viewpoints to demonstrate the post-construction appearance of the

facility.

(ii) Additional revised simulations illustrating mitigation shall be prepared for those observation points for which mitigation is proposed in the application. Where screen plantings are proposed, provide simulations illustrating growth at 0-2 years and 5-7 years post-installation. Where existing or proposed vegetative screening is relied on for facility mitigation, leaf-off and leaf-on simulation shall be provided. Background photos must be provided at leaf-on where existing vegetation is relied on for screening.

(iii) Each set of existing and simulated views of the facility shall be compared and rated and the results of the VIA shall be summarized. Documentation of the steps followed in the rating and assessment methodology shall be provided including results of rating impact panels and a description of the qualifications of the individuals serving on the panels. Where visual impacts from the facility are identified, contrast minimization and mitigation measures shall be identified, and the extent to which they effectively minimize such impact shall be discussed.

(c) The draft Visual Resources Management Plan shall include:

(1) For all facilities:

(i) General discussion of proposed measures to avoid or mitigate any potentially significant adverse impacts.

(2) For any major electric transmission facility proposed in new electric transmission rights-of-way, or any portion of major electric transmission facilities located substantially within existing electric transmission rights-of-way where an increase in structure height of twenty-five (25) percent or more is proposed:

(i) General discussion of visual impact avoidance, minimization, and mitigation practices related to:

(a) architectural design including discussion of elements designed to make structures compatible with the local architectural forms;

(b) visual offsets considered including off-site mitigation for visual impacts that cannot be mitigated;

(c) relocation or rearranging facility components;

(d) reduction of facility component profiles;

(e) alternative technologies; and

(f) facility colors, textures, and design.

(ii) Screen planting plans which shall address:

(a) Screening of abutting private lands, viewsheds, and statewide significant view locations from view of switchyards, substations, and converter stations, including replacement planting for any removed existing screening vegetation.

(b) Long term protection and maintenance of screen plantings.

(iii) For transmission facilities, support towers and lines shall comply with requirements mandated by Federal Aviation Administration.

Section 1102-2.11. Exhibit 11: Cultural Resources.

Exhibit 11 shall contain:

(a) A study of the impacts of the construction and operation of the facility, interconnections, and related facilities on archeological/cultural resources within the project impact area, including:

(1) a summary of the nature of the probable impact on any archeological/cultural resources identified, addressing how those impacts shall be avoided or

minimized;

(2) as required pursuant to section 1102-1.1(c)(1)(i) of this Part, a Phase IA archeological/cultural resources study for the proposed facility;

(3) if required pursuant to section 1102-1.1(c)(1)(ii) of this Part, a Phase IB field study;

(4) if required by the Phase IB study results, as determined pursuant to section 1102-1.1(c)(1)(iii) of this Part, a Site Avoidance Plan and/or Phase II site evaluation study to assess the boundaries, integrity and significance of identified cultural resources;

(5) if required by the Phase II study results, as determined pursuant to sections 1102-1.1(c)(1)(iv) and (v) of this Part, a Site Avoidance Plan and/or Phase III data recovery investigation or alternative measures to mitigate impacts to identified cultural resources;

(6) for any areas where the applicant could not obtain access permissions during the pre-application phase, the applicant shall provide a narrative explanation and Areas Proposed for Archaeological Survey figure distinguishing areas where survey has been completed pursuant to 1102-1.1(c)(3) and (4) of this Part from areas where additional survey is proposed to occur prior to EM&CP submission; and

(7) a proposed schedule for completing any required studies prior to EM&CP submission for those areas where the applicant could not obtain access permissions during the pre-application phase.

(b) A study of the impacts of the construction and operation of the facility, interconnections, and related facilities on historical/above ground cultural resources within the project impact area, including:

(1) a summary of the nature of the probable impact on any historical/ above ground cultural resources identified, addressing how those impacts shall be avoided

or minimized;

(2) as required pursuant to section 1102-1.1(c)(4)(ii) of this Part, a Zone of Visual Impact for the proposed facility;

(3) as required pursuant to section 1102-1.1(c)(4)(iii) of this Part, a historic resources survey methodology for the proposed facility;

(4) as required pursuant to section 1102-1.1(c)(4)(iv) of this Part, a historic resources survey for the proposed facility; and

(5) if required pursuant to section 1102-1.1(c)(4)(v) of this Part, a historic resources effects assessment for the proposed facility.

(c) For any areas of the proposed electric transmission facility where the office, in consultation with OPRHP/SHPO, has determined that documents, correspondence, and studies adopted as part of a Federal agency's National Historic Preservation Act section 106 review satisfy any requirements of section 1100-1.3(c) of this Title, or sections 1102-1.1(c) or 1102-2.11 of this Part, pursuant to section 1102-1.1(c)(6) provide:

(1) copies of such documents, correspondence, and studies as applicable;

(2) documentation confirming that such information has been adopted by a Federal agency pursuant to its National Historic Preservation Act Section 106 review;

(3) a narrative explanation detailing which documents, correspondence, and studies the office, in consultation with OPRHP/SHPO, has determined satisfy each applicable regulatory requirement;

(4) a narrative explanation and figure distinguishing areas where the office, in consultation with OPRHP/SHPO, has determined that documents, correspondence, and studies produced as part of a Federal agency's National Historic

Preservation Act section 106 review satisfy each applicable regulatory requirement from areas where such information was prepared in accordance with section 1100-1.3(c) of this Title, or sections 1102-1.1(c) or 1102-2.11 of this Part; and

(5) a copy of the office's determination.

(d) An Unanticipated Discovery Plan that shall identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance, or human remains, are encountered during the excavation process. This plan shall include a provision for work stoppage upon the discovery of possible cultural, historical, or archaeological resources or human remains and be prepared by a professional archaeologist meeting the 36 CFR 61 standards.

(e) A description and documentation of the applicant's consultation with OPRHP/SHPO, local historic preservation groups, and Indigenous Nations as required in section 1102-1.1(c)(1) of this Part and 1100-1.1(c) of this Title.

(f) OPRHP/SHPO's effect or impact determination letter(s) for the areas where survey has been completed pursuant to section 1102-1.1(c)(7) of this Part.

Section 1102-2.12. Exhibit 12: Geology, Seismology, and Soils.

Exhibit 12 shall contain:

(a) An assessment of the geology, seismology, and soils setting, including an evaluation of the suitability of the facility corridor for construction and operation of the project, based on mapped soil and bedrock formations within the facility corridor, and other publicly available information.

(b) Maps, figures, and analyses delineating depth to bedrock and underlying bedrock types.

(c) A description of the characteristics and suitability for construction of the subsurface conditions and/or stratigraphy found at foundation level, including factors such as soil competence, bedrock competence, soil erodibility, groundwater

levels and confining artesian conditions.

(d) An evaluation of the suitability of subsurface conditions where horizontal directional drilling (HDD) is anticipated.

(e) A map identifying locations where blasting operations are anticipated.

(f) Where an application proposes a converter station, the assessment shall include:

(1) analysis of the impacts of typical seismic activity experienced in the area where the converter station is proposed, based on current seismic hazard maps and other publicly available information; and

(2) evaluation of liquefaction susceptibility in areas where converter stations are proposed.

(g) A map and narrative description identifying karst, highly erodible or highly corrosive soils, high groundwater, artesian conditions, or other conditions for which mitigation measures may be required.

(h) A discussion of any dewatering that may be necessary during construction, including the duration and timing of dewatering operations, and whether the facility shall contain any components below grade that would require continuous de-watering.

(i) An identification of suitable building and equipment foundations, including a preliminary engineering assessment to determine the types and locations of potential foundations to be employed.

(j) If applicable, preliminary plans for management, including any proposed reuse of soil and other excavated materials in accordance with 6 NYCRR Part 360 for Beneficial Use Determination.

(k) If applicable, plans for managing oil and gas impacted soils to be disturbed in areas near known oil and gas wells.

Section 1102-2.13. Exhibit 13: Terrestrial Ecology.

Exhibit 13 shall contain:

(a) An identification and description of the type of vegetative and ecological communities present along the proposed transmission facility corridor, and adjacent properties within one hundred (100) feet of areas to be disturbed by construction, based upon field observations and data collection. Ecological communities shall be categorized based on information from the New York Natural Heritage Program.

(b) An analysis of the temporary and permanent impact of the construction and operation of the facility on the vegetation identified, including a mapped depiction of the vegetation areas showing the areas to be removed or disturbed, as categorized based on information from the New York Natural Heritage Program.

(c) An identification and evaluation of avoidance measures or, where impacts are unavoidable, minimization measures, including the use of alternative technologies or designs, regarding vegetation impacts identified. Rare ecological communities shall be prioritized for avoidance and minimization of impacts.

(d) A list of the species of mammals, birds, amphibians, terrestrial invertebrates, and reptiles that are likely to occur based on ecological communities present at, and bird and bat migration routes through, the proposed facility corridor, supplemented as necessary by site surveys, site observations, and publicly available sources.

(e) An analysis of the impact of the construction and operation of the proposed facility corridor on wildlife, wildlife habitats, and wildlife travel corridors, other than a NYS threatened or endangered species or species of special concern (which will be addressed pursuant to section 1102-2.14 of this Part).

(f) An identification and evaluation of avoidance measures or, where impacts are unavoidable, minimization measures, including

the use of alternative technologies, regarding impacts to wildlife and wildlife habitat.

Section 1102-2.14. Exhibit 14: NYS Threatened or Endangered Species.

Exhibit 14 shall contain:

(a) A wildlife site characterization report or benthic habitat site characterization report prepared pursuant to section 1102-1.1(b)(1) or 1102-1.1(e)(ii) of this Part.

(b) Any reports detailing the results of pre-application survey(s).

(c) A copy of the office's determination pursuant to section 1102-1.1(b)(4)(iv) of this Part or a copy of the preliminary take estimate issued pursuant to section 1102-1.1(b)(5) of this Part.

(d) If the office determined that there is confirmed or presumed occupied habitat at the site, an identification and evaluation of avoidance and minimization measures incorporated into the facility design, as well as any unavoidable potential impacts to NYS threatened or endangered species or species of special concern. Adverse impacts shall be summarized by species impacted and include an assessment of the acreage and/or an estimated number of individual members of each such species affected.

(e) For a facility that would adversely impact any NYS threatened or endangered species or their habitat, a Preliminary Net Conservation Benefit Plan prepared in compliance with section 1102-3.4(x) of this Part. The following components of a preliminary Net Conservation Benefit Plan at a minimum are required to determine application completeness:

(1) Objective of NCBP, including identification of the affected NYS threatened or endangered species for which mitigation is proposed, including the details and level of impact.

(2) Avoidance and minimization measures proposed to reduce impacts to the identified NYS threatened and endangered species.

(3) Type of mitigation proposed, and as applicable, the number of individuals proposed to be mitigated, or number of acres proposed in mitigation for the identified impacts.

(4) Analysis of how the proposed mitigation would provide a net conservation benefit, as defined by 6 NYCRR Part 182.2 to the identified NYS threatened or endangered species which may, if applicable, include payment of a mitigation fee into the Endangered and Threatened Species Mitigation Fund established pursuant to section 99(hh) of the New York State Finance Law. The office may give the permittee credit for any mitigation fee paid to another State or Federal agency or authority.

(5) Proposed mitigation site:

(i) Consideration of location, tax parcel identification, and spatial (GIS) data for land proposed as mitigation. If an applicant is unable to propose a parcel or location for mitigation but provides documentation of a substantive and specific effort to identify parcels, this requirement for proposed mitigation site will be considered met.

(a) If a parcel or location is proposed, a description of current land use and general vegetative cover, preferably including representative ground-level photography should be provided to the office for review.

Section 1102-2.15. Exhibit 15: Water Resources and Aquatic Ecology.

Exhibit 15 shall contain:

(a) *Groundwater.*

(1) Hydrologic information reporting depths to high groundwater and bedrock, including a site map based on publicly available information and any field investigations completed by the applicant, showing depth to high groundwater and bedrock in increments appropriate for the facility site.

(2) A survey based on publicly available information and the results of a private, active groundwater well survey distributed to property owners and residents within five hundred (500) feet of the facility corridor and within one thousand (1,000) feet of any anticipated blasting locations. The groundwater well survey materials will include a summary of the project, contact information, and a description of where the well owner can get more information about the project, an invitation to join the stakeholder list, and questions regarding any wells on the property. Survey respondents that indicate an active well on their property shall be added to the stakeholder list if not already included. The application shall include information on groundwater quality, and the location, depth, yield, and use of all public and private groundwater wells or other points of extraction of groundwater, and a delineation and description of well head and aquifer protection zones, to the extent such information is publicly available or obtained through the private well survey. Parcel-based maps shall be provided based on publicly available information and the results of publicly available information and the private well survey, showing the locations of all identified public and private groundwater wells, delineating all groundwater aquifers and groundwater recharge areas, and identifying groundwater flow direction, and shall distinguish the following features:

(i) all existing, active water supply wells or water supply intakes located within one hundred (100) feet of the LOD;

(ii) all existing, active water supply wells or water supply intakes located within five hundred (500) feet of horizontal directional drilling (HDD) operations;

(iii) all existing, active water supply wells or water supply intakes located within one thousand (1,000) feet of any anticipated blasting operations.

(3) An analysis and evaluation of potential impacts (during normal and drought conditions) from the construction of the facility on all water supplies and uses, groundwater quality

and quantity in the facility area, including potential impacts on public and private groundwater sourced water supplies, including private wells within five hundred (500) feet of the proposed facility corridor, and wellhead and aquifer protection zones.

(b) *Surface water.*

(1) Copies of the approved surface water detailed screening conducted pursuant to section 1102-1.1(a) of this Part, including results and summary tables.

(2) A map or series of maps showing all surface waters present within the proposed transmission facility corridor as identified in the detailed screening performed in consultation with the office pursuant to section 1102-1.1(a) of this Part.

(3) An identification and location of any surface water drinking-water supply intakes within one (1) mile, or if none are identified within one (1) mile, an identification and location of the nearest intake, including characterization of the type, nature, and extent of service provided from the identified source.

(4) A demonstration of avoidance and minimization of impacts to NYS-protected waters by siting all components and construction activity more than fifty (50) feet from any NYS-protected waters to the maximum extent practicable. To the extent that an applicant cannot avoid all impacts to NYS-protected waters, an explanation of all efforts the applicant made to minimize the impacts, including a discussion of all best management practices used during design.

(5) For construction activities which impact NYS-protected waters, the applicant shall submit plans for stream restoration or mitigation, if required by the office, as part of the approved EM&CP pursuant to Subpart 1102-4 of this Part.

(c) *Stormwater.*

(1) A draft Stormwater Pollution Prevention Plan (SWPPP) for the collection and management of stormwater discharges from the facility site during construction. The draft SWPPP will be prepared in accordance with the applicable New York State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity. If the facility is not eligible for coverage under the SPDES General Permit, a draft application for an individual SPDES Permit shall be provided.

(2) To the extent not covered in paragraph (1) of this subdivision, a preliminary plan, prepared in accordance with the New York State Stormwater Management Design Manual (see section 1100-17.1(i)(1)(ii) of this Title), which identifies the post-construction stormwater management practices that will be used to manage stormwater runoff from the developed facility site. This can include runoff reduction/green infrastructure practices, water quality treatment practices, and practices that control the volume and rate of runoff.

(d) *Chemical and petroleum bulk storage.*

(1) A description of the spill prevention and control measures to be in place for ammonia storage, fuel oil storage, wastewater storage, and other chemical, petroleum, or hazardous substances stored on the facility site, including an evaluation of alternatives and mitigation measures.

(2) An identification of whether the storage of ammonia, fuel oil, wastewater, other chemicals, petroleum, or hazardous substances, or disposal of solid wastes on the facility site is subject to regulation under the State’s chemical and petroleum bulk storage programs, and, if so, a demonstration of compliance with such regulations.

(3) An identification whether the storage of ammonia, fuel oil, wastewater, other chemicals, petroleum, or hazardous substances on the facility site is subject to regulation under local law (county, city, town, or village), and, if so, a demonstration of the degree of compliance with such local laws.

(4) Plans to comply with section 175 of the Navigation Law and Part 611 (petroleum spills), Subpart 613-7 (petroleum bulk storage), and Subpart 598-6 (hazardous substance bulk storage) of Title 6 NYCRR, as applicable.

(e) *Aquatic species and invasive species.*

(1) An analysis of the impact of the construction and operation of the facility on aquatic biota, including species listed as endangered, threatened, or species of special concern in 6 NYCRR Part 182, and protected native plants in 6 NYCRR Part 193, including the potential for introducing and/or spreading invasive species.

(2) An identification and evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures regarding impacts on such aquatic biota, invasive species impacts to be addressed pursuant to the Invasive Species Control and Management Plan to be prepared pursuant to section 1102-4.3(n) of this Part (if any) and assure compliance with applicable water quality standards (6 NYCRR Part 703).

Section 1102-2.16. Exhibit 16: Wetlands.

Exhibit 16 shall contain:

(a) Copies of the approved wetland detailed screening conducted pursuant to section 1102-1.1(a) of this Part, including results and summary tables.

(b) A map or series of maps showing all protected wetlands and regulated adjacent areas included in the wetland and surface water detailed screening present within proposed transmission facility corridor and alternative routes, as determined by the office pursuant to section 1102-1.1(a) of this Part.

(c) A qualitative and descriptive wetland functional assessment, including seasonal variations, for all wetlands described in the detailed screening required pursuant to section 1102-1.1(a) of this Part, that would be impacted for groundwater recharge/discharge, flood flow alteration, fish and shellfish habitat, sediment/toxicant retention, nutrient removal,

sediment/shoreline stabilization, wildlife habitat, recreation, uniqueness/heritage, visual quality/aesthetics, and protected species habitat.

(d) An analysis of all off-site wetlands within one hundred (100) feet (three hundred (300) feet for tidal wetlands) LOD, for all alternative routes that may be hydrologically or ecologically influenced by development of the transmission facility corridor and the wetlands identified on the map required by subdivision (a) of this section, observed in the field where accessible to determine their general characteristics and relationship, if any, to delineated wetlands.

(e) A demonstration of avoidance of impacts to all wetlands and regulated adjacent areas identified in the detailed screening required pursuant to section 1102-1.1(a) of this Part.

(f) If the applicant cannot avoid impacts to all wetlands and adjacent areas identified in the detailed screening required pursuant to section 1102-1.1(a) of this Part, an explanation consistent with the standards for issuance of a permit pursuant to section 661.9 or 663.5 of Title 6 NYCRR, as applicable, of all efforts the applicant made to minimize the impacts to wetlands and adjacent areas identified during wetland surveys. The impact minimization summary shall address the following criteria for each proposed impact area:

(1) why the facility design and siting cannot avoid wetlands and adjacent areas, as applicable;

(2) how the facility design has minimized spatial extent of proposed impacts to wetlands and adjacent areas, as applicable;

(3) how the facility design and siting minimize impacts to the functions and values currently provided by these wetlands and/or regulated adjacent areas.

(g) A proposed schedule for completing the required wetland and waterbody field delineations and obtaining the wetland and waterbody jurisdictional determinations prior to EM&CP submission pursuant to section 1102-4.3(e) of this Part.

(h) For facilities for which compensatory mitigation for permanent or long-term impacts to protected wetlands and/or adjacent area is required, unless determined otherwise in consultation with the office, the applicant shall submit a Wetland Restoration and Mitigation Plan as part of the approved EM&CP pursuant to section 1102-4.4(f) of this Part.

Section 1102-2.17. Exhibit 17: In-Water Facilities.

Exhibit 17 shall include:

(a) Maps of the in-water facility corridor for the in-water facility components, shown on the latest or recent-edition National Oceanic and Atmospheric Administration navigational charts, at a size and level of detail appropriate to substantially inform the public of the location of the proposed in-water facility components.

(b) A study and assessment of the potential impacts of construction and operation of the facility on benthic and shellfish resources, including:

(1) Description of studies and analysis, including desktop benthic habitat site characterization and any in-situ surveys completed.

(2) Site characterization and description of existing benthic and shellfish resources.

(3) Identification and description of Complex and Sensitive Habitats, including Submerged Aquatic Vegetation and coral.

(4) Quantitative assessment of habitat conversion that will result from the project (i.e., soft bottom to hard bottom, complex to uniform).

(5) Description of proposed impacts avoidance, minimization, and mitigation measures, including NYSDEC, NYSDOS, and federally required time-of-year restrictions, as discussed during pre-application consultations.

(6) Proposed pre- and post-construction Benthic Monitoring Plan, developed in consultation with NYSDEC and ORES, and

NYSDOS for in-water facilities proposed in Coastal waterbodies or inland waterbodies, and which shall:

(i) provide for at least one (1) year of pre-construction benthic sampling surveys to establish baseline conditions along the in-water facility corridor;

(ii) provide for at least two (2) years of post-construction benthic sampling surveys along the in-water facility corridor; and

(iii) require that benthic sampling surveys occur during peak biomass periods.

(c) A study and assessment of the potential impacts of construction and operation of the facility on finfish and essential fish habitat, including:

(1) Description of studies and analysis, including desktop studies and the results of any surveys completed by the applicant.

(2) Site characterization and description of existing finfish and essential fish habitat within and around the facility corridor.

(3) Identification of any protected and managed species that may be impacted by the project’s construction and operation.

(4) Description of proposed impacts avoidance, minimization, and mitigation measures, including NYSDEC, NYSDOS, and federally required time-of-year restrictions, as discussed during pre-application consultations, and further including any proposed pre- and post-construction fisheries monitoring plans, if applicable.

(d) A study and assessment of the potential impacts of construction and operation of the facility on marine and freshwater mammals and Sea Turtles, including:

(1) Description of studies and analysis, including desktop studies and the results of any surveys completed by the applicant.

(2) Site characterization and description of existing marine and freshwater mammals and Sea Turtles within and around the facility corridor.

(3) Identification and description of any potentially affected protected and managed species.

(4) Description of proposed impacts avoidance, minimization, and mitigation measures, including NYSDEC, NYSDOS, and federally required time-of-year restrictions.

(e) Description of the marine or freshwater sediment conditions of the facility corridor, including physical and chemical characteristics, and potential water quality impacts associated with construction of the in-water facility, including:

(1) Characterization and mapping of the sediment conditions along the in-water facility corridor based on the results of pre-application geophysical, geotechnical and geochemical field investigations and publicly available information, including:

(i) waterbody classifications;

(ii) sediment types and depths;

(iii) sand waves, mobile bedforms, and other topographic features; and

(iv) areas of known or suspected contamination.

(2) Summary and presentation of the results of studies and analysis completed by the applicant, including review of publicly available mapping and data, geophysical surveys of the facility corridor, and geotechnical investigations along the facility corridor.

(3) Description of existing physical and chemical characteristics of the in-water facility corridor, including the results of sediment sampling and laboratory analysis for contaminants as identified in section 1102-1.1(e) of this Part.

(4) Description of proposed impacts avoidance, minimization, and mitigation measures for the existing marine or freshwater physical and chemical environment.

(5) Proposed pre- and post-construction Surficial Sediment Sampling Plan developed in consultation with NYSDEC, ORES, and NYSDOS for in-water facilities, which shall:

(i) provide that pre- and post-installation surficial sediment samples (top two centimeters) will be collected and analyzed prior to and subsequent to the completion of the in-water installation of the cable system, and that post-installation sampling shall commence as soon as practicable and in conjunction with other benthic sampling efforts; and

(ii) specify the constituents for which samples shall be collected and analyzed, based on publicly available data and the results of pre-application consultations with NYSDEC, ORES, and NYSDOS.

(6) Evaluation of potential suspended sediment and water quality impacts from construction of the project, including:

(i) a Suspended Sediment Transport and Water Quality Modeling Report; and

(ii) a draft description of planned suspended sediment and water quality monitoring activities.

(f) Description of existing marine or freshwater and nearshore uses and resources within one (1) mile of the facility corridor, including but not limited to:

(1) commercial, for-hire, and recreational fishing;

(2) artificial reefs;

(3) sand resource borrow areas;

(4) designated Coastal Erosion Hazard Areas;

(5) mariners and commercial vessel traffic, including local ferry routes, and federally authorized navigational channels (effects on water-based transportation are evaluated and discussed in section 1102-2.19(b) of this Part);

(6) designated and common practice anchorage areas, and aids to navigation;

(7) designated open-water dredged material disposal sites or sites historically used for disposal of dredge material;

(8) unexploded ordnances; and

(9) co-located infrastructure and existing row/facilities, including water supply intakes and discharge points.

(g) The application shall include map(s), at an appropriate scale, showing the known locations of each of the described existing marine or freshwater and nearshore uses relative to the facility corridor.

(h) Description of the anticipated and proposed target burial depths for the in-water cable, including:

(1) Comparative analysis of all burial techniques and adjustments considered to achieve target burial depth throughout in-water cable route.

(2) Detailed graphical representation of anticipated achievable burial depths based on sediment conditions (e.g., sediment densities, shear strengths, and other limiting factors) at representative intervals along the in-water facility corridor, and written evaluation of the likelihood of achieving target burial depth.

(3) Identification of areas where target burial depth is not anticipated to be achieved, including corresponding justification.

(4) A preliminary Cable Monitoring and Maintenance Plan providing, to the extent known, the information required in section 1102-4.4(z) of this Part.

(i) A discussion regarding any proposed or foreseeable impact to piers, bulkheads, or other waterfront infrastructure.

Section 1102-2.18. Exhibit 18: Agricultural Resources.

Exhibit 18 shall contain:

(a) An assessment of the facility corridor, which shall include the following:

(1) An analysis of temporary impacts and/or permanent impacts to land used in agricultural production within the proposed LOD. Analysis should identify Agricultural Districts, lands with Mineral Soil Groups 1-4, and municipal boundaries.

(2) Methods available and to be employed to facilitate farming activity during construction, areas where it will not be feasible to continue farming both during construction and during operation, and areas which will remain in agricultural use during operation.

(3) A discussion of the efforts that were taken to avoid or minimize the impact of the facility on lands used in agricultural production, with additional consideration for lands located within NYS Certified Agricultural Districts and containing Mineral Soil Groups 1-4. To the extent the office has determined that the facility would result in impacts to lands used in agricultural production requiring mitigation, the office may authorize the permittee to pay a mitigation fee into the Agricultural and Farmland Viability Protection Fund established by State Finance Law section 99-pp. The office may also give the applicant credit, in whole or in part, for any agricultural mitigation fee paid to another

state or federal agency or authority.

(b) Maps showing the following:

(1) the location of the proposed facility and all ancillary features in relation to land used in agricultural production, NYS certified Agricultural Districts, and Mineral Soil Groups 1-4 within the facility corridor;

(2) temporary and permanent impacts to land used in agricultural production and all agricultural production acreage proposed to remain in agricultural use;

(3) any agreed upon landowner-imposed development restrictions (e.g., locations within the facility corridor on which the landowner will not allow facility development); and

(4) locations of known or suspected sub-surface drainage systems (including outlets), surface drainages, irrigation lines, or other unique agricultural facilities.

(c) A Drainage Remediation Plan to address inadvertent damages to surface or sub-surface drainage, including:

(1) a demonstration of the likelihood of impacts to surface or subsurface drainage and how the interruption of drainage may impact land used in agricultural production within and outside of the facility corridor; and

(2) an identification of methods of repair for damaged drainage features.

Section 1102-2.19. Exhibit 19: Effect on Transportation.

Exhibit 19 shall contain:

(a) A description of consultations with Federal, State, local officials, and school districts, regarding the proposed facility including, but not limited to, location, installation practices, or access points. Such statements shall clearly indicate: the agency, municipality, district, or authority

name; the potentially impacted transportation system; and, if applicable, the segment(s) of concern.

(b) For any segment(s) to be installed in or adjacent to canals, waterways, and seaways: An analysis and evaluation of any potential impacts of the proposed line and related facilities on such waterbodies including:

(1) maps, figures, and analyses regarding:

(i) any federally authorized navigational channels;

(ii) density of commercial vessels (as reported by the Coast Guard Navigation Center). Such data shall be presented as heat maps depicting (1) maximum 24 hour period (2) maximum 72 hour period and (3) average 30-day period;

(iii) ferry routes;

(iv) recreational sailing routes;

(v) transportation tunnels;

(2) for facilities associated with offshore generation projects, a Vessel Traffic Risk Assessment that shall assess potential impacts to existing navigational channels and ports from traffic generated by the project, identifying areas of navigational risks, and qualitatively assessing the projected vessel traffic change throughout facility construction;

(3) discussion of any required or voluntary mitigation and minimization measures.

(c) *Aviation.* An analysis and evaluation of any potential impacts of the facility on the surrounding navigable airspace and existing or planned aviation infrastructure including:

(1) an identification of any construction or alteration proposed that requires a Notice of Proposed Construction to be submitted to the administrator of the FAA in accordance with 14 Code of Federal Regulations Part 77 (see section 1100-17.1(h)(1)(i) of this Title);

(2) for projects involving any new aboveground structures, or alteration to existing structures, include

a figure or table identifying any aviation facilities meeting the following criteria:

(i) commercial service, cargo service, reliever or general aviation (public use) airports or military airports with at least one (1) runway more than three thousand two hundred (3,200) feet in actual length; and within 12 miles;

(ii) commercial service, cargo service, reliever or general aviation (public use) airports or military airports with its longest runway no more than three thousand two hundred (3,200) feet in actual length; and within 6 miles;

(iii) commercial service, cargo service, reliever or general aviation (public use) heliports or military heliport landing / takeoff areas within three (3) miles of the new structure or alteration.

(d) An analysis of impacts due to access roads including:

(1) discussion of the types of access which will be used and the rationale for employing that type of access;

(2) for each temporary and permanent access type, a figure or diagram showing a typical installation (at a legible scale);

(3) indication of the associated drainage erosion controls and stormwater management features to be used for access road construction and maintenance;

(4) indication of the type(s) of stream crossing method if any to be used in conjunction with temporary and permanent access road construction;

(e) *Public roadways, highways, and trails.* An analysis including:

(1) For any segments to be located in a longitudinal installation within the control of access line of a State highway ROW, describe any consultation steps taken toward initiating a request for NYSDOT or other pertinent State agency or authority approval, (which may also require subsequent Federal Highway Administration (FHWA) concurrence of a NYSDOT approval) of an exception to the NYS

Accommodation Plan for Longitudinal Use of Freeway Right-Of-Way By Utilities for longitudinal installation within such State right-of-way.

(2) For any segments to be located within a transverse crossing of a controlled access State highway, describe any initial steps taken toward requesting NYSDOT or other pertinent State agency or authority approval (which may also require subsequent FHWA concurrence).

(3) For any segments to be located within a longitudinal or transverse installation of the right-of-way of a partial control of access road or a no control of access road within the jurisdiction of NYSDOT or other pertinent State agency or authority, describe any initial consultation steps with NYSDOT or other pertinent State agency or authority.

(4) A description of the pre-construction characteristics of all existing public roadways collocated along or intersecting the proposed facility corridor, or local roadways where any transportation permits from local municipalities are anticipated. Characteristics shall include information on existing traffic volumes (if such information is available) which shall be corrected to the estimated time of construction (ETC).

(5) For any projects with the potential for movement of equipment or materials in excess of legal limits per Vehicle and Traffic Law section 385 (i.e., haul routes):

(i) maps depicting conceptual vehicle route(s) extending to the point where vehicles would meet all regulatory restrictions, or point of entry into the state;

(ii) a review of existing data on vehicle traffic;

(iii) an evaluation of any potential interference with school bus routes;

(iv) a review of available load bearing and structural rating information for all identified routes; and

(v) improvements necessary to accommodate oversize or overweight deliveries, impacts associated with such

improvements, and mitigation measures appropriate to minimize such impacts.

(6) An estimate of the trip generation characteristics of the facility during construction, including the number and frequency of trips and a separate tabulation for trips associated with major cut or fill activity.

(7) Maps depicting potential impacts to a State or federally designated trail, or one proposed for designation.

(8) An identification and evaluation of practicable mitigation measures regarding traffic and transportation impacts, including: time restrictions, the use of alternative technologies, the construction of physical roadway improvements, the installation of new traffic control devices, and the repair of local roads or other features due to damage by heavy equipment or construction activities during construction or operation of the facility.

(f) *Other transit.* Maps, figures, and an analysis regarding potential impacts of the facility on any other transit systems (buses, subways, railroads, etc.) in the vicinity of the facility.

(g) Unless otherwise stated, all mapping required hereunder shall be at a scale of 1:12,000 (or another appropriate scale agreed to by the office) accompanied by a one-page index depicting the extents of such scaled maps.

Section 1102-2.20. Exhibit 20: Cost of Proposed Facility.

Exhibit 20 shall contain:

(a) A detailed estimate of the total capital costs associated with the proposed facility. The estimate shall show the estimated cost of:

(1) right-of-way;

(2) land surveys;

(3) materials;

(4) labor;

(5) engineering and inspection;

(6) administrative overhead;

(7) fees for legal and other services;

(8) interest during construction; and

(9) contingencies.

(b) The applicant shall include a brief statement of the source of the information used as the basis for the estimates required by subdivision (a) of this section and provide the work papers used to create cost estimates.

(c) If not stated elsewhere, the applicant shall include data on preliminary bids, if any, for the proposed facilities, and recent experience cost data for similar facilities.

Section 1102-2.21. Exhibit 21: Public Need.

Exhibit 21 shall contain:

(a) A statement along with relevant supporting documentation describing the qualified public need for the facility, which, at a minimum, shall indicate whether the facility:

(1) was identified through the Coordinated Grid Planning Process and approved for development and funding by the Public Service Commission;

(2) was selected by the New York Independent System Operator, or a successor entity, under a FERC-approved long term planning process as the solution to a bulk system need identified by the Public Service Commission;

(3) was approved by the Public Service Commission in an order resolving a rate case;

(4) was approved by the Public Service Commission as necessary for State economic development purposes;

(5) is required for the operation of a generation facility whose developer has executed a contract under a Public Service Commission-authorized procurement program for energy, capacity, renewable energy credits, or environmental attributes, or any combination of the foregoing;

(6) is associated with a generation project that has received certificate of environmental compatibility and public need from the New York State Board on Electric Generation Siting and the Environment, or a successor thereto; or

(7) is a solution to a Reliability Need identified by the New York Independent System Operator, Inc. or a successor entity charged with similar responsibilities, in the course of its reliability planning processes.

(b) For any projects that cannot provide the statement required by subdivision (a) of this section, provide:

(1) a demonstration that the facility is consistent with New York State energy and/or climate policy and designed to implement or support long-range energy planning objectives and policies. Such demonstration shall include specific discussion of the Climate Leadership and Community Protection Act, including targets for renewable energy and greenhouse gas emissions set forth therein; and

(2) a statement, along with relevant supporting documentation, demonstrating that the facility is in the public and ratepayer interest, which at a minimum shall identify the benefits of the facility to ratepayers.

Section 1102-2.22. Exhibit 22: Socioeconomic Effects.

Exhibit 22 shall contain:

(a) An estimate of the average construction work force, by discipline, for each quarter, during the period of construction, and an estimate of the peak construction employment level.

(b) An estimate of the annual construction payroll, by trade, for each year of construction and an estimate of annual direct non-payroll expenditures made by the applicant in the host municipality(ies) (materials, services, rentals, and similar categories) during the period of construction.

Section 1102-2.23. Exhibit 23: Disadvantaged Communities.

Exhibit 23 shall contain:

(a) An identification and description of any disadvantaged community located within the impact study area for the proposed corridor and any alternatives that are being considered. The impact study area for purposes of disproportionate burden analysis shall be at a minimum, within one thousand two hundred (1,200) feet on either side of the facility corridor.

(b) A figure identifying the location of any disadvantaged communities within the impact study area for the proposed corridor and any alternatives that are being considered.

(c) A list of census tracts or census blocks comprising each disadvantaged community within the impact study area in tabular format.

(d) An identification and evaluation of the nature and magnitude of potential and significant adverse disproportionate pollution impacts occurring within or impacting disadvantaged communities resulting from the construction and operation of the proposed facility.

(e) Any analysis required hereunder shall include supporting information, facts, and figures, and provide the proportion of pollution impacts proposed to occur within any disadvantaged communities and the proportion of pollution impacts outside of disadvantaged communities. The applicant shall provide any studies which were used in the evaluation and identify the author and dates thereof.

(f) The applicant shall articulate the reasons why the proposed measures to avoid, minimize, or offset any disproportionate pollution impacts of the proposed facility will, to the maximum

extent practicable, avoid, minimize, or offset any identified significant and adverse disproportionate pollution impacts, including a description of the manner in which such measures can be verified and a statement of the cost of such measures.

Section 1102-2.24. Exhibit 24: Effect on Communications.

Exhibit 24 shall contain:

(a) A detailed description of the proposed facility's communications system, including, but not limited to, any communications necessary for interconnection, and a discussion of the purpose, design details, functions, capabilities, and operating characteristics of the communications system.

(b) Identification of all existing underground or underwater cable and fiber optic major transmission telecommunication lines within five hundred (500) feet of the proposed facility.

(c) An evaluation of the design configuration of the proposed facility and related facilities demonstrating that there shall be no adverse effects on the following communications systems: radio, television, telephone, microwave transmission, emergency services, municipal/school district services, public utility services, doppler/weather radar, air traffic control, armed forces, Global Positioning Systems (GPS), and amateur radio licenses registered to users; including the potential for:

(1) facility structures to interfere with broadcast patterns by re-radiating the broadcasts in other directions;

(2) structures to block necessary lines-of-sight;

(3) physical disturbance by construction activities;

(4) adverse impacts to co-located lines due to unintended bonding; and

(5) any other potential for interference.

(d) A description of post-construction activities that shall be undertaken to identify and mitigate any adverse effects on the communications systems identified hereunder that cannot be avoided or minimized.

Section 1102-2.25. Exhibit 25: Electric System Effects and Interconnection.

Exhibit 25 shall contain:

(a) A detailed description of the proposed facility, including:

(1) the design voltage and voltage of initial operation;

(2) the transmission line conductor specification including type, size, number, materials of conductors, insulation;

(3) the insulator design;

(4) the length of the transmission line;

(5) the typical dimensions and material of the towers;

(6) the design standards for each type of tower and tower foundation;

(7) for underground or underwater construction, the type of cable system to be used, cable specification, and the design standards for that system;

(8) for underground or underwater construction, indicate on a profile of the line the depth of the cable; typical cable duct, trench, or culvert system; systems for securing and protecting cable; fill material and depth; and any minimum clearances from existing infrastructure.

(9) equipment to be installed in any proposed switching station or substation including an explanation of the necessity for any such switching station or substation;

(10) any terminal facilities; and

(11) the need for cathodic protection measures, including status of coordination with utility owners and proposed design.

(b) If the proposed facility is subject to the transmission interconnection procedures of the New York Independent System Operator (NYISO) Open Assess Transmission Tariff (OATT), a copy of the system impact study submitted to the NYISO pursuant to those procedures. If the proposed facility is not subject to the NYISO's transmission interconnection procedures, a system impact study that shows expected flows on the system under normal, peak, and emergency conditions and effects on stability of the interconnected system, including the necessary technical analyses (thermal, voltage, short circuit, and stability) to evaluate the impact of the interconnection and identify any system upgrades required.

(1) For applications proposed to be developed as part of an energy generation project, such study shall be conducted by an independent third-party.

(c) A description of the potential significant impacts of the facility to transmission system reliability at a level of detail (not including Critical Energy Infrastructure information) that reflects the magnitude of the impacts.

(d) A discussion of the benefits and detriments of the facility on the electric transmission system, including impacts associated with reinforcements and any new construction required as a result of the facility.

(e) An estimate of the increase or decrease in the total transfer capacity across each affected interface, and if a forecasted change in transfer capacity across affected interfaces violates reliability requirements, an evaluation of reasonable corrective measures that could be employed to mitigate or eliminate such impacts.

(f) A description of criteria, plans, and protocols for the design, construction, commissioning, and operation of the facility, including as appropriate:

(1) engineering codes, standards, guidelines, and practices that apply to the facility;

(2) procedures and controls for facility inspection, testing, and commissioning; and

(3) maintenance and management plans, procedures, and criteria.

(g) For facilities where it is contemplated that a portion of the new facility will be transferred to another transmission owner/operator:

(1) describe the facilities to be transferred and the contemplated future transaction, including a timetable for the future transfer;

(2) describe how the facility design will meet the transmission owner's requirements; and

(3) define the operational and maintenance responsibilities for the facility and how they will meet the transmission owner's standards.

(h) Whether the applicant will, or is willing to, share infrastructure with other utilities (communications, cable, phone, cell phone relays, and similar facilities), and criteria and procedures for review of such proposals.

Section 1102-2.26. Exhibit 26: Electric and Magnetic Fields.

Exhibit 26 shall contain:

(a) Identification of unique electric and magnetic field (EMF) characteristics for the proposed facility, including any unique characteristics due to design voltage, current, structure types and average heights, line sag, right-of-way widths, and co-location of other transmission facilities in the right-of-way.

(b) For any portion of the proposed facility identified pursuant to subdivision (a) of this section, provide both "existing condition" and "proposed" cross-sections to scale showing:

(1) all overhead, underwater, and underground electric transmission, sub-transmission, and distribution facilities including the proposed facility showing structural details and dimensions and identifying phase spacing, phasing, and any other characteristics affecting EMF emissions;

(2) all underground gas transmission facilities;

(3) all right-of-way boundaries; and

(4) any roads, highways, railway facilities, and water bodies.

(c) A set of the aerial photos or drawings that show the exact location of each:

(1) portion of the proposed facility identified pursuant to subdivision (a) of this section;

(2) cross-section of the proposed facility identified pursuant to subdivision (b) of this section; and

(3) nearest residence or occupied non-residential building showing the distance between the proposed facility and the residence or building.

(d) An EMF study by a professional engineer with calculation tables and field strength graphs for each identified right-of-way segment cross-section, as follows:

(1) provide the name of the computer software program and version used to model the facilities and make the calculations;

(2) regarding electric fields, model and perform simulation of circuits at rated voltage and provide electric field calculation tables and field strength graphs calculated at one (1) meter above ground level with five (5)-foot measurement intervals depicting the width of the entire right-of-way and out to five hundred (500) feet from the edge of the right-of-way on both sides, including digital copies of all input assumptions and outputs for the calculations;

(3) regarding magnetic fields, model and perform simulation

of the following conditions and provide magnetic field calculation tables and field strength graphs calculated at one (1) meter above ground level with five (5)-foot measurement intervals depicting the width of the entire right-of-way and out to five hundred (500) feet from the edge of the right-of-way on both sides, including digital copies of all input assumptions and outputs for the calculations:

(i) circuit phase currents equal to the summer normal, summer short term emergency (STE sum), winter normal, and winter short term emergency (STE win) conductor ratings;

(ii) circuit phase currents equal to the average annual load estimated to be occurring on the power lines within ten (10) years after the proposed facility is put in operation;

(iii) if there is an "existing condition" with the circuit phase currents equal to the average annual load estimated to be occurring on the existing power lines within the right-of-way (without construction or operation of the proposed facility);

(4) provide a demonstration that the proposed facility will conform with the applicable electric and magnetic field standards established by the Public Service Commission. If the proposed facility cannot conform with the applicable electric and magnetic field standards established by the Public Service Commission, provide an explanation and justification of such exceedance.

Section 1102-2.27. Exhibit 27: Decommissioning and Site Restoration.

Exhibit 27 shall contain a Preliminary Decommissioning and Site restoration Plan consistent with the requirements in section 1102-3.4(ad) of this Part.

Section 1102-2.28. Exhibit 28: Local Laws and Ordinances.

Exhibit 28 shall contain:

(a) A list of all local ordinances, laws, resolutions, regulations, standards, and other requirements adopted and in effect prior to the date of the notice of the filing of an application and applicable to the proposed facility, together with a statement that the location of the facility as proposed conforms to all such local substantive requirements, except any that the applicant requests that the office elect not to apply because, as applied to the proposed facility, such local substantive requirement is unreasonably burdensome in view of the CLCPA targets, and the environmental benefits of and the public need for the proposed project. Such list shall include:

(1) A table summarizing all local requirements containing:

(i) the local requirement, including proper citation to the local ordinance, law, resolution, regulation, standard, or other requirement;

(ii) an indication of whether the requirement is procedural or substantive; and

(iii) an indication of the degree of compliance with, or the scope of relief requested from, any substantive requirements.

(2) A statement identifying the public entity or entities that are responsible for administration and enforcement of the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing, fire, or building code. The statement should identify any local government that has declined responsibility for the Uniform Code and Energy Code pursuant to 19 NYCRR section 1202.1, and whether the responsibility falls with the county in which the local government is located or with the State.

(3) A statement indicating whether the municipality is a Municipal Separate Storm Sewer System jurisdiction.

(b) A list of all local substantive requirements identified pursuant to subdivision (a) of this section for which the

applicant requests that the office elect to not apply to the facility. Pursuant to Public Service Law article VIII, the office may elect to not apply, in whole or in part, any local law or ordinance that would otherwise be applicable if it makes a finding that, as applied to the proposed facility, it is unreasonably burdensome in view of the CLCPA targets, and the environmental benefits of and the public need for the proposed facility. For each local substantive requirement identified by the applicant, a statement justifying the request shall be provided. The statement of justification shall show with facts and analysis the degree of burden caused by the requirement, why the burden should not reasonably be borne by the applicant, that the request cannot reasonably be obviated by design changes to the facility, that the request is the minimum necessary, and that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in this Part. If applicable, the statement may include a demonstration:

(1) for requests grounded in the existing technology, that there are technological limitations (including governmentally imposed technological limitations) related to necessary facility component bulk, height, process or materials that make compliance by the applicant technically impossible, impractical or otherwise unreasonable;

(2) for requests grounded in factors of costs or economics (likely involving economic modeling), that the costs to consumers associated with applying the identified local substantive requirements would outweigh the benefits of applying such provisions; and

(3) for requests grounded in the needs of consumers, that the needs of consumers for the facility outweigh the impacts on the community that would result from refusal to apply the identified local substantive requirements.

(c) Copies of zoning, flood plain and similar maps, tables, and/or documents shall be included in the exhibit when such are referenced in such local substantive requirements.

(d) Copies of the documents constituting the comprehensive plan

shall be included in the exhibit when such plan is referenced in such local substantive requirements.

Section 1102-2.29. Exhibit 29: Other Permits and Approvals.

Exhibit 29 shall contain:

(a) A list of any State, Federal (or federally-delegated), or Federal or State recognized Indigenous Nation, permit, consent, approval, or license, including any permit or approval required by local flood plain management regulations adopted pursuant to the National Flood Insurance Program, that may be required for the construction or operation of the facility, which shall specify the date on which an application for any such approval was made or the estimated date on which it will be made. The applicant shall notify the office of any significant change in the status of each application.

(b) A statement as to whether the applicant has awareness of publicly available information as to persons or entities who have any pending applications or filings for any State, Federal, federally-delegated, Federal or State recognized Indian Nation, or local permit, consent, approval, or license, including any permit or approval required by local flood plain management regulations adopted pursuant to the National Flood Insurance Program, which concerns the facility. If any such applications or filings are identified, the applicant shall indicate whether the granting of any such application or filing will have any effect on the grant or denial of a siting permit, and whether the grant or denial of a siting permit will have any effect upon the grant or denial of any such other application or filing. The applicant shall notify the office of any significant change in the status of each such application or filing.

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Subpart 1102-3. Electric Transmission Facility Uniform Standards and Conditions.

Section 1102-3.1. Facility authorization.

(a) *Compliance.* The permittee is authorized to construct and operate the facility as described in the application and as clarified by the permittee's subsequent filings and any approved amendments or modifications, except as waived, modified, or supplemented by this permit or other permits. The permittee shall implement any impact avoidance, minimization, and/or mitigation measures identified in the exhibits, compliance filings, and/or contained in a specific plan required under this Part, as approved by the office. In case of any discrepancy between an exhibit or compliance filing and a permit condition, the permittee shall comply with the permit condition and notify the office immediately for resolution.

(b) *Property rights*. Issuance of a siting permit does not convey any rights or interests in public or private property. The permittee shall be responsible for obtaining all real property, rights-of-way (ROW), access rights and other interests or licenses in real property required for the construction and operation of the facility.

(c) *Eminent domain*. For a permittee organized as an Electric Corporation under the Transportations Corporation Law, the permittee shall not commence construction, nor shall any party commence any proceedings under the Eminent Domain Procedure Law to acquire permanent right-of-way (ROW), temporary ROW, or off-ROW access, until the office has approved the EM&CP. To calculate the three-year period for acquisition of property pursuant to the Eminent Domain Procedure Law, the date of the office approval of the EM&CP covering the affected parcel shall be regarded as the date on which this Article VIII proceeding was completed.

(d) *Other permits and approvals*. Prior to the permittee's commencement of construction and consistent with section 1102-4.4(a) of this Part, the permittee shall be responsible for obtaining all necessary Federal and federally-delegated permits and any other approvals that may be required for the facility and which the office is not empowered to provide or has expressly authorized. In addition, the office expressly authorizes:

(1) the PSC to require approvals, consents, permits, or other conditions for the construction or operation of the facility under PSL sections 68, 69, 70, as applicable, with the understanding that the PSC will not duplicate any issue already addressed by the office, will only act on its police power functions related to the entity as described in the body of this siting permit, and will retain the authority to authorize the exercise or expansion of franchise rights; provided however that the verified statement of the president and secretary of the corporation showing that it has received the required consent of the proper municipal authorities shall be limited to agreements related to franchise rights. All other agreements with municipal authorities shall be submitted to the office and shall not be subject to review under PSL section 68;

(2) the NYSDOT or other pertinent State agency or authority to require or administer permits associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the facility;

(3) the city, town, village, county, or State agency or authority to be responsible for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code), or other applicable local fire or building code, and State Energy Conservation Construction Code (State Energy Code), or other applicable local energy conservation construction code, with respect to the proposed facility;

(4) the pertinent agency to implement any applicable State law for the protection of employees engaged in the construction and operation of the project;

(5) the permittee shall file copies of all Federal and federally-delegated permits and approvals required for construction and operation of the facility, as well as any other permits and approvals which the office is not empowered to provide, consistent with section 1102-4.4(a) of this Part. The permittee shall inform the pertinent permitting agency of

any changes in the design of the project that have the potential to impact an issued permit or authorization and shall file a copy of such correspondence with the office. The permittee shall file with the office a copy of any amendments or modifications for any permits or authorizations within fifteen (15) days of issuance.

(e) *Water quality certification*. Prior to commencing construction, the permittee shall request and obtain from the office a water quality certification pursuant to section 401 of the Clean Water Act, if required.

(f) *Notice to proceed with construction*. The permittee and its contractors shall not commence construction until a "Notice to Proceed with Construction" or "Conditional Notice to Proceed with Construction" (NTP) has been issued by the office. Such NTP will be issued after all applicable pre-construction compliance filings have been filed by the permittee and approved by the office.

(g) *Project Phasing or Segmenting Plan.*

(1) The permittee may request phased construction by submitting a comprehensive Project Phasing or Segmenting Plan, including a detailed narrative of the scope of work, and anticipated EM&CP contents for each phase or segment, in consultation with the office.

(2) To receive NTP approval for any phase, the permittee shall have submitted to the office all applicable pre-construction EM&CP filings consistent with the Project Phasing Plan.

(h) *Expiration*. The siting permit will automatically expire if the facility does not achieve commencement of commercial operation within five (5) years from the date of issuance.

(i) *Partial cancellation*. If the permittee decides not to commence construction of any portion of the facility, it shall so notify the office in writing within thirty (30) days after making such decision. Such decisions shall not require a modification to the siting permit unless the office determines that such change

constitutes a major modification to the siting permit pursuant to section 1100-11.1 of this Title.

(j) *Deadline extensions*. The office may extend any deadlines established by the siting permit for good cause shown. Any request for an extension shall be in writing, include a justification for the extension, and be filed at least fourteen (14) days prior to the applicable deadline. The office may decline to consider any request for extension received less than fourteen (14) days prior to applicable deadline.

(k) *Force majeure*. Notwithstanding other conditions in the siting permit to the contrary, following receipt of an NTP, during unforeseen circumstances the permittee may conduct limited construction, operations, and maintenance activities, where and when otherwise prohibited, only as necessary to protect human life or to meet FERC, NERC, NYISO, NPCC, NYSRC, and PSC (or their successor organizations) reliability standards. If the permittee intends to conduct or has conducted otherwise prohibited construction, operations, or maintenance activities pursuant to this paragraph, the permittee must inform office staff as soon as possible and provide a written description of the activities performed and the justification for such activities, within two business days following the initiation of such activities. Upon protecting human life or meeting the reliability standards, the permittee shall cease all prohibited construction, operation, and maintenance activities.

(l) *Enforcement authority*. The permittee shall regard the office and NYSDPS staff, authorized pursuant to PSL sections 66(8) and 144(4), as the office's representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the siting permit, compliance filings, or any other supplemental filings, such Staff may issue a stop work order for that location or activity pursuant to section 1100-12.1 of this Title.

Section 1102-3.2. Notifications.

(a) *Pre-Construction notice methods*. At least fourteen (14) business days prior to the permittee's commencement of construction date, the permittee shall notify the public as

follows:

(1) provide notice on the facility's website ;

(2) provide notice to all persons who own and/or reside on properties within or adjacent to the right-of-way by first class mail;

(3) provide notice to municipal officials and emergency personnel along the entire facility route via electronic or first class mail;

(4) publish notice in print or electronic form in the newspapers specified in section 1100-1.6(c)(2) of Part 1100 of this Title; and

(5) provide notice to municipalities and Indigenous Nations as applicable, that may be displayed in public places, such as municipal offices, libraries, and post offices.

(6) *Proof of notice to office.* At least fourteen (14) business days prior to commencement of construction, the permittee shall file with the office an affirmation that it has provided the notifications required by subdivision (a) of this section and include a copy of the notice(s), as well as a distribution list.

(b) *Mariner notification*. If applicable, at least thirty (30) days prior to the commencement of in-water construction, the permittee will consult with the United States Coast Guard (USGC) Waterways Management Office regarding the details of its final construction plans, including the submarine cable route, construction sequence, rate of movement of its vessels, and schedule of time frames for specified waypoints or locations. Additionally:

(1) The permittee will communicate this information to other applicable in-water users identified in the approved Mariner Notification and Communications Plan required in section 1102-4.4(y) of this Part.

(2) All subsequent changes to the planned route or construction schedule will be communicated immediately to the USCG's Waterways Management Office and applicable in-

water users.

(3) *Construction notice.* The permittee shall inform the office, NYSDEC and, where applicable, the APA, at least five (5) days before commencement of construction of the project.

(c) *Post-construction notice.* Within ten (10) days of the completion of final project site restoration, the permittee shall file such notice with the office that all such restoration has been completed in compliance with the siting permit and applicable compliance filings.

(d) *In-service notice*. Within ten (10) days after the project is placed in service, the permittee shall provide notice to the office and entities identified in paragraphs (a)(1)-(6) of this section, along with the contact name, telephone number, email, and mailing address of the facility operations manager, as well as all information required in paragraphs (e)(1)-(2) and (4)-(7) of this section.

(e) *Contents of notice.* The permittee shall write the notice(s) required in subdivision (a) of this section in plain language reasonably understandable to the average person and shall ensure that the notice(s) contain(s):

(1) a map of the facility including an overlay on a NOAA chart for the in water portion;

(2) a brief description of the facility;

(3) the construction schedule and transportation routes;

(4) the name, mailing address, local or toll-free telephone number, and email address of the appropriate facility contact for development, construction, and operations;

(5) the procedure and contact information for registering a complaint consistent with section 1102-4.3(s) of this Part;

(6) contact information of the office;

(7) the facility website; and

(8) a list of public locations where information on the facility, construction, and the permittee will be available.

Section 1102-3.3. General requirements.

(a) *Local laws*. The permittee shall construct and operate the facility in accordance with the substantive provisions of the applicable local laws as identified in section 1102-2.28 of this Part, except for those provisions of local laws that the office determines to be unreasonably burdensome, as stated in the siting permit.

(b) *Federal requirements*. The permittee shall construct and operate the facility in a manner that conforms to all applicable Federal and federally-delegated permits identified in section 1102-2.29 of this Part. If facility plans require modifications due to conditions of Federal permits, the relevant final design drawings and all applicable compliance filings shall be revised accordingly and submitted for review and approval pursuant to section 1100-11.1 of this Part.

(c) *Traffic coordination.* The permittee shall coordinate with State, county, and local highway agencies and authorities for traffic management of roads under each respective jurisdiction that will be crossed by the project or used for direct access to the project area, and school districts potentially affected by the project.

(1) The permittee shall respond to and apply applicable traffic and parking control measures to any locations that may experience any traffic flow or capacity issues due to the project including spillback effects on side streets.

(2) The permittee shall notify each relevant agency or district of the approximate date when use of its road(s) will begin and the anticipated duration of use.

(3) The NYSDOT, NYSTA, or other jurisdictional roadway owners, shall have authority to place inspectors on site to monitor and observe the permittee’s activities on State highways and local roads, or to request the presence of State

or local police to ensure the safety of highway travelers, at such times and for such periods as such agencies deem appropriate. All costs thereof shall be borne by the permittee.

(d) *Repair of damages*. The permittee shall repair any damages that occur as a result of project activities in a manner consistent with the approved EM&CP and any other applicable permits, including:

(1) restoration of damaged roadways to, at a minimum, pre-existing conditions;

(2) restoration of disturbed pavement, curbs, and sidewalks to, at a minimum, pre-existing conditions;

(3) checking all culverts and assuring they are not crushed or blocked during construction and restoration of the facility. If a culvert is blocked or crushed, or otherwise damaged by construction or maintenance activities, the permittee shall repair the culvert or replace it with alternative measures appropriate to current construction and design standards, maintaining proper drainage, embedment, and aquatic connectivity as required by section 1102-3.4(q)(6) of this Part, and in accordance with stormwater management provisions;

(4) conducting an assessment of the need for landscape and agricultural restoration to return areas inadvertently damaged to, at minimum, their pre-existing conditions, including vegetation planting, earthwork, or installed features that provided screening of facility road crossings, residential areas, and substations.

(e) *Site Security Plan*. The permittee shall submit a Site Security Plan consistent with section 1102-2.8(b) of this Part, upon the completion of any site security audit or other review requiring revisions to the approved Site Security Plan, pursuant to the procedures set forth in section 1100-11.1 of this Title.

Section 1102-3.4. Facility construction and maintenance.

(a) *Construction hours.* Construction and routine maintenance activities at the facility shall be limited to 7 a.m. to 7 p.m. Monday through Saturday, except deliveries, which may occur during extended hours on an as-needed basis. Extended hours includes work before 7 a.m. and after 8 p.m., on Sundays, and on the following State and Federal Holidays: Independence Day, Thanksgiving Day, Christmas Day, and New Year's Day.

(1) Construction work hour limits apply to facility construction and construction related activities; routine maintenance; maintenance and repairs of construction equipment at outdoor locations; large vehicles idling for extended periods at roadside locations; and related disturbances. This condition shall not apply to vehicles used for transporting construction or maintenance workers, small equipment, and tools used at the facility site for construction or maintenance activities.

(2) If, due to safety, planned outage restrictions, or continuous construction or operation requirements, construction activities are required to occur beyond the allowable work hours, the permittee shall notify the office, affected landowners, and affected municipalities. Such notice shall be given at least twenty-four (24) hours in advance of such activities, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impacts that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided.

(3) Unless otherwise directed by the office, the permittee may proceed with the construction activities beyond the allowable work hours following the required notice period described above and in accordance with the approved schedule.

(b) *Environmental and agricultural monitoring.*

(1) The permittee shall retain an independent, third-party environmental monitor(s) to oversee compliance with environmental commitments and siting permit requirements. The environmental monitor(s) shall satisfy the qualifications of

a “qualified inspector” pursuant to the State Pollutant Discharge Elimination System Construction General Permit (SPDES Construction General Permit). The environmental monitor(s) shall perform regular site inspections of construction work sites and, in consultation with the office, issue regular reporting and compliance audits.

(2) When project activities will occur within land used in agricultural production, the permittee shall also retain an independent, third-party agriculture-specific environmental monitor as required in section 1102-3.4(ab) of this Part. The environmental monitor in paragraph (1) of this subdivision may serve as the agricultural monitor, if qualified.

(3) When project activities will occur in aquatic environments, an additional environmental monitor(s) shall be retained for the duration of all in-water work if such work is undertaken simultaneously with onshore and/or interconnection construction activities (aquatic environmental monitor). The same inspector shall not be assigned to both in-water and on-land activities, simultaneously.

(4) For projects with an in-water component within the marine and coastal district, permittee shall also retain one (1) independent, third-party fishing interest monitor (fishing monitor) who will be on-site during in-water construction activities.

(5) The aquatic environmental monitor shall be present on-site during activities within and above New York State Waters.

(6) At least fourteen (14) days prior to the start of construction the permittee shall identify and provide the following information to the office:

(i) qualifications, contact information, and organization structure, including specific names, duties, and responsibilities for all independent, third-party monitor(s);

(ii) statement confirming independence of the monitor(s) from the permittee.

(7) The office may disqualify any independent third-party monitor or monitoring staff. Any monitor or monitoring staff disqualified by the office shall be promptly substituted.

(8) The monitor(s) shall be authorized to access all facility areas and communicate directly with office staff.

(9) The environmental monitor(s) shall have stop work authority over all aspects of the facility. Any stop work orders shall be limited to affected areas of the facility.

(10) The permittee shall ensure that all independent monitors are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor the permittee's compliance with the provisions of the siting permit with respect to such permittee's facility components and to applicable sections of the Public Service Law, Executive Law, Environmental Conservation Law, the Clean Water Act Section 401 Water Quality Certification, and any other laws administered by the office. Additional monitors or monitoring staff shall be retained as determined necessary by the permittee or the office to assure protection of resources and adequate compliance oversight. During periods of relative inactivity on the project, after consultation with and approval from the office, the permittee may temporarily decrease the number of hours worked by monitors and the extent of their presence at the project site commensurate with the decline in project activity.

(c) *Pre-Construction meeting.* At least fourteen (14) days before the commencement of construction, the permittee shall hold a pre-construction meeting with office staff and NYSDPS, to which the permittee shall invite NYSDEC, NYSAGM, NYSDOT, NYSTA (where applicable), NYSDOS (where applicable), APA (if applicable), municipal supervisors/mayors and highway departments, county highway departments, the POI utility owner, and other entities as required by the office. The construction supervisor, agricultural monitor (if applicable), environmental monitor, aquatic environmental monitor (if applicable), and fishing monitor (if

applicable) shall be required to attend the pre-construction meeting. For the pre-construction meeting:

(1) an agenda, location, and an attendee list shall be agreed upon between office staff and the permittee and distributed to the attendee list at least ten (10) days prior to the meeting;

(2) maps showing designated travel routes, construction worker parking, and access road locations, and a general facility schedule shall be distributed to the attendee list at least ten (10) days prior to the meeting;

(3) the permittee shall supply draft minutes from the meeting to the attendee list for corrections or comments, and thereafter the permittee shall issue the finalized meeting minutes; and

(4) if, for any reason, the project contractors cannot finish the construction of the facility, and one (1) or more new contractors are needed, there shall be another pre-construction meeting with the same format as outlined in this section.

(d) *Contractor notification*.

(1) The permittee shall provide all project contractors with complete copies of the siting permit, the approved EM&CP and compliance filings, approved changes to the EM&CP and compliance filings, Notices to Proceed issued for the project, any site-specific plans, any executed crossing agreements (including associated details and drawings exhibiting construction provisions and measures to be implemented for protection of existing utilities), the SWPPP, the SPDES Construction General Permit and/or SPDES Individual Permit applicable the project, any permit issued pursuant to section 404 of the Federal Clean Water Act, and the Section 401 Water Quality Certification. To the extent that the listed documents are available before contracts for construction services are executed, such copies shall be provided by the permittee to its contractors prior to the execution of such contracts.

(2) The permittee shall notify its contractors that the office may seek to recover penalties for any violation of the siting permit, approved EM&CP and compliance filings, and Notices to Proceed. The office may seek to recover such penalties from the permittee and its contractors, and contractors may also be liable for additional fines, penalties, and environmental damage.

(e) *Construction reporting and inspections*. During facility construction, the permittee shall report construction status and support inspections as follows:

(1) Every two (2) weeks by electronic mail, the permittee shall provide office staff and the host municipalities with a report summarizing the status of construction activities, and the schedule and locations of construction activities for the next two (2) weeks. The office may require interim reports regarding the progress of construction.

(2) Prior to entry onto the facility site for on-site inspections, the permittee shall conduct a tailgate meeting to communicate required safety procedures and worksite hazards to site inspectors.

(3) The permittee shall review the following during a monthly meeting with the office and other involved agencies, and at other times as may be determined by office staff:

(i) the status of compliance with siting permit conditions;

(ii) field reviews of the facility site;

(iii) actual or planned resolutions of complaints;

(iv) significant comments, concerns, or suggestions made by the public, municipalities, or other agencies with an explanation of how the permittee has responded to the public, local governments, or other agencies;

(v) the status of the facility in relation to the overall schedule established prior to the commencement of construction; and

(vi) any other items the permittee or office staff consider appropriate.

(4) Within five (5) business days after every monthly compliance meeting, the permittee shall provide the office, other involved agencies, and host municipalities (if requested), with written meeting minutes and a written summary of the results of any inspections completed during the past month, including resolution of issues and additional measures to be taken. Copies of the reporting and compliance audits shall be provided to the host municipality(ies) upon request.

(f) *Report of accidents*. As soon as possible, but in any event no later than twenty-four (24) hours, the permittee shall report to the office:

(1) Any damage to public or private property, damage to equipment, or damage to any sensitive resource incurred as a result of project activities.

(2) Any Occupational Safety and Health Administration (OSHA)-recordable construction accident in connection with work on the project. A copy of the accident report shall be provided to the office after it has been finalized.

(g) *Flagging.* At least two (2) weeks before tree clearing or ground disturbing activities, the permittee shall delineate both edges of the project right-of-way (ROW) in areas in which clearing will be undertaken, and identify and mark any known danger trees to be removed in such area for review and acceptance by office staff. The permittee shall stake or flag all on or off-ROW access roads, limits of clearing, and other areas needed for construction, including, but not limited to: structure work areas, proposed infiltration areas for post-construction stormwater management, and laydown and storage areas. The permittee shall mark any environmentally sensitive area (ESA) with colored flagging, “protected area” signs, or erosion and

sediment control measures specified by the Stormwater Pollution Prevention Plan, including the boundaries of any State-regulated wetlands, waterbodies, or streams and associated adjacent areas in the limits of disturbance (as identified and approved by the office pursuant to sections 1102-1.1(a) and 1102-4.4(e) of this Part), NYS threatened or endangered species or species of special concern areas, and any known archeological sites identified in the approved Cultural Resources Avoidance, Minimization and Mitigation Plan required in section 1102-4.4(o) of this Part. In addition, archeological sites and ESAs where no construction is planned shall be surrounded with construction fencing and a sign stating, "No Equipment Access." Staking in agricultural areas shall be coordinated with farm operations through the agricultural monitor.

(h) *UDig*. Prior to the commencement of construction, the permittee shall become a member of UDig New York. The permittee shall require all contractors, excavators, and operators associated with its facilities to comply with the requirements of the PSC's regulations regarding the protection of underground facilities at Part 753 of this Title.

(i) *Co-located infrastructure.* The permittee shall engineer, construct, and install the facility to make it fully compatible with the continued operation and maintenance of co-located infrastructure (CI), as defined in section 1100-1.2(m) of this Title, and affected railroads, railways, highways, roads, streets, or avenues, except as approved in the EM&CP and Interconnection Agreement. To protect CI, the permittee shall:

(1) within sixty (60) days of issuance of the siting permit, consult with the owners and/or operators of all known CI and appurtenant facilities and associated equipment, whether above ground, below ground or submerged, other than railroads, railways, highways, roads, streets and avenues, located either: (i) within the facility corridor, (ii) within three hundred (300) feet of any location outside the facility corridor where the permittee intends to undertake any pre-construction activities; or (iii) sufficiently close to areas of anticipated pre-construction activities such that Good Utility Practice, as defined in the NYISO Open Access Transmission Tariff (OATT) and as required by applicable

utility specifications or requirements, requires discussion of the impacts of such preconstruction activities between the permittee and the owners and/or operators of such facilities (potential CI). Such consultations shall include discussion of the routing of the facility and the measures that will be employed by the permittee to protect CI, including the studies required by the exercise of Good Utility Practice regarding the manner in which the facility will be designed and installed wherever they are expected to cross CI or are expected to come in such proximity to CI that Good Utility Practice would require a specific design to be developed. All agreements, letter of no objection, and requirements resulting from this consultation shall be reflected in the proposal prescribed in paragraph (4) of this subdivision and the notice prescribed in paragraph (5) of this subdivision;

(2) within sixty days (60) of the issuance of the siting permit, begin the process of consulting with the owners and/or operators of potential CI to develop a construction schedule for the facility that, among other things, coordinates any system outage requirements, and avoids conflicts with the internal construction programs of each affected owner and/or operator. This consultation shall continue throughout each phase and portion of the construction of the facility that affects any CI or potential CI, as applicable. As a part of this consultation, the permittee will identify, to a reasonable degree of certainty, the appropriate representative of the party, whether the owner or operator, having primary care, custody, and control of a particular segment of potential CI or CI (each such representative being a “designated representative”). All agreements, letter of no objection, and requirements resulting from this consultation shall be reflected in the proposal prescribed in paragraph (4) of this subdivision and the notice prescribed in paragraph (5) of this subdivision and in the permittee’s EM&CP;

(3) comply with all procedures identified by the designated representative(s) of the owners and/or operators of such CI or potential CI, including, application procedures and compliance with requirements for obtaining relevant rights, permission, permits, or authorization, whenever the permittee

seeks to undertake any studies, surveys, testing, sampling, preliminary engineering, pre-construction, construction, operation, maintenance, or repair activities that involve CI or potential CI, except in cases where such actions must be taken on an expedited basis to protect the public or to ensure reliable operation of the facility. In such cases, the permittee shall provide such designated representative(s) with such notice and obtain such approvals as the office, in consultation with NYSDPS, finds is reasonable under the circumstances, except where such procedures are subject to the commission's jurisdiction and the commission objects. Notwithstanding the foregoing, the permittee shall not be required to comply with the requirements of this section for the transport or travel over or under CI or potential CI by the permittee and its agents, employees, and contractors where such CI or potential CI is located in, over, or under public waterways, roads, streets, highways, or railroad ROW, unless such transportation would be subject to special approval by State and/or local authorities due to the size or weight of load(s) transported;

(4) provide owners and/or operators of potential CI or CI, at least one hundred-and-eighty (180) days prior to the filing of the relevant EM&CP, a proposal for the location and design of the facility (including a proposed construction area) and the methods of construction to be employed with respect to all locations involving CI (Proposal). The permittee's proposal must include all studies, calculations, tests, results, explanations, protocols, drawings, proposed construction schedules, and documents developed through the consultations described in paragraphs (1) and (2) of this section, other documentation identified in this section, and any other information that supports the proposal. To the extent that any such proposal addresses CI that was not previously identified as potential CI, the permittee shall conduct the consultations described in paragraphs (1) and (2) of this section with the designated representative(s) of the owner(s) or operator(s) of such CI and shall perform all other activities required by such paragraphs with respect to such CI in as reasonably expeditious a manner as possible and shall provide any resulting studies, calculations, tests, results, explanations, protocols, drawings, proposed

construction schedules, and documents to the appropriate Designated Representative in a timely fashion; and

(5) advise owners and/or operators of CI at least thirty (30) days prior to commencing any planned repair, construction, operation, or maintenance activity relating to the facility affecting or occurring in the vicinity of such owner's or operator's CI, unless such actions must be taken in less than thirty (30) days to protect the public or to ensure reliable operation of the facility, whereupon the permittee shall provide such notice as is reasonable under the circumstances. "Vicinity" with respect to CI used to transmit or distribute natural gas shall mean all areas within two hundred (200) feet thereof and with respect to all other CI shall mean all areas within one hundred (100) feet thereof;

(6) immediately upon knowledge or discovery of any damage to or adverse effect on any CI or potential CI resulting from any activities related to the facility, report to the owners and/or operators of the affected CI or potential CI the nature and existence of such damage or effect and other known facts relating to the cause thereof; and

(7) notify the owners or operators of CI or potential CI as soon as possible, in the event of any situation involving imminent risk to health, safety, property, or the environment requiring the permittee to cross such CI or potential CI, or to use any associated property to address the emergency. Such notice shall not be required for the transport or travel over or under CI or potential CI by the permittee or its agents, employees, or contractors where such CI or potential CI is located in, over, or under public waterways, roads, streets, highways, or railroad ROW unless such transportation would be subject to special approval by State and/or local authorities due to the size or weight of load(s) transported.

(8) If, despite all commercially reasonable efforts: (a) the permittee cannot identify the owners and/or operators of affected CI, or in the event such owners and/or operators of affected CI are unresponsive and, (b) due to the fact that the CI owner is unknown or unresponsive, the permittee cannot

provide the agreement required under paragraphs (1) and (2) of this subdivision, then the permittee shall file with the office, at least ten (10) days prior to requesting a Notice to Proceed with construction of any such crossing, a narrative describing efforts made in attempting to contact such unknown or unresponsive CI owners and/or operators (Unknown or Unresponsive CI Owner Crossings). The permittee shall also provide an attestation indicating that such crossings have been designed by a professional engineer, along with copies of proposed standard pre- and post-installation utility protection measures to be implemented in connection with the Unknown or Unresponsive CI Owner Crossing. The standard utility protection measures to be implemented by the permittee shall be substantially similar to those used for other utilities of the same utility type (telecommunications, gas, electric, etc.) in a materially similar environment (marine, rural or urban terrestrial setting, etc.). Provided that the permittee can demonstrate that they have exhausted all commercially reasonable efforts to identify and/or engage Unknown or Unresponsive CI Owners, the office may issue a Notice to Proceed authorizing the permittee to proceed with standard utility protection measures at Unknown or Unresponsive CI Owner Crossings.

(9) If a previously Unidentified CI is encountered during construction, the permittee shall implement commercially reasonable efforts to identify the owner and operational status of the facility. In the event that, subsequent to a submittal pursuant to section 1102-3.4(j)(8) of this Part , a previously Unidentified CI is encountered for which the operational status is determined to be active or for which such status cannot be otherwise verified with supporting documentation, or a previously Unknown or Unresponsive CI Owner is identified or comes forward, the permittee shall notify the office within twenty-four (24) hours and may, at the permittee’s discretion, or shall, if directed by the office, consult with that CI Owner to obtain an agreement or letter of no objection regarding the sufficiency of utility protection measures installed at the crossing in question. Any such agreement or letter of no objection shall be filed with the office.

(j) *Oil and natural gas wells.*

(1) Where an ECL article 23 regulated oil or natural gas well is known or suspected to exist within one hundred (100) feet of areas to be disturbed, or for any proposed facility located within NYSDEC regions 7, 8, or 9, the permittee shall, at the direction of the office, conduct a survey to determine whether any such wells are located within one hundred (100) feet of areas to be disturbed, using a survey methodology authorized by the office. The results of the survey shall be reported in the EM&CP, as required pursuant to section 1102-4.3((a) of this Part.

(2) If previously unknown oil or natural gas wells are discovered within the facility corridor during construction of the facility, the permittee shall immediately cease construction activities in the immediate area surrounding the well and shall notify and consult with the office and NYSDEC Division of Mineral Resources, Regional Minerals Manager for the applicable region, to determine what, if any, measures must be implemented.

(k) *Pole numbering*. The permittee shall comply with all requirements of the PSC's regulations regarding identification and numbering of above ground utility poles at Part 217 of this Title.

(l) *Air emissions.* To minimize air emissions during construction, the permittee shall:

(1) prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used;

(2) implement dust control procedures to minimize the amount of dust generated by construction activities in a manner consistent with the requirements of section 1102-4.2(m) of this Part and the Standards and Specifications for Dust Control, as outlined in the New York State Standards and Specifications for Erosion and Sediment Control (see section 1100-17.1(i)(1)(i) of this Title);

(3) use construction equipment powered by electric motors where feasible, or by ultra-low sulfur diesel; and

(4) dispose of or reuse cleared vegetation to minimize greenhouse gas emissions (e.g., lumber production or composting).

(m) *Construction noise*. To minimize noise impacts during construction, the permittee shall:

(1) Implement noise or vibration mitigation measures associated with specific construction activity(ies) as identified in the application or EM&CP on or before the start of such activity(ies).

(2) Maintain functioning mufflers on all transportation and construction machinery.

(3) Promptly address any noise and vibration complaints. Inform the office within 48 hours of receipt of such complaints that have not yet been resolved.

(n) *Visual resources management.* The permittee shall implement the approved Visual Resources Management Plan (VRMP) required in section 1102-4.4(p) of this Part and shall ensure consistency between the VRMP, the final design drawings, and construction and vegetation management measures specified in the EM&CP.

(o) *Limits of disturbance (LOD).* Construction shall not directly disturb areas outside the construction limits shown on the design drawings.

(p) *Blasting*. Blasting shall be designed and controlled to meet the limits for ground vibration set forth in United States Bureau of Mines Report of Investigation 8507 Figure B-1 (see section 1100- 17.1(k)(1)(i) of this Title) and air overpressure shall be under the limits set forth in the Conclusion Section in United States Bureau of Mines Report of Investigation 8485 (USBM RI 8507 and USBM RI 8485 (see section 1100-17.1(k)(1)(ii) of this Title) to protect structures from damage.

(1) Blasting shall be prohibited within five hundred (500)

feet of any known existing, active water supply well or water supply intake.

(2) For in-water projects, blasting must be avoided to the greatest extent practicable. If blasting cannot be avoided, the permittee must provide a written analysis of all other options considered to the office.

(3) No blasting may occur within distances identified in approved NCBPs for listed species.

(4) Blasting times shall be limited to 9:00 a.m. to dusk on non-holiday weekdays, unless otherwise approved by the office consistent with section 1102-3.4(a)(2) of this Part.

(5) Where blasting will occur in agricultural areas, the permittee shall ensure that:

(i) in agricultural areas of till over bedrock, matting or controlled blasting shall be used to limit the dispersion of blast rock fragments;

(ii) all blasted rock not used as backfill shall be removed from croplands, haylands, and improved pastures; and

(iii) the till and topsoil shall be returned in sequence to restore the soil profile.

(6) Blasting operations in locations where geotechnical investigations confirm the presence of subsurface karst features shall be limited or performed under specific procedures recommended for those locations by a geotechnical engineer licensed to practice in the State of New York.

(q) *Erosion and sedimentation materials.* Permanent erosion control fabric or netting used to stabilize soils prior to establishment of vegetative cover or other permanent measures shall be one hundred (100) percent biodegradable natural product, excluding silt fence and geotextile used for road construction. Use of hay for erosion control or other construction-related purposes is prohibited.

(r) *Petroleum and hazardous substances*. Consistent with section 1102-2.15(d) of this Part:

(1) All hazardous chemicals and waste shall be secured in a locked and controlled area.

(2) All construction vehicles and equipment shall be equipped with a spill kit. All equipment shall be inspected daily for leaks of petroleum, other fluids, or contaminants; equipment may only enter a stream channel if found to be free of any leakage. Any leaks shall be stopped and cleaned up immediately.

(3) Field personnel and contractors shall be trained in spill response procedures, including the deployment and maintenance of spill containment and response materials, which shall be readily available on-site.

(4) Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the NYSDEC's Spill Hotline within two (2) hours of discovery, in accordance with the NYSDEC Spill Reporting and Initial Notification Requirements Technical Field Guidance (see section 1100-17.1(i)(1)(iii) of this Title). The office shall also be notified of all reported spills in a timely manner, generally, upon discovery to within 2 hours depending on substance.

(5) The permittee shall keep local fire department and emergency management teams apprised of on-site hazardous chemicals and waste.

(s) *Construction debris*. Any debris or excess construction materials shall be removed to a facility or location legally authorized to receive such material. No burying or burning of construction debris or excess construction materials is allowed.

(t) *Clearing areas*. Tree and vegetation clearing shall be limited to the minimum necessary for facility construction and operation, and as detailed on approved final construction plans.

(u) *Clearing methods*. When conducting clearing, the permittee shall:

(1) leave stumps and root systems in place within fifty (50) feet of NYS-protected waterbodies, unless construction of an access road or work pad necessitates removal;

(2) comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and ECL section 9-1303 and any quarantine orders issued thereunder;

(3) not create a maximum wood chip depth greater than three (3) inches, except for chip roads (if applicable), nor store or dispose wood chips within wetlands, stream banks, delineated floodways, active agricultural fields, or improved pasture;

(4) not dispose of vegetation or slash by burning or by burying within a wetland or adjacent area; and

(5) coordinate with landowners or wood processing businesses to salvage merchantable logs and fuel wood. Where merchantable logs and fuel wood will not be removed from the facility site during clearing activities, the final design drawings shall indicate locations of stockpiles to be established for removal from site or future landowner resource recovery.

(v) *Invasive insects*. To control the spread of invasive insects, the permittee shall provide training for clearing and construction crews to identify the Asian Longhorn Beetle, the Emerald Ash Borer, and other invasive insects of concern that pose a potential problem at the facility site. If these insects are found, they shall be reported to the NYSDEC as soon as practicable.

(w) *Water supply protection.*

(1) Provided the permittee is granted access by the property owner, the permittee shall engage a qualified third party to perform pre- and post- construction testing of the potability of water wells within the below specified distances of

construction disturbance before commencement of construction and after completion of construction:

(i) major electric transmission components within one hundred (100) feet of an existing, active water supply well;

(ii) blasting within one thousand (1,000) feet of an existing, active water supply well; and

(iii)horizontal directional drilling operations within five hundred (500) feet of an existing, active water supply well.

(2) Should the third-party testing, as required by paragraph (1) of this subdivision, conclude that the water supplied by an existing, active water supply well met Federal (see section 1100-17.1(j)(1)(i) of this Title) and State standards for potable water (see 10 NYCRR Part 75, Appendix 75-c) prior to construction, but failed to meet such standards after construction as a result of facility activities, the permittee shall:

(i) immediately provide potable water in consultation with the property owner; and

(ii) in consultation with the affected property owner(s) and the office, develop and implement a plan to mitigate impacts to water supply wells as a result of construction.

(3) Pier and post driving activities shall be prohibited within one hundred (100) feet of any existing, active drinking water supply well, except for fence and utility poles.

(x) *Threatened and endangered species.*

(1) For facilities that would cause an adverse impact on NYS threatened or endangered species, or their habitat that results in a take determination, the permittee shall implement a final Net Conservation Benefit Plan (NCBP) that

is approved by the office which shall include:

(i) an identification of each affected NYS threatened or endangered species for which mitigation was proposed, details regarding level of impact, and a demonstration that the NCBP results in a benefit for each of the affected species as defined by 6 NYCRR Part 182.2;

(ii) a detailed explanation of avoidance and minimization measures to be taken for each of the affected species;

(iii) amount of impact each mitigation measure is proposed to offset; as applicable, identifying either the number of individuals proposed to be mitigated, or the number of acres proposed for mitigation;

(iv) full source citation information supporting a determination consistent with subparagraph (iii) of this paragraph as to the net conservation benefit for each of the affected species;

(v) a detailed description of the mitigation actions that will be undertaken by the permittee to achieve a net conservation benefit to the affected NYS threatened or endangered species. This shall include the methods of implementation, management, monitoring, and reporting, and may, if applicable, include payment of an approved mitigation fee into the Endangered and Threatened Species Mitigation Fund established pursuant to section 99(hh) of the New York State Finance Law. The office may give the permittee credit for any mitigation fee paid to another State or Federal agency or authority;

(vi) to the extent that physical mitigation will be performed, a letter or other indication of the permittee’s financial and technical capability and commitment to fund such; and

(vii) an executed implementation agreement committing to implement required management, maintenance, and monitoring for the life of the siting permit.

(2) For facilities determined pursuant to the procedures set forth in section 1102-2.14 of this Part to have de minimis impacts to NYS threatened or endangered grassland birds, if an active nest is identified within the facility ROW prior to or during construction, and the facility results in adverse impacts to the nest or grasslands twenty-five (25) acres or more in size that are determined to be occupied habitat, then the permittee shall coordinate with the office and NYSDEC to adjust the limits of disturbance and/or adjust the construction schedule to avoid work in the area until nesting has been completed or the permittee shall pay into the Endangered and Threatened Species Mitigation Bank Fund the required mitigation fee commensurate with the acreage of mitigation that would be required for permittee-implemented grassland bird habitat conservation, calculated pursuant to subparagraph (ix) of paragraph (3) of this subdivision. The office may give the permittee credit, in whole or in part, for any mitigation fee paid to another State or Federal agency or authority.

(3) For facilities that will have more than a de minimis impact on NYS threatened or endangered grassland birds, the permittee shall implement the following as part of the approved final NCBP:

(i) The permittee shall implement environmental monitoring immediately prior to and during construction in the occupied habitat to search for NYS threatened or endangered species occurrence based on the species' seasonal windows for presence.

(ii) If active nests of the NYS threatened or endangered species are found within the occupied habitat, then the permittee shall coordinate with the office to adjust the limits of disturbance and/or adjust the construction schedule to avoid work in the area until nesting has been completed.

(iii) To avoid direct impacts to NYS threatened or endangered grassland bird species, the following work windows apply for all ground disturbance and construction-related activities, including restoration

and equipment/component staging, storage, and transportation, within occupied habitat:

(a) in NYS threatened or endangered grassland bird occupied breeding habitat, work shall be conducted only between August 16 and April 22;

(b) in NYS threatened or endangered grassland bird occupied wintering habitat, work shall be conducted only between April 1 and November 14;

(c) in areas of the facility where both breeding and wintering occupied habitat occurs, work shall be conducted only between August 16 and November 14, and between April 1 and 22.

(iv) If fields within identified occupied breeding habitat are planted with row crops (e.g., corn, beans, or vegetables) in the farming season prior to the commencement of facility construction and such fields were historically used for row crops during at least one of the prior five (5) years, these fields will not be subject to the construction timing restrictions set forth in subparagraphs (iii)(*a*) and (*c*) of this paragraph.

(v) If the permittee has identified construction activities that must occur between November 15 and March 31 in identified NYS threatened or endangered grassland bird occupied wintering habitat, or between April 23 and August 15 in identified NYS threatened or endangered grassland bird occupied breeding habitat outside of row crop areas described in subparagraph (iv) of this paragraph, the occupied habitat area(s) proposed for active construction shall be assessed by an on-site environmental monitor or biologist who shall conduct surveys for NYS threatened or endangered grassland bird species. The surveys shall occur weekly until construction activities have been completed in the occupied habitat area, unless otherwise agreed to by the office. If no NYS threatened or endangered grassland bird species are detected during the survey,

the area shall be considered clear for seven (7) days, when another survey shall be performed. If NYS threatened or endangered grassland bird species are detected, the permittee shall comply with paragraphs (8) and (9) of this subdivision.

(vi) All temporary disturbance or modification of established grassland vegetation communities that occurs as a result of facility construction, restoration, or maintenance activities shall be restored utilizing a native or naturalized herbaceous seed mix or the pre-existing grassland vegetative conditions by re-grading and re-seeding with an appropriate native seed mix after disturbance activities are completed, unless returning to agricultural production or otherwise specified by the landowner. These temporarily disturbed or modified areas include all areas within the facility site that do not have impervious cover, such as temporary roads, material and equipment staging and storage areas, and electric line rights-of-way.

(vii) The permittee shall implement the avoidance and minimization measures identified in section 1102-2.14 of this Part and the other conditions herein to minimize potential take of the species.

(viii) To the extent that the office has determined that the facility would result in impacts to grassland bird occupied habitat requiring mitigation, the permittee shall pay the required mitigation fee commensurate with the acreage of mitigation that would be required for permittee-implemented grassland bird habitat conservation, calculated pursuant to subparagraph (ix) of this paragraph. The mitigation fee shall be paid into the Endangered and Threatened Species Mitigation Bank Fund with the sole purpose to conserve habitat of similar or higher quality or otherwise achieve a net conservation benefit to the impacted species. The office may give the permittee credit, in whole or in part, for any mitigation fee paid to another State or Federal agency or authority.

(ix) If the permittee proposes a NCBP involving permittee-implemented grassland bird habitat conservation in lieu of payment of a mitigation fee pursuant to subparagraph (viii) of this paragraph, the required mitigation ratio shall be 0.4 acres of mitigation for every acre of occupied grassland bird breeding habitat determined to be taken and 0.2 acres of mitigation for every acre of occupied grassland bird wintering habitat determined to be taken. These mitigation requirements are based upon multiplying impacts by the ratios described above and dividing impacts by five lifecycles of habitat succession (e.g., a 30-year mitigation project term and 5-year timeframe in which unmanaged grassland would naturally succeed into scrub/shrub habitat, minus one lifecycle to provide a net conservation benefit).

(x) Sites selected for mitigation of grassland bird impacts shall be managed to provide conditions conducive to successful reproduction during the breeding season (April 23 to August 15) and overwintering (November 1 to March 31).

(4) To avoid and minimize impacts to NYS threatened or endangered bat species the permittee shall implement the following conditions during construction and operation:

(i) No facility component shall be sited or located within one hundred fifty (150) feet of any known northern long-eared bat roost tree, within five hundred (500) feet of any known Indiana bat roost tree, or one quarter (0.25) mile of any known northern long-eared bat or Indiana bat hibernaculum.

(ii) If at any time during the life of the facility, an active NYS threatened or endangered bat species roost tree (or structure) is discovered within the transmission facility corridor, the office shall be notified within twenty-four (24) hours of discovery, and the colony site shall be marked. A five hundred (500)-foot radius around the colony shall be posted and avoided until notice to continue construction, ground clearing, grading, non-emergency maintenance or

restoration activities, as applicable, at that site is granted by the office. A re-evaluation of the potential impacts of the project on listed bat species shall be provided to the office.

(iii) *Tree clearing limitations for Northern Long-eared bats*.

(*a*) No tree clearing activities shall occur at any time within one hundred fifty (150) feet of any known roost tree or one quarter (0.25) mile of any known hibernaculum.

(*b*) All tree clearing activities (except for danger tree removal to protect human life or property occurring within one and a half (1.5) miles of a roost site or five (5) miles of a hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between December 1 and February 28 for Nassau and Suffolk Counties; or, between November 1 and March 31 for all other counties) without further restrictions unless otherwise approved by the office. This limitation does not include trees less than or equal to four (4) inches in diameter at breast height (DBH).

(*c*) From April 1 to May 31 and August 1 to October 31, the following restrictions shall be implemented for all tree clearing activities in the facility site, unless otherwise agreed by the office:

(1) The permittee shall leave uncut all snag and cavity trees, as defined under the NYSDEC Program Policy ONRDLF-2 Retention on State Forests, unless their removal is necessary for protection of human life and property. This restriction pertains to trees that are greater than or equal to four (4) inches DBH. When necessary, a limited number of snag or cavity trees may be removed as approved by the environmental monitor with concurrence by the office. A qualified environmental monitor

shall conduct a survey for bats exiting the tree. This survey shall begin thirty (30) minutes before sunset and continue until at least one (1) hour after sunset or until it is otherwise too dark to see emerging bats. Unoccupied snag and cavity trees in the approved clearing area shall be removed within twenty-four (24) hours of negative survey results.

(*2*) If any bats are observed flying from a tree, or from a tree that has been cut, tree clearing activities within distances required in clause (*a*) of this subparagraph, depending on the potential species present, shall be suspended and the office shall be notified as soon as possible. The permittee shall have an environmental monitor present on site during all tree clearing activities. If any bat activity is noted, a stop work order will immediately be issued and shall remain in place until such time as the office has been consulted and authorizes resumption of work.

(iv) *Tree clearing limitations for Indiana bats.*

(*a*) No tree clearing activities shall occur at any time within five hundred (500) feet of any known roost tree or one quarter (0.25) mile of any known hibernaculum.

(*b*) All tree clearing activities (except for danger tree removal to protect human life or property) occurring within two and a half (2.5) miles of a roost site or hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between November 1 and March 31), without further restrictions, unless otherwise directed or approved by the office. This limitation does not include trees less than or equal to four (4) inches in DBH or locations above three hundred (300) meters in elevation.

(*c*) From April 1 to October 31, tree clearing within two and a half (2.5) miles of a roost site or hibernaculum site is limited to trees less than or equal to four (4) inches in DBH or locations above three hundred (300) meters in elevation.

(*d*) Tree clearing may not reduce forest habitat below thirty-five (35) percent of the landcover within two and a half (2.5) miles of the roost site or hibernaculum site.

(5) To avoid and minimize impacts to NYS threatened or endangered reptile and amphibian species, the permittee shall implement the following conditions during construction:

(i) Avoid construction activities within occupied habitat(s) to the maximum extent practicable. Avoid construction activities within breeding areas for NYS threatened or endangered species during the peak breeding season. Where avoidance is not possible, the permittee will implement an Avoidance and Minimization Plan that meets the requirements of 6 NYCRR Part 182, including a Monitoring and Handling Protocol, in the EM&CP.

(ii) Employ dedicated threatened or endangered species monitor(s) (T&E monitor) to be present for all work within known occupied and identified habitats and implement the Monitoring and Handling Protocol.

(iii) The T&E monitor(s) shall have the necessary Endangered/Threatened Species License obtained from NYSDEC’s Special License Unit or be listed as a Designated Agent on such a license.

(iv) The number of necessary T&E monitor(s) shall be determined in consultation with office staff.

(v) The T&E monitor(s) shall be present to inspect work areas ahead of daily construction activities and

shall continue to inspect periodically until construction activities stop for the workday. A daily inspection log shall be maintained and provided to the office staff upon request.

(vi) For all unavoidable impacts to threatened or endangered reptile and amphibian species, the permittee shall prepare a NCBP approved by the office.

(6) To avoid and minimize impacts to bald eagles, the permittee shall implement the following:

(i) At least fourteen (14) days prior to construction activities, the permittee shall conduct a visual inspection in the area in which construction will take place to determine if any active bald eagle nests are present.

(ii) If, at any time during construction and operation of the facility, an active bald eagle nest or roost is identified within the facility ROW, office staff shall be notified within twenty-four (24) hours of discovery and prior to any disturbance of the nest or immediate area.

(iii) An area one quarter (0.25) mile for nests without a visual buffer and six hundred sixty (660) feet in radius for nests with a visual buffer from the nest tree shall be posted and avoided to the maximum extent practicable until notice to continue construction at that site is granted by the office.

(iv) Tree removal is not allowed:

(*a*) within six hundred sixty (660) feet from an active nest during breeding season (January 1 to September 30);

(*b*) within one quarter (0.25) mile from an important winter roost during the wintering period (December 1 to March 31); or

(*c*) of overstory trees within three hundred thirty (330) feet of an active nest at any time.

(7) For projects located within the Marine and Coastal District, to avoid and minimize impacts to NYS threatened or endangered marine species, the permittee shall implement the following conditions during construction and operation:

(i) Sightings of North Atlantic Right whales must be reported to NOAA, NYSDEC, and ORES as soon as possible, but no later than within 24 hours of the sighting.

(ii) The permittee shall comply with all applicable time-of-year restrictions required by the office in consultation with NYSDEC, unless otherwise approved through implementation of an approved (a) avoidance and minimization plan for NYS threatened or endangered species and/or (b) a NCBP prepared in consultation with NYSDEC and approved by the office for NYS threatened or endangered species.

(8) *Record all observations of NYS threatened or endangered species*. During construction and restoration of the facility, the permittee shall maintain a record of all observations of NYS threatened or endangered species as follows:

(i) *Construction.* During construction, the on-site environmental monitor shall be responsible for recording all occurrences of NYS threatened or endangered species within the facility site. All occurrences shall be reported in a biweekly monitoring report submitted to office staff, and such reports shall include the information described in subparagraph (iii) of this paragraph. If a NYS threatened or endangered bird species is demonstrating breeding behavior, it shall be reported to office staff within twenty-four (24) hours.

(ii) *Restoration.* After construction is complete, incidental observations of any NYS threatened or endangered species shall be documented and reported to office staff, in accordance with the reporting

requirements in subparagraph (iv) of this paragraph.

(iii) For any NYS threatened or endangered species not otherwise addressed in the siting permit, to protect the identified species or its potentially occupied habitat from immediate harm, the permittee shall secure the immediate area to the extent the permittee has property rights, and cease construction in that area until office staff authorizes recommencement of activities.

(iv) *Reporting requirements.* All reports of NYS threatened or endangered species shall include the following information: species; number of individuals; age and sex of individuals (if known); observation date(s) and time(s); Global Positioning System (GPS) coordinates of each individual observed (if operation and maintenance staff do not have GPS available, the report shall include the nearest road crossing or structure number); behavior(s) observed; identification and contact information of the observer(s); and the nature of and distance to any facility construction, maintenance, or restoration activity.

(9) *Discovery of nests or dead or injured NYS threatened or endangered species*.

(i) Excluding Bald Eagles, if an active nest of a Federal or NYS threatened or endangered bird species is discovered (by the permittee's environmental monitor or other designated agents) within the facility site, the following actions shall be taken:

(a) office staff shall be notified within twenty-four (24) hours of discovery and prior to any further disturbance around the nest, eggs, roost, or area where the species were seen exhibiting any breeding or roosting behavior;

(b) an area at least five hundred (500) feet in radius around the active nest shall be posted and avoided until notice to continue construction,

ground clearing, grading, maintenance, or restoration activities are granted by the office ; and

(c) the active nest(s) or nest tree(s) shall not be approached under any circumstances unless authorized by office staff.

(ii) If any dead or injured Federal or NYS threatened or endangered species, or eggs or nests thereof, are discovered by the permittee's on-site environmental monitor or other designated agent at any time during the life of the facility, the permittee shall immediately (within 24 hours) contact the NYSDEC, the United States Fish and Wildlife Service (USFWS), and, as applicable, the National Marine Fisheries Service (NMFS) and NOAA for federally-listed species, to arrange for recovery and transfer of the specimen(s). The office shall also be notified. The following information pertaining to the find shall be recorded:

(*a*) species;

(*b*) number, age and sex of the individual(s), if known;

(*c*) date of discovery of the animal or nest;

(d) condition of the carcass, or state of the nest or live animal;

(e) GPS coordinates of the location(s) of discovery;

(*f*) name(s) and contact information of the person(s) involved with the incident(s) and find(s);

(*g*) weather conditions at the facility site for the previous forty-eight (48) hours;

(*h*) photographs, demonstrating scale and of sufficient quality to allow for later

identification of the animal or nest; and

(i) an explanation of how the mortality/injury/damage occurred, if known.

(iii) Electronic copies of each record, including photographs, shall be kept with the container holding the specimen(s) and given to the NYSDEC or the USFWS at the time of transfer. If the discovery is followed by a non-business day, the permittee shall ensure all the information listed above is properly documented and stored with the specimen(s). Unless otherwise directed by the NYSDEC or the USFWS, after all information has been collected in the field, the fatality specimen(s) shall be placed in a freezer, or in a cooler on ice until transported to a freezer, until it can be retrieved by the proper authorities.

(10) The provisions of this subdivision shall remain in effect for as long as the relevant species is listed as NYS threatened or endangered species in New York State.

(y) *Wetlands, waterbodies, and streams*. Except as otherwise allowed in the permit or EM&CP, no construction activities shall occur within any wetlands, including tidal and freshwater wetlands, regulated adjacent areas, waterbodies, and streams (as identified in the jurisdictional determination by the office pursuant to section 1102-4.4(e)(2) of this Part). No construction materials, equipment, or vehicles shall be allowed to enter upon any such waterbodies, and no in-water sidecasting shall occur. The permittee shall implement the following procedures for approved construction within such waterbodies.

(1) *Contamination precautions*. The permittee shall take all necessary precautions to preclude contamination of any wetland, stream, or other waterbody by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, washings from transit mix trucks, mixers, or other devices or any other environmentally deleterious materials associated with the project.

(2) *Equipment maintenance, refueling, and storage*.

(i) Equipment storage, refueling, maintenance, and repair, and handling of containers containing pesticides, chemicals, or petroleum products, shall be conducted and safely contained more than one hundred (100) feet from all freshwater wetlands, waterbodies, and streams, and three hundred (300) feet from tidal wetlands. Refueling and emergency maintenance within one hundred (100) feet of all freshwater wetlands, waterbodies, and streams, or within three hundred (300) feet from tidal wetlands, will only be allowed under the following circumstances:

(a) refueling of hand equipment will be allowed when secondary containment is used. Secondary containment will be constructed of an impervious material capable of holding the hand equipment to be refueled and at least 110% of the fuel storage container capacity. Fuel tanks of hand-held equipment will be initially filled in an upland location greater than one hundred (100) feet from freshwater wetlands, waterbodies, or streams, or 150 feet from tidal wetlands in order to minimize the amount of refueling within these sensitive areas. Crews will have sufficient spill containment equipment on hand at the secondary containment location to provide prompt control and cleanup in the event of a release;

(b) refueling of equipment will be allowed within one hundred (100) feet of freshwater wetlands, waterbodies, or streams, or 150 feet of tidal wetlands when necessary to maintain continuous operations and where removing equipment from a sensitive area for refueling would increase adverse impacts to the sensitive area. Fuel tanks of such equipment will be initially filled in an upland location greater than one hundred (100) feet from freshwater wetlands, waterbodies, or streams, or one hundred fifty (150) from tidal wetlands in order to minimize the amount of refueling within

these sensitive areas. All refueling of equipment within one hundred (100) feet of freshwater wetlands, waterbodies, or streams, or one hundred fifty (150) feet of tidal wetlands will be conducted under the direct supervision of the environmental monitor. Absorbent pads or portable basins will be deployed under the refueling operation. In addition, the fuel nozzle will be wrapped in an absorbent pad and the nozzle will be placed in a secondary containment vessel (e.g., bucket) when moving the nozzle from the fuel truck to the equipment to be refueled. All equipment operating within one hundred (100) feet of a freshwater wetland, waterbody, or stream, or one hundred fifty (150) feet of a tidal wetland will have sufficient spill containment equipment on board to provide prompt control and cleanup in the event of a release;

(c) emergency maintenance within one hundred (100) feet of all freshwater wetlands, waterbodies will be allowed only when moving equipment out of the above areas is unavoidable and conducted with spill protection as required by the environmental monitor.

(ii) All equipment and machinery shall be stored more than one hundred (100) feet from all freshwater wetlands, waterbodies, and streams, and one hundred fifty (150) feet from tidal wetlands at the end of each workday unless moving the equipment will cause additional environmental impact.

(iii) Fuel or other chemical storage containers shall be appropriately contained and located at least three hundred (300) feet from wetlands, waterbodies, and streams.

(3) *Clean fill.* All fill shall consist of clean soil, sand, and/or gravel that is free of the following substances: asphalt, slag, fly ash, demolition debris, broken concrete, garbage, household refuse, tires, woody materials, and metal

objects. Reasonable efforts shall be made to use fill materials that are visually free of invasive species based on onsite and source inspections. The introduction of materials toxic to aquatic life is expressly prohibited.

(4) *Turbid water*. Construction and maintenance activities shall not result in substantial visible contrast due to turbidity or sedimentation downstream of the work site. Turbid water resulting from dewatering operations shall not be allowed to enter any wetland, waterbody, or stream. Water resulting from dewatering operations shall be discharged directly to settling basins, filter bags, or other approved device or measure.

(5) *Equipment washing*. Washing of trucks and equipment shall occur one hundred (100) feet or more from an ESA. Herbicides and wash water from such activities shall be controlled to avoid discharging into a wetland or adjacent area, waterbody, or stream. If runoff from such activities discharges into any wetlands, waterbodies, and streams office staff, NYSDEC, and APA (as applicable) shall be notified within two (2) hours.

(6) *Concrete washouts*. Concrete washouts and batch plants, or concrete from truck cleanout activity, any wash water from trucks, equipment, or tools, if done on site, shall be located and installed to minimize impacts to water resources. Washout locations should be at least one hundred (100) feet from any wetland, waterbody, or stream, and located outside wetland adjacent areas to the maximum extent practicable. Waste concrete and wash water shall be disposed of as construction debris.

(7) *Use of horizontal direction drilling (HDD)*. Installation of underground lines across wetlands, waterbodies, and streams shall be performed via HDD to the maximum extent practicable.

(8) *Trenching*. Open cut trenching in wetlands, waterbodies, and streams shall be performed in one continuous operation. All reasonable efforts shall be made to backfill open trenches within the same workday. The permittee shall consolidate trenching areas to the maximum extent practicable to minimize impacts to agricultural soils.

(9) *Discharge notice and response*. If construction activities undertaken by the permittee result in a discharge to a wetland, waterbody or stream that violates New York Water Quality Standards at 6 NYCRR Part 703, the permittee shall notify the office within two 2 (hours) and, in coordination with the environmental monitor, take appropriate corrective action. Following the implementation of appropriate corrective actions, if New York Water Quality Standards are not met the permittee shall stop work in the affected area of the Facility until authorized to proceed by the environmental monitor in consultation the office.

(z) *Wetlands*. The permittee shall implement the following requirements for wetlands and regulated adjacent areas (as identified in the delineations approved by the office pursuant to section 1102-4.4(e)(2) of this Part):

(1) *Construction in wetlands and adjacent areas*. All construction activities completed within wetlands and/or adjacent areas shall adhere to the following requirements:

(i) As approved in the EM&CP, work should be conducted during dry conditions without standing water or when the ground is frozen, where practicable.

(ii) The permittee shall implement best management practices to minimize soil compaction.

(iii) Temporary construction matting shall be used as necessary to minimize disturbance to the wetland soil profile during all construction and maintenance activities. All temporary construction matting shall be removed as soon as practicable following installation from the wetland and cleaned of any invasive species (seed, plant materials, insects, etc.) after construction/maintenance activities are completed and removal shall be verified with the environmental monitor after construction. Matting shall be removed by equipment stationed on a mat or areas outside the wetland or adjacent area.

(iv) If topsoil removal is necessary in wetland areas, the topsoil shall be removed and stored separate from subsoil.

The top twelve (12) inches of wetland topsoil shall be removed first and temporarily placed onto a geo-textile blanket. Subsoil dug from the trench shall be sidecast on the opposite side of the trench on another geo-textile blanket running parallel to the trench, if necessary.

(v) Only the excavated wetland topsoil and subsoil shall be utilized as backfill, with the exception of clean bedding material for electric lines and/or conduits, provided there is no change to the pre-construction contours upon restoration.

(vi) Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of possible turbid trench water from entering the wetland.

(vii) Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent wetland draining during construction.

(viii) In the event that construction results in an unanticipated alteration to the hydrology of a wetland (i.e., lowering), the breach shall be immediately sealed, and no further activity shall take place until the office is notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved.

(ix) Trenches shall be backfilled with the wetland subsoil and the wetland topsoil shall be placed back on top. All excess materials shall be completely removed to upland areas more than one hundred (100) feet from the wetland and suitably stabilized. Excess topsoil from agricultural areas shall be spread within the immediate agricultural areas within the approved limits of disturbance, or within other nearby areas that will still be used for agricultural production.

(x) When backfilling occurs, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth and grade as prior to disturbance.

(xi) All disturbed soils within wetlands and adjacent areas shall be seeded with an appropriate native wetland seed mix and shrubs, as site conditions and design allow, as appropriate for existing land uses. Straw mulch shall be maintained until the disturbed area is permanently stabilized. Hay shall not be used for mulching of wetlands or adjacent areas.

(xii) In agricultural or farmed wetlands, crop covers consistent with existing agricultural uses shall be utilized in all areas of soil disturbance.

(2) *Access roads through wetlands*. If access roads or work pads in wetlands cannot be avoided, their installation shall be performed using the following methods as shown on the EM&CP drawings:

(i) Where feasible, all work shall be done in dry conditions or on frozen ground upon approval of the environmental monitor in consultation with the office.

(ii) Where work cannot be performed in dry conditions or on frozen ground, temporary access roads shall use clean timber/construction matting that is completely removed after construction/maintenance activities are completed. Removal shall be verified with and reported to the office by the on-site environmental monitor after construction, or by the facility operator after maintenance work is completed.

(iii) Permanent access roads shall use a layer of geotextile fabric and a minimum of six (6) inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed. Access roads shall be designed and constructed to adequately support the type and frequency of the anticipated vehicular traffic and include suitable culverting or other drainage infrastructure as needed to minimize the impact to wetland hydrology.

(3) *Cut vegetation*. Cut vegetation in wetlands, with the

exception of invasive species, may be left in place (i.e., lop and drop), piled in dry or seasonally saturated portions of wetlands and adjacent areas to create wildlife brush piles, or removed.

(4) *Tree clearing*. Tree clearing shall be minimized to the extent practicable in wetlands and adjacent areas.

(5) *Fill placement*. The placement of fill in wetlands shall be designed to maintain pre-construction surface water flows/conditions between remaining on- or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Construction activity and final design shall not restrict or impede the passage of normal or expected high flows.

(6) *Concrete use*. For activities involving the placement of concrete into protected wetlands, forms shall be dewatered prior to the placement of the concrete. The use of tremie-supplied concrete is allowed if it complies with NYS water quality standards.

(7) *Stormwater setback*. Any new stormwater management infrastructure must be located outside of the wetland and adjacent area to the extent practicable or as required by a federal permit.

(8) *Wetland restoration*.

(i) Wetland restoration shall be completed according to the approved Wetland Restoration and Mitigation Plan submitted pursuant to section 1102-4.4(f) of this Part.

(ii) The permittee shall restore disturbed areas, ruts, and rills within wetlands and adjacent areas to original grades and conditions with permanent erosion controls appropriate for those locations.

(iii) Restoration of temporary impacts to wetlands and adjacent areas to pre-construction contours shall be completed within forty-eight (48) hours of final

backfilling of the trench/excavated areas and restored to pre-construction contours as soon as practicable.

(iv) Immediately upon completion of grading, and as consistent with existing land use/land cover, the area shall be seeded with an appropriate native species mix for wetlands and upland areas adjacent to wetlands, except that adjacent areas may be reseeded differently at the request of the landowner.

(v) In any areas where woody vegetation has been cleared or uprooted, the vegetation shall be replaced with right-of-way compatible native plantings as site conditions and facility design allow, and as appropriate for consistency with existing land uses, excluding permanent access roads and areas needed for operation and maintenance of the project.

(vi) The permittee shall attain eighty (80) percent vegetative cover across all disturbed soil areas by the end of the first full growing season following construction. Overall vegetative cover in restored areas shall be monitored for a minimum of five (5) years. Post- construction monitoring shall continue until an eighty (80) percent survivorship of native woody species or eighty-five (85) percent absolute cover of native herbaceous species appropriate wetland indicator status has been reestablished over all portions of the replanted area, unless the invasive species baseline survey indicates a smaller percentage of survivorship or cover of appropriate native species exists prior to construction.

(vii)Notification shall be provided to the office once eighty (80) percent cover has been achieved.

(9) *Mitigation*. The permittee shall implement the approved Wetland Restoration and Mitigation Plan submitted pursuant to section 1102-4.4(f) of this Part.

(aa) *Work in surface waters*. The permittee shall implement the following requirements for surface waters (as identified in the jurisdictional determination by the office pursuant to section

1102-4.4(e)(2) of this Part):

(1) *Dry conditions*. In-stream work shall only occur in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area. Any waters accumulated in isolated work areas shall be discharged to an upland settling basin, field, or wooded area to provide for settling and filtering of solids and sediment before water is return to the stream. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.

(2) *In-water work windows*. In-stream work shall be prohibited from September 15 through May 31 in cold water fisheries and March 15 through July 15 in warm water fisheries. Coastal waters may be subject to separate work timing restrictions.

(3) *Stream channels.* The restored stream channel shall be equal in width, depth, gradient, length, and character to the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. The planform of any permanent stream shall not be changed, unless dictated by restoration or mitigation objectives. The stream channel shall be restored to pre-existing conditions to the maximum extent practicable.

(4) *Stream banks.* All disturbed stream banks shall be temporarily stabilized within forty-eight (48) hours of final grading, and stabilized with one hundred (100) percent natural or biodegradable fiber matting, and seeded with an appropriate riparian seed mix as specified in the approved EM&CP. In any areas where woody vegetation has been uprooted or grubbed on stream banks, the vegetation shall be replaced with right-of-way compatible native plants as site conditions and facility design allow, and as appropriate for consistency with existing land uses, excluding permanent access roads and areas needed for operation and maintenance of the project.

(5) *Felled trees*. Trees shall not be felled into any stream or stream bank.

(6) *Culvert repairs*. Culverts shall be repaired consistent with section 1102-3.3(d) of this Part.

(7) *Access road crossings of streams*. Construction vehicle access across streams and other waterbodies shall be limited to approved existing, permanent, or temporary crossings, or installed in accordance with the approved Stream Crossing Plan, required by section 1102-4.4(g) of this Part. The creation, modification, or improvement of any road crossing of a NYS-protected waterbody shall meet the following requirements:

(i) temporary bridges or culverts may not be dragged through the stream and must be suitably anchored to prevent downstream transport during a flood;

(ii) new bridges and culvert pipes that the permittee is required to install shall be designed to safely pass the one (1) percent annual chance storm event;

(iii) culvert pipes shall be embedded twenty (20) percent beneath the existing grade of the stream channel;

(iv) width of the structure shall be a minimum of one and a quarter (1.25) times the width of the mean high-water channel; and

(v) the culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than three (3) percent, an open bottom culvert or a culvert with baffles shall be used.

(8) *Overhead lines across NYS-protected streams*. If construction of overhead power line crossings requires cutting of trees or shrubs within fifty (50) feet of a NYS-protected waterbody, cut materials shall be left on the ground, unless within the waterbody or stream bank.

(9) *Stream flows*. During periods of work activity, flow

immediately downstream of the work site shall equal flow immediately upstream of the work site. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.

(10) *No aquatic impediments*. In-stream work, including the installation of structures and bed material, but excluding dewatering associated with dry trench crossings, shall not result in an impediment to aquatic organisms. All fish trapped within cofferdams shall be netted and returned, alive and unharmed, to the water outside the confines of the cofferdam, in the same stream.

(11) *Drop height*. Any in-stream structures placed in a stream shall not create a drop height greater than six (6) inches.

(12) *Restoration*. The permittee shall implement the approved measures for stream restoration submitted pursuant to section 1102-4.2(c) of this Part.

(ab) *In-water cables*. The permittee shall use best efforts to site the cable within the in-water facility corridor and conduct site preparation activities required to achieve the target burial depth during installation while minimizing impacts. Unless otherwise specified in the approved EM&CP in consultation with the office, the permittee shall implement the following:

(1) *Pre-installation.*

(i) Prior to the commencement of installation of the in-water facility, the permittee shall engage in offshore site preparation, as necessary, to install the in-water cables and achieve the target burial depth, including:

(a) boulder removal, which will be minimized to the maximum extent practicable;

(b) pre-lay grapnel run;

(c) marine debris removal;

(d) unexploded ordnance clearance;

(e) pre-installation surveys;

(f) pre-sweeping through use of mass flow excavation or a dredge, where needed for sandwave leveling or utility crossings, which will be minimized to the maximum extent practicable;

(g) utility crossing preparation; and

(h) pre-trenching by running the cable burial equipment over portions of the route prior to cable lay, where deeper burial depths or sediment conditions may otherwise limit the ability to achieve target burial depth.

(2) A pre-installation trial shall be conducted to establish operating conditions that will minimize the suspension of in-situ sediments and contaminants during the jetting and mass flow excavation activities. Pre-installation trials for any proposed jetting tools and mass flow excavation tools must be conducted prior to cable installation and within representative sections or areas proximate to the in-water cable route in NYS waters to evaluate compliance with Total Suspended Solids (TSS) threshold limit, turbidity, and other applicable NYS water quality standards. Pre-installation trials, shall:

(i) include approximately one thousand (1,000) feet of operations within an area to be specified in the Pre-Installation Trial Plan;

(ii) use appropriate instruments as specified in the Pre-Installation Trial Plan to measure water column TSS and turbidity on selected transects in the field;

(iii) collect and analyze companion samples using a NYSDOH Environmental Laboratory Approval Program

laboratory certified for TSS; and

(iv) collect samples of TSS and any constituents required by the siting permit at three-interval depths (near surface, mid-depth, and near bottom) as follows:

(a) up-current outside of the influence of the construction activities, for baseline to determine ambient, or background conditions; and

(b) down-current of the pre-installation trial, at the edge of the regulatory mixing zone.

(3) The permittee must consult with the Aquatic Environmental Monitor and the office to review the results of the TSS field measurements during the pre-installation trials to evaluate whether the operating conditions result in TSS concentrations that exceed the TSS limit.

(4) If the pre-installation trials demonstrate that the operating conditions result in TSS concentrations that exceed the applicable TSS limit, the permittee must work with the Aquatic Environmental Monitor and, the office to evaluate and implement practical operational modifications to the jetting or mass flow excavation tools to further reduce in-situ sediment re-suspension associated with the equipment operations.

(5) Jetting and mass flow excavation operations may proceed after the pre-installation trial field monitoring and laboratory results for all required constituents are submitted by the permittee for review and accepted by the office.

(6) *In-water cable installation.*

(i) Exclusive of the portion of the cable approaching the cable landfall, unless a deeper depth is otherwise required by the USACE permit(s), the permittee shall install the in-water cables a minimum target burial depth of six (6) feet below the existing stable sediment surface. Stable sediment surface refers to the depth at

which sediment is not influenced by mobile bedforms, often the trough of a sandwave.

(ii) Where the facility will be installed within the federally-authorized navigational channel or federally-designated anchorage areas, the permittee shall install the submarine cables to a minimum target burial depth as required by the USACE permit(s).

(iii) Should the target burial depth not be achieved during the initial pass of the cable installation tool that is best suited to achieve target burial depth, the permittee shall perform at least one (1) and up to two (2) additional passes with the installation tool, or other burial tool that will achieve the project's requirements, unless:

(a) additional passes risk causing damage to the in-water cables or the installation tool; or

(b) due to geologic obstructions, additional passes would not increase the burial depth or risk causing cable exposure.

(iv) The permittee shall not leave any portions of the cable exposed on the sediment surface without cable protection measures at the conclusion of construction.

(v) In areas where sediment conditions, geologic or topographic features, or utility crossings do not allow the permittee to achieve target burial depth, the permittee is authorized to use cable protection methods, as approved in the EM&CP.

(vi) If cable protection is necessary in "non-trawlable" habitat, as identified in the EM&CP, then the permittee shall, to the extent technically feasible, use materials that reflect the pre-existing conditions of the benthic environment in those locations.

(vii) The permittee shall install and maintain any necessary cable protection measures in a manner that

maintains overtrawlability to the extent technically feasible, minimizes shifting over time, and avoids creating a discernable berm.

(viii) If unanticipated boulders are encountered during in-water cable installation and avoidance cannot be achieved, the permittee shall relocate any encountered boulders within sixty-five (65) feet of the approved centerline of the cable if required to increase the likelihood of achieving target burial depth.

(a) Boulders shall be placed together where possible, to reduce the overall area of obstruction.

(b) Where the permittee has relocated a boulder one (1) meter or more in diameter a distance of two (2) meters or more from the location where it was initially encountered, the permittee shall provide notice to mariners and NYSDEC-Licensed Fishermen.

(ix) To the maximum extent practicable, the permittee shall avoid all known sensitive benthic habitats, including, but not limited to, hard bottom, complex habitat, SAV, and sandwaves, when installing the in-water facility. If previously unknown sensitive benthic habitat is encountered, the permittee shall use best efforts to avoid impacts to the maximum extent practicable via micro-siting.

(x) The permittee must operate the jetting and mass flow excavation tools in accordance with the operating conditions determined through the pre-Installation trials.

(xi) No changes in the approved installation technologies or reduction in target burial depth shall be allowed for facilities within coastal waterbodies without prior consultation with the office, NYSDEC, and NYSDOS. In the event that NYSDOS determines that such deviation would result in coastal effects that differ significantly from those reviewed in the Coastal

Consistency Certification (15 CFR Part 930), the permittee shall obtain a written concurrence from NYSDOS for any such project changes that would require a modification of the permittee's Coastal Consistency Certification.

(xii) Consultation with the U.S. Coast Guard (USCG) should occur early and prior to installation of each segment of the in-water cable. In-water cables will be placed in such a manner that the Project will not preclude navigation during construction, operation and maintenance, except as approved in the EM&CP and coordinated with the USCG. Vessels will be allowed to continue to move through the navigation channels safely and efficiently during construction, operation and maintenance of the Project.

(7) *Water quality monitoring and operational modifications*. If, during water quality monitoring pursuant to the Suspended Sediment and Water Quality Monitoring Plan, water quality measurements exceed the limits established in the siting permit:

(i) the office and the Aquatic Environmental Monitor shall be immediately notified;

(ii) the permittee shall employ one or more of the operational modifications provided in the EM&CP as soon as possible in consultation with the Aquatic Environmental Monitor and the office:

(a) changing the rate of advancement of the equipment;

(b) modifying hydraulic pressures; or

(c) implementing other reasonable operational controls that may reduce suspension of in situ sediments.

(iii) the permittee shall not be required to reduce hydraulic jetting pressures to levels which would not

allow burial to the target burial depth specified in the siting permit, EM&CP, or other applicable permits and approvals;

(iv) after any operational modifications are implemented, turbidity will be measured and water quality samples will be collected and analyzed in accordance with the procedures outlined in the Suspended Sediment and Water Quality Monitoring Plan;

(v) the results of all water quality monitoring and sampling will be provided to the office, NYSDEC, and the Aquatic Environmental Monitor;

(vi) during implementation of operational modifications, the office may require additional monitoring until compliance with the applicable limits is demonstrated;

(vii) samples shall be collected until resumption of routine monitoring is authorized by the office.

(8) *Dredging.*

(i) Dredging activities shall comply with state water quality standards and be performed in accordance with the approved Dredge Management Plan, included in the EM&CP.

(ii) Only vessels, barges, or scows in good operating condition shall be used.

(iii) For mechanical dredging operations, the permittee shall:

(a) use a sealed environmental clamshell bucket to minimize sediment suspension;

(b) ensure that seals or flaps designed or installed at the jaws and locations of vent openings tightly cover these openings while the bucket is lifted through the water column and into the barge;

(c) equip the environmental bucket with sensors to ensure complete closure of the bucket before lifting through the water;

(d) operate the bucket so as to control the rate of the descent and to maximize the depth of penetration without overfilling the bucket;

(e) lower the bucket to the level of the barge gunwales prior to release of the load and place the excavated material deliberately and in a controlled manner;

(f) limit bucket hoist speed to approximately two (2) feet per second and the bucket shall be lifted in a continuous motion through the water column and into the barge to minimize turbidity;

(g) suspend operations until any necessary repairs or replacements are made when a significant loss of water and visible sediments from the bucket is observed;

(h) allow no barge overflow;

(i) not commence decanting of barges until approved by the office; and

(j) not sidecast, and will ensure all material is recovered to a barge.

(iv) For hydraulic/suction hopper dredging, the permittee shall remove displaced dredged material to a barge or trailing suction hopper dredger. The dredged material will be transported for beneficial reuse or disposal at a permitted disposal facility.

(v) The following will apply if decanting and dewatering will occur:

(a) The overlying water in the barge or dewatering area may be pumped to the water column only after a

minimum 24 hours of settling to ensure that decanting does not violate water quality standards or guidance values for TSS, turbidity, and contaminants.

(b) Dewatering and decanting activities for contaminated sediments will require sampling and analysis of effluent prior to discharge to confirm compliance with water quality standards at the point of discharge. No chemicals shall be added to aid in dewatering unless approved by the office prior to the use of the chemical and discharge of the effluent.

(c) Decanting of the barge shall be conducted in a manner that precludes adding substantial suspended solids, turbidity, or sheens to the receiving water body. Pumping of decant water shall avoid re-suspending or pumping previously settled sediment to the maximum extent practicable.

(d) Decanting and dewatering activities may not cause turbidity that results in a substantial visible contrast to the receiving waterbody. If a visual contrast is observed, pumping shall be stopped immediately and the office will be notified and an evaluation of the adequacy of the holding time and/or the need to add a flocculant to aid in settling shall be undertaken by the permittee.

(e) Washing of the gunwales of the scow or other vessels where dredged sediment is stored and transported will be avoided, except to the extent necessary to ensure the safety of workers.

(vi) If needed, imported backfill shall be clean material of similar grain size to the dredged material.

(vii) Management of contaminated dredged material shall be as follows:

(a) Contaminated material may not be used as backfill.

(b) If dredged material is not eligible for a Beneficial Use Determination in accordance with 6 NYCRR Part 360 prior to dredging, the permittee shall identify the final upland disposal location, including a letter from the permitted disposal facility verifying that it will accept the material. The final material disposal location shall be submitted to ORES and NYSDEC at least fourteen (14) days prior to disposal.

(c) Disposal of all material must comply with 6 NYCRR Part 360 et seq.

(d) All contaminated material shall be handled in accordance with the procedures specified in the Dredge Management Plan.

(e) The Aquatic Environmental Monitor shall inspect all dredging and backfilling equipment prior to use and shall perform periodic inspections of all such equipment no less than once per week when in use.

(9) *Water quality, in-water cables.*

(i) Limits for TSS, turbidity and chemical parameters must be achieved at the defined mixing zone distance, down current of sediment disturbing activities. The mixing zone shall be defined in the site specific permit conditions, by the office.

(ii) Water quality monitoring shall be conducted in accordance with the Suspended Sediment and Water Quality Monitoring Plan which shall be in the approved EM&CP.

(iii) A pre-activity water quality calibration will be conducted to ensure that TSS may be accurately estimated in the field during water quality monitoring activities.

(iv) Sewage, industrial waste, or other wastes that will cause deposition or impair the waters for their best usages shall not be discharged into any waterbody.

(v) The permittee will implement operational controls to the maximum extent practicable to comply with TSS limits at the outer limit of the mixing zone down current (based on tide direction) of sediment disturbing activities.

(vi) If TSS concentrations estimated in the field at the outer limit of the mixing zone exceed ambient TSS concentrations by more than the TSS limit, the permittee's contractor shall employ additional operational controls to bring TSS levels back into compliance, in consultation with or at the direction of the Aquatic Environmental Monitor.

(vii) The concentrations of any constituents listed in the siting permit and approved EM&CP, as measured in the samples collected down-current of the sediment disturbance activities, at the outer limit of the applicable mixing zone, shall not exceed the water quality standard, unless the ambient sample exceeds the water quality standard, in which case the permit limit shall be 1.3 times the highest ambient background level measured during the same sampling day at the up-current background station at the same depth as the down-current sample.

(viii) The permittee shall request the most expedited turnaround time available for laboratory samples for locations along the submarine cable route.

(a) Analytical results must be sent electronically to the office within forty-eight (48) hours of receipt from the laboratory.

(b) Exceedances must be highlighted.

(c) Additional operational controls or other mitigation measures are to be implemented to bring

constituent levels back into compliance shall be developed in consultation with, or at the direction of, the office and the Aquatic Environmental Monitor.

(10) *Cable monitoring and maintenance.*

(i) The permittee shall be responsible for remedying any exposure of the submarine cables in accordance with the Cable Monitoring and Maintenance Plan.

(ii) The permittee shall begin implementing the Cable Monitoring and Maintenance Plan within a maximum of 15 days from when the permittee is notified of such in-water cable exposure, unless the permittee files a request with the office to extend the start of implementation on the basis of risks to safety, the environment, applicable time-of-year restrictions, maritime operations, weather conditions, equipment availability and/or service impacts. Any such extension request will provide the reason for the extension and the anticipated repair schedule.

(ac) *Agricultural resources*. In all instances in which construction of the permitted facility will permanently or temporarily impact land used in agricultural production, the permittee shall:

(1) Hire an independent, third-party agricultural monitor to oversee compliance with agricultural conditions and requirements, including the avoidance, minimization, and mitigation measures described in the application; the approved Drainage Remediation Plan required pursuant to section 1102-2.18(c) of this Part; and the Final Design Plans, Profiles, and Detail Drawings pursuant to include the approved EM&CP. The Agricultural Monitor shall be available to provide site-specific agricultural information to the permittee and office as necessary for EM&CP development. The office, in consultation with the NYSAGM, shall verify and approve the qualifications required to fulfill the role of the agricultural monitor have been met. If the office, in consultation with the NYSAGM, agrees that the independent

third-party monitor is qualified on agricultural issues, one monitor can act as both the general environmental monitor as well as the agricultural-specific environmental monitor.

(2) Implement the avoidance, minimization, and mitigation measures described in the application.

(3) Implement the approved Drainage Remediation Plan required in section 1102-2.18(c) of this Part.

(ad) *Cultural resources*.

(1) The permittee shall ensure that no construction site preparation, clearing, or other disturbance is undertaken in previously undisturbed areas where archeological surveys have not been completed until such time as the office, in consultation with OPRHP, has reviewed the results of any additional archeological and historic resource surveys that are required, and has provided final effect or impact determination letter(s).

(2) The permittee shall implement the approved Cultural Resources Avoidance, Minimization, and Mitigation Plan (CRAMMP) required in section 1102-4.4(p) of this Part and shall ensure consistency between the CRAMMP, the approved Site Avoidance Plans, and the project location, design, and construction and vegetation management measures specified in the EM&CP.

(ae) *Decommissioning*.

(1) A Decommissioning and Site Restoration Plan shall be required for proposed facilities that will be subject to a lightened ratemaking regulatory regime as determined by the PSC, proposed to be developed as part of an energy generation project, or proposed to serve a dedicated customer.

(2) The Decommissioning and Site Restoration Plan shall address the following:

(i) the anticipated useful life of the proposed facility, including all facility components;

(ii) safety and the removal of hazardous conditions;

(iii) evaluation of environmental impacts;

(iv) aesthetics;

(v) recycling;

(vi) potential future uses for the site;

(vii) funding;

(viii) schedule; and

(ix) procedures and timeframes for notifying municipal officials and landowners and residents (if different from owners) of all properties that are crossed by or abut against the project ROW along the route of decommissioning activities.

(3) The Decommissioning and Site Restoration Plan shall include gross and net decommissioning and site restoration estimates. The net cost estimate may include salvage value (including reference to cost and value data sources and assumptions).

(i) The gross cost estimates shall include line items and associated dollar amounts for decommissioning of all facility components removed four (4) feet below grade in lands used in agricultural production and three (3) feet below grade in non-agricultural land, and site restoration, including permitting and other overhead costs.

(ii) The net cost estimates shall include a fifteen (15) percent contingency on the gross decommissioning and site restoration estimates. The net amount shall be shown in aggregate and as allocated between each affected municipality based on the estimated cost associated with the removal and restoration of the facilities located in the jurisdiction of each

municipality.

(iii) For in-water facilities, including those associated with offshore wind, the cost estimates shall include:

(a) the onshore facilities; and

(b) that portion of the submarine cable route from the landfall locations to the boundary of New York State territorial waters or, for intercoastal cable crossings or HDD river/stream crossings, opposite landfall location.

(4) For in-water facilities, the plan shall also provide that for portions of the submarine cable route from the landfall location to the boundary of New York State territorial waters or, for intercoastal cable crossings or HDD river/stream crossings, opposite landfall locations the permittee shall survey and use best efforts to remove installed cable protection measures that are within two (2) feet of the sediment surface, unless the office determines the cable protection measures should be left in place based on:

(i) An analysis by the permittee of the options for decommissioning the project, including any cable protection measures used, and restoring the project area, including any decommissioning methods and potential impacts to the environment for each option.

(ii) If applicable, a description of how the permittee will address impacts of leaving any portion of the project in place.

(5) The financial security regarding decommissioning and site restoration activities shall be in the form of a letter of credit (LOC), or other financial security approved by the office, and shall be established by the permittee to be held by each municipality hosting facility components or the State.

(i) The financial security shall be irrevocable and state on its face that it is expressly held by and for the sole benefit of the specific host municipality or the State.

(ii) If the permittee and the host municipality(ies) cannot come to an agreement as to the appropriate amount of the financial security to be provided, the office shall make the final determination.

(iii) The financial security shall remain active until the facility is fully decommissioned.

(6) The financial security agreement(s) shall provide that, subject to the conditions of the siting permit, if the permittee is not diligently implementing the Decommissioning and Site Restoration Plan, the beneficiary thereof may exercise its right to draw on the financial security and carry out the Decommissioning and Site Restoration Plan following the occurrence of any of the following events:

(i) the project’s construction has halted for a period of twelve (12) continuous months, unless the 12-month period of inactivity is the result of reasonably unforeseen circumstances, recommencement is being actively pursued in good faith by the permittee, and the permittee otherwise obtains approval from the office for such construction inactivity; or

(ii) after energization of the project, if the project has not transmitted electricity for a period of twelve (12) continuous months, unless the 12-month period of no energy transmission is due to a Force Majeure event or the result of a repair, restoration, or improvement to an integral part of the project that affects the generation of electricity and that repair, restoration, or improvement is being actively pursued in good faith by the permittee, or the permittee otherwise obtains approval from the office for the project to not operate for such period of time;

(iii) for in-water facilities, if the permittee does not begin implementing the Cable Monitoring and Maintenance Plan within fifteen (15) days of the date the permittee is made aware of in-water cable exposure, or if the permittee ceases to diligently implement the Cable Monitoring and Maintenance Plan with respect to such exposure to the reasonable satisfaction of the office, unless the office approves an extension request.

(7) The permittee shall file notice with the office and each municipality hosting facility components if it is anticipated that repairs or completion of construction (or similar) will extend beyond a 12-month inactive period. Such notice shall be provided prior to the conclusion of the 12-month inactive period and within thirty (30) days of the permittee becoming aware of the anticipated need for additional time to complete the repairs, construction, or similar. The permittee shall describe the permittee's good faith efforts to restore function or complete construction, or intent to decommission the facility. Written notice shall also be provided to adjoining landowners of planned decommissioning and site restoration activities prior to commencement of those activities.

Section 1102-3.5. Facility operation.

(a) *Operational noise limits.*

(1) For any converter station, substation, or switchyard located in cities with a population over one million the substantive provisions of that city's local laws and regulations on noise and vibration shall apply.

(2) For converter stations including any adjoining substation not located in cities with a population over one million:

(i) A maximum noise limit of forty-two (42) dBA Leq (1-hour) maximum equivalent continuous average sound level outside of any type 1 sensitive sound receptors (see section 1102-2.9(f)(1) of this Part), subject to the prominent tone penalties specified in section 1102-

2.9(b)(3)(i) of this Part.

(ii) A maximum noise limit of fifty-five (55) dBA Leq (1-hour) outside of any type 5 sensitive sound receptors (see section 1102-2.9(f)(5) of this Part). No penalties for prominent tones will be added in this assessment.

(b) *Operational compliance*. The permittee shall operate the facility to abide by applicable rules and regulations of the PSL and this Title with respect to matters such as enforcement, investigation, safety, and reliability. The permittee shall abide by standard Good Utility Practice, and abide by all rules, guidelines and standards of the interconnection utility(ies), the New York Independent System Operator (NYISO), the Northeast Power Coordinating Council (NPCC), the New York State Reliability Council (NYSRC), the North American Electric Reliability Corporation (NERC) and successors. The permittee shall obey operational orders issued by the NYISO.

(c) *Interconnection changes*. Throughout the life of the facility, the permittee shall provide a copy of the following interconnection documents to the secretary to the commission, with a copy to the office:

(1) any updates or revisions to any Interconnection Agreement or Facility Agreement between the permittee, the interconnecting utilities, and NYISO; and

(2) any system impact study required as part of a future facility modification or upgrade not subject to these rules, performed in accordance with the NYISO Open Access Transmission Tariff (OATT), if applicable.

(d) *Facility malfunction and transmission interconnection related incidents.*

(1) In the event of a malfunction of the facility or facility components or transmission related incident which causes a significant reduction in the capability of such facility to deliver power for an extended duration (i.e., expected to last longer than one (1) month), the permittee shall promptly provide the serving utility (if different

from the permittee) and office, copies of all notices, filings, and other substantive written communications with the NYISO as to such reduction, any plans for making repairs to remedy the reduction, and the schedule for any such repairs. Upon request, within seven (7) days, the permittee shall file with the office and the serving utility, if different from the permittee, a report on the incident. The report shall contain, when available, copies of applicable drawings, descriptions of the equipment involved, a description of the incident, plans for making repairs to remedy the reduction, and a discussion of how future occurrences will be prevented.

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Subpart 1102-4. Pre-construction Compliance Filings.

Section 1102-4.1. Environmental management and construction plans.

(a) Prior to commencement of construction, the permittee shall file for approval by the office an Environmental Management and Construction Plan (EM&CP). The EM&CP may be phased by project construction activities or segmented by project construction locations in order to facilitate construction sequencing, provided that the first EM&CP identify the remaining EM&CP phases or segments and expected filings. Each EM&CP shall clearly describe the associated locations and scopes of work for all segments and phases, and shall include any updates or revisions to the segmenting or phasing plans described in the first EM&CP.

(b) The EM&CP for each phase or segment shall include the information required in this section, as applicable to the project segment, phase, and scope of work proposed in the EM&CP as a single filing package. If any particular requirement of the EM&CP is not applicable, not provided, or otherwise not addressed, the permittee shall so indicate and include supporting justification.

(c) The EM&CP may include any refinements to maps, plans, and other components of the application, to reflect updates to the final design and construction plans for the facility within the approved facility corridor and in a manner that complies with the permit. The EM&CP shall include a narrative description of such refinements and an explanation with supporting information as to why they are consistent with section 1100-11.1(a) of this Title.

Section 1102-4.2. EM&CP description and statement of objectives, techniques, procedures, and requirements.

Section A of the Environmental Management and Construction Plan (EM&CP) shall include a narrative addressing the location of the route, description and statement of objectives, techniques, procedures, requirements, and impacts avoidance, minimization, and mitigation. A table of contents will be included for the EM&CP and each section, appendix, or exhibit containing ten or more pages. The narrative portion of the EM&CP shall include, but need not be limited to, all the following information:

(a) *Facility location and description.* Describe the location and limits of the project's temporary right-of-way (ROW), limits of disturbance, and permanent ROW, or easement for in water installation, and explain the need for any additional property or access rights. Describe how the final facility design and location addresses any concerns raised by any Federal, State, or local agencies, Indigenous Nations, and other stakeholders. Provide a rationale for the inclusion of any mid-span splice locations proposed.

(b) *Vegetation clearing and disposal methods.*

(1) Describe the methods and rationale for the type and manner of cutting and disposition or disposal methods for cut vegetation.

(2) Detail measures that will be employed to avoid damage to desirable vegetation, rare, threatened, and endangered species or species of special concern, important screening trees, and hedgerows, including appropriate measures to minimize tree clearing, install tree protection fencing around critical root zone, and minimize soil compaction within temporary work areas that will be revegetated post-construction, including but not limited to work areas within SCFWHs, open space, parkland, and wetlands and waterbodies.

(3) Describe any landowner agreements for retention of timber or other cut vegetation.

(4) Describe methods of compliance with 6 NYCRR Part 192 – Forest Insect and Disease Control, applicable New York State Department of Environmental Conservation (NYSDEC) quarantine orders, and New York State Department of Agriculture and Markets (NYSAGM) regulations.

(c) *Wetlands, streams, and other waterbodies.*

(1) Develop a summary table of wetlands, streams, and other waterbodies within the project's temporary ROW.

(i) For each stream and other waterbody, indicate the following:

(a) municipality (location);

(b) facility location (mileposts);

(c) GPS coordinates;

(d) stream name;

(e) field/map identification name;

(f) stream flow designation (e.g., perennial, intermittent, or ephemeral);

(g) NYSDEC stream classification;

(h) water index number;

(i) fishery type;

(j) crossing method and length; and

(k) jurisdiction.

(ii) For each freshwater wetland, indicate the following:

(a) municipality (location);

(b) facility location (milepost);

(c) GPS coordinates;

(d) wetland field designation (name);

(e) NYSDEC and NWI Cowardin classification code or, if located in the Adirondack Park, the numerical value assigned to the wetland;

(f) wetland cover type;

(g) wetland functions and values;

(h) crossing method and length;

(i) proposed structures located within wetland and regulated adjacent area;

(j) total area (square feet) of temporary and permanent disturbance in wetland and regulated adjacent area;

(k) total area (square feet) of conversion of forested and scrub-shrub wetlands; and

(l) jurisdiction.

(iii) For each tidal wetland, provide a table of the tidal wetlands crossed or filled by the facility and including:

(a) municipality (location);

(b) facility location (milepost);

(c) GPS coordinates;

(d) wetland type;

(e) crossing method and length;

(f) amount of excavation;

(g) amount and source of fill (if applicable);

(h) existing and proposed lot coverage; and

(i) jurisdiction.

(2) Provide a narrative description of construction activities within protected wetlands, State-regulated wetland adjacent areas, streams and other waterbodies that includes:

(i) A description of the measures to be taken to

protect stream bank stability, stream habitat, and water quality including:

(a) crossing techniques;

(b) crossing structure types;

(c) timing restrictions for in-stream work;

(d) stream bed and bank restoration measures;

(e) vegetation restoration measures; and

(f) any site-specific measures to minimize impacts, protect resources, and manage facility construction.

(ii) A description of all activities that will occur within wetlands or State-regulated adjacent areas. Describe how impacts to wetlands, State-regulated adjacent areas, associated drainage patterns, and wetland functions will be avoided and minimized. For State-regulated wetlands and adjacent area this requires an assurance that the proposed activities are consistent with the weighing standards set forth in 6 NYCRR 663.5(e) and (f) and standards for issuance of permits set forth in 6 NYCRR 661.9.

(iii) A description of proposed measures for the protection of functions and drainage patterns of non-State-regulated wetlands (e.g., town, Federal wetlands).

(iv) Measures to minimize soil compaction, including the use of temporary matting, low weight to surface area equipment, or constructing when soils are frozen.

(v) Measures and details demonstrating how work areas will be isolated from flowing streams and standing water in wetlands, including the use of water handling methods such as sandbags, cofferdam, piping, or pumping. The details shall include a discussion of:

(a) management of waters accumulated in the

isolated work area to ensure settling and filtering of solids and sediments before water is returned to a wetland or waterbody;

(b) restoration measures for the isolated work area in streams including the complete removal of the temporary measures, reestablishment of pre-construction contours, and stabilization and seeding immediately following the completion of work; and

(c) the manner by which low flow conditions will be maintained and water depths and velocities similar to undisturbed upstream and downstream reaches will be preserved so that the movement of native aquatic organisms is sustained.

(vi) Measures to minimize impacts to fish and wildlife during construction, including actions to prevent entrapment of fish and wildlife in the work area and, if entrapment occurs, actions to timely and safely move the animals to appropriate undisturbed locations outside the work area.

(vii) Procedures to remove all excess fill materials to upland areas at least fifty (50) feet from waterbodies and outside of the State-regulated adjacent area.

(3) Provide a narrative description wetland and waterbody restoration that includes:

(i) Plans for stabilizing the bed and banks of all streams disturbed by construction with grading and revegetation as necessary.

(ii) Plans for revegetation of disturbed protected wetlands and State-regulated adjacent areas with native plants. Appropriate native wetland species mixes must be described.

(iii) Plans for monitoring of wetland restoration areas until an eighty (80) percent cover of native plant

species with the appropriate wetland indicator status has been reestablished over all portions of the restored area.

(d) *Stream crossings.* For proposed crossings of streams and other waterbodies, provide the following:

(1) Detailed description of all proposed stream crossing locations and methods, with reference to the approved Stream Crossing Plan for trenchless methods as required by section 1102-4.4(g) of this Part.

(2) If a bridge is not practicable for a new permanent stream crossing, an alternatives analysis must be provided, including written justification for why a bridge is not practicable.

(e) *Agricultural areas.*

(1) Describe programs, policies, and procedures to mitigate agricultural impacts such as soil compaction.

(2) Explain how construction plans either avoid or minimize crop production losses and impacts to vulnerable soils.

(3) Indicate specific techniques and references to appropriate agricultural protection measures recommended by NYSAGM guidelines (see section 1100-17.1(l)(1)(ii) of this Title).

(f) *Sensitive land uses*. Describe the sensitive land uses (e.g., hospitals, emergency services, sanctuaries, schools, residential areas, parks/recreational areas, local businesses, etc.) that may be affected by construction of the facility, or by construction-related traffic, and specify measures to minimize the impacts on these land uses.

(g) *Cultural resources.* Describe the archaeological and above-ground cultural resources that may be affected by construction of the facility or by construction-related traffic and specify measures to minimize impacts on these resources.

(h) *Access roads, lay-down areas, and workpads.* Discuss the proposed access to the project ROW, including the areas where temporary or permanent access is required, and the nature of access improvements based on natural features, real property constraints, equipment constraints, and vehicles to be used for construction and maintenance, and the duration of access needs through restoration and the maintenance of the facility.

(1) Discuss the types of access which will be used and the rationale for employing that type of access including consideration of:

(i) temporary installations;

(ii) permanent installations;

(iii) use of existing roads, driveways, farm lanes, rail beds, etc., and a description of any improvements required to meet applicable standards or otherwise needed for construction of the project; and

(iv) other proposed access including by air and water.

(2) Indicate the associated drainage and erosion control features to be used for access road construction and maintenance.

(3) Indicate the type(s) of stream crossing method to be used in conjunction with temporary and permanent access road construction, including rationale for each proposed crossing method.

(4) All diagrams and specifications should include material type and size to be placed in streams and at stream approaches.

(5) If access and workpad areas cannot be limited to upland areas, provide justification for any access and workpad areas which are proposed to be located in a wetland or stream or waterbody or natural protective feature.

(i) *Construction noise.*

(1) Indicate any changes in the types of major equipment to be used in construction, construction noise sources and associated sound levels; methods of construction or construction techniques; days of the week and hours of the day during which that equipment will normally be operated; any exceptions to these schedules; and any changes in construction schedule from the permitted facility.

(2) Describe any measures to be taken to reduce audible noise levels caused by construction equipment. Include notifications and noise impact avoidance, and any changes or updates in minimization measures to be implemented for potentially impacted sensitive sound receptors including but not limited to extended work hours consistent with section 1102-3.4(a) of this Part.

(j) *Ecological and environmentally sensitive sites.*

(1) Indicate the procedures that were followed to identify ecological and environmental resources and specify the measures that will be taken to avoid and minimize impacts to these resources. Include any survey reports or other reports prepared to identify and analyze such sites.

(2) Provide a list of all protected plant species or threatened or endangered species potentially located within the facility corridor and any other areas where construction-related activities may occur.

(3) Describe methods for training contractors and other on-site personnel on identifying those protected plant species and threatened or endangered species indicated as potentially located within the facility corridor, or evidence of the presence of those species.

(4) Describe measures that will be taken in the event that threatened or endangered species are known to exist in the project area or are otherwise observed, including avoidance and minimization measures that will be implemented.

(5) Provide an updated list of protected native plant

species, including confirmation of the locations of protected native plants listed in 6 NYCRR section 193.3 that have been previously observed to occur within the facility corridor.

(k) *Invasive species.* Summarize the invasive species known to exist within the facility corridor based on publicly available information the results of pre-construction invasive species surveys and the methods that will be used to minimize the spread and prevent the introduction of invasives species during construction of the project.

(l) *Herbicides.*

(1) Specify the locations where herbicides are to be applied. Provide a general discussion of the site conditions (e.g., land use, target and non-target vegetation species composition, height, and density) and the choice of herbicide, formulation, application method, and timing.

(2) Confirm that all herbicides that will be used have valid registrations under applicable State and Federal laws and regulations.

(3) Describe the procedures that will be followed during application to protect non-target vegetation, streams, wetlands, potable waters and other water bodies, and residential areas and recreational users on or near the ROW.

(m) *Fugitive dust control.* Specify appropriate measures that will be used to minimize fugitive dust and airborne debris from construction activity in a manner that is consistent with the Standards and Specifications for Dust Control, as outlined in the New York State Standards and Specifications for Erosion and Sediment Control (see section 1100-17.1(i)(1)(i) of Part 1100 of this Title).

(n) *Blasting.*

(1) Describe and identify on overview maps the proposed location(s) of blasting. Provide a characterization of the subsurface conditions at each proposed blast site and an explanation for why other excavation methods are not

feasible, with appropriate reference to the Geotechnical Engineering Report required in section 1102-4.4(k) of this Part.

(2) Identify any nearby receptors that may be adversely affected by blasting operations and describe any pre-blast surveys completed and/or planned consistent with the Blasting Plan required by section 1102-4.4(l) of this Part.

(o) *Environmental supervision.*

(1) Describe protocols for supervising demolition, vegetation clearing, use of herbicides, construction, and site restoration activities to ensure minimization of environmental impact and compliance with the environmental protection provisions specified by the permit.

(2) Specify the titles and qualifications of personnel proposed to be responsible for ensuring minimization of environmental impact throughout the demolition, clearing, construction, and restoration phases, and for enforcing compliance with environmental protection provisions of the permit and the EM&CP. Indicate the amount of time each supervisor is expected to devote to the project.

(3) Specify responsibilities for personnel monitoring all construction activities, such as clearing, sensitive resource protection, site compliance, EM&CP change notices, etc.

(4) Explain how all environmental protection provisions will be incorporated into contractual specifications and communicated to those employees or contractors engaged in demolition, clearing, construction, and restoration.

(5) Describe the procedures to “stop work” in the event of a permit violation.

(6) Identify the permittee’s designated contact, including 24/7 emergency phone number, for assuring overall compliance with permit conditions.

(p) *Clean-up and restoration.* Describe the permittee’s program

for ROW clean-up and restoration, including:

(1) Removal of any temporary roads; restoration of lay-down or staging areas; the finish grading of any scarified or rutted areas; and the removal of waste, scrap metals, surplus or extraneous materials or equipment used.

(2) Plans, standards, and a schedule for the restoration of vegetative cover, including, but not limited to, specifications to address:

(i) design standards for ground cover:

(a) species mixes and application rates by site;

(b) site preparation requirements (soil amendments, stone removal, subsoil treatment, or drainage measures); and

(c) acceptable final cover percentage by cover type.

(ii) planting installation specifications and follow-up responsibilities;

(iii) a schedule or projected dates of any seeding and/or planting; and

(iv) plans to prevent unauthorized access to and along the ROW.

(3) Roadway and guiderail restoration (if not addressed elsewhere).

(q) *NYS Uniform Fire Prevention and Building Code.* Provide a statement identifying the city, town, village, county, or State agency or authority acting as the Authority Having Jurisdiction to review and approve the building plans, inspect the construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing, fire, or building code.

(1) The statement shall identify any local government that

has declined responsibility for the Uniform Code and Energy Code pursuant to 19 NYCRR section 1202.1, and whether the responsibility falls with the county in which the local government is located or with the State.

(2) The statement shall include a description of the arrangement made between the applicant and the entity that shall perform the review, approval, inspection, and compliance certification, including arrangements made to pay for the costs thereof including the costs for any consultant services necessary due to the complex nature of such facilities.

(r) *Real property.* Provide an attestation that all real property and access rights necessary for construction of the applicable phase or segment of the project have been obtained. The necessary real property and access rights for a particular phase or segment shall mean all real property and access rights for that phase or segment and no less than eighty-five (85) percent of real property or access rights for the major electric transmission facility, except that any permittee that is not registered as a transportation corporate shall have one-hundred (100) percent of real property and access rights.

(1) If applicable, copies of approved occupancy rights for any railway properties, including all design and construction plans, and a copy of all specifications and engineering computations for the proposed occupancy.

(2) If applicable, copies of crossing agreements with owners of railroad tracks or beds crossed by the project, including all design and construction plans and all specifications and engineering computations, if any, for the proposed crossings.

(s) *Co-located infrastructure (CI).*

(1) In order to protect CI described in section 1102-3.4(j) of this Part, the permittee shall include in the EM&CP:

(i) an interference study, conforming to industry standards and performed by an individual or individuals with suitable qualifications to conduct such study, with

respect to each location at which the facility crosses CI or comes into such proximity to CI that an interference study is warranted by Good Utility Practices, and specifying any proposed mitigation measures;

(ii) a study to determine whether the facility may have corrosive effects on any CI, conforming to industry standards and performed by individual(s) with suitable qualifications to conduct such study, and specifying any proposed mitigation measures;

(iii) a statement that all proposed electric transmission grounding does not interfere with any gas pipeline cathodic protection system or is capable of conducting a fault current that would arc to the pipeline or gas facility;

(iv) detailed cable ampacity, EMF, and thermal calculations and documentation demonstrating that CI will not be adversely affected by the construction, operation, or maintenance of the facility; such documentation shall include study results, calculations, and underlying assumptions used in the analysis and also to include, but not be limited to, cable specification, installation cross sections, thermal resistivity (tested or assumed) and, in the case of alternating current lines only, magnetic field studies;

(v) detailed calculations and documentation demonstrating that CI will not be adversely affected by the weight and installation methodology of the facility's cables; such calculations and documentation shall respond to and address study results and shall set forth the underlying assumptions used in the analysis, and shall also include, but not be limited to, cable specification, installation cross sections, geotechnical data (tested or assumed), and proposed mechanical protection;

(vi) documentation showing that there will be no material interference with the ability of the owners

and/or operators of any CI crossed by, or in proximity to, the facility, to repair, operate, or maintain such CI as a result of the construction, operation, or maintenance of the facility;

(vii) a full description of all measures that will be employed by the permittee to protect all CI that may be affected by the construction, operation, or maintenance of the facility, including, but not limited to, detailed construction techniques and methods, equipment descriptions, an explanation of how any contingency will be met in case damage does occur, and procedures for coordination with utilities and public service providers;

(viii) protocols for performing repair and maintenance work on the facility in proximity to CI; and

(ix) documentation showing agreement by the owners and/or operators of affected CI with both the permittee's construction schedule for operations in the vicinity of such CI and the measures described in the EM&CP documents relating to such CI, or a description of those aspects of the proposal that are disputed, and a discussion of the positions taken by the permittee and the owners and/or operators of the CI.

(x) Where the office has required the permittee to conduct a survey for oil and natural gas wells pursuant to section 1102-3.4(k)(1) of this Part, or where the permittee has conducted a survey due to the known presence of such wells, the permittee shall provide:

(a) a description of the survey, setting forth the date(s) the survey occurred, the company that conducted it, methodology used, and a summary of the results of the survey;

(b) a map identifying the location of all identified wells and associated infrastructure, along with the facility ROW, proposed areas to be disturbed, and proposed facility components. The

map shall identify minimum clearance distances from a well for a well servicing or plugging rig as specified in OSHA CFR 29 Part 1926.1408(a)(2)(iii) or OSHA CFR 29 Part 1926.1409 or proposed setbacks from permanent structures and buildings of a minimum of fifty (50) feet from identified well(s), whichever is greater, and a path minimum twenty (20) feet wide to the well to permit inspections and other regulatory work as may be needed;

(c) if the required clearances or setbacks to wells cannot be met, an explanation as to why they cannot be met and what provisions have been made to protect the wells during construction and to preserve the ability to abandon, plug, or service such wells.

(t) *ROW encroachment.*

(1) Provide detailed plans for identifying and resolving potential encroachments to the existing and proposed ROW.

(2) Provide justification for any proposed acquisition, removal, or relocation of any buildings or structures.

(u) *Safety and security.* Describe plans to prevent unauthorized access to and along the ROW, such as:

(1) Posting signs at the edges of the project ROW in those locations where the ROW intersects public roads.

(2) Performing outreach to educate and inform the public concerning the risks and impacts of unauthorized access.

(3) Consulting with local law enforcement officials in an effort to prevent future trespassing.

(4) Identifying construction and material details of gates, berms and landscaping if any.

(5) Conducting a post-construction assessment of the project, in consultation with the office, to provide a final

determination of locations of any gates, berms and landscaping.

(v) *Electric and magnetic fields.* Provide a certification of a professional engineer licensed by State of New York stating that, if constructed in accordance with the final design plans, the transmission facility will comply with the applicable electric and magnetic field ("EMF") standards, established by the commission in Opinion No. 78-13 (issued on June 19, 1978) and the Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities (issued on September 11, 1990).

(w) *In-water facilities*. For construction of in-water facilities, the EM&CP shall include:

(1) Details and manufacturers specifications of equipment that will be used for installation of the in-water cable and associated facilities.

(2) Detailed description of the following construction practices for in-water cable installation (as applicable):

(i) any offshore site preparation activities along the installation route, including but not limited to, as applicable, pre-lay grapnel run, boulder removal/relocation, marine debris removal, unexploded ordinances (UXO) clearance, removal of existing infrastructure, pre-installation surveys, pre-sweeping, pre-lay mattress installation, utility crossing preparation, and/or pre-trenching, including a narrative and maps indicating the locations at which each method is expected to be employed;

(ii) installation methods, including but not limited to mechanical cutter, mechanical plow (which may include a jetting system), jet sled, jet trencher, vertical injector, hydraulic/suction hopper dredging, mechanical dredging, and/or mass flow excavator, including a narrative and maps indicating the locations at which each method is expected to be employed;

(iii) the location(s) of any horizontal directional

drilling (HDD) exit pit(s);

(iv) transition methods for HDD to in-water cable;

(v) cable pulling and splicing plans, including details associated with any proposed installation of spare conduits within the in-water ROW;

(vi) cable-laying methods including barge positioning and midline buoys, if necessary;

(vii) how the use of anchoring, if any, during construction and maintenance activities will avoid and/or minimize impacts to sensitive benthic habitats, Recognized Ecological Complexes, historic and archeological resources, and impacts to existing buried assets;

(viii) the parameters for the use of anchors and spuds, the limits of the anchoring corridor, and identification of discrete “No Anchor” areas in the event anchoring is ultimately required;

(ix) measures that will be employed to minimize sediment disturbance caused by anchoring during construction of the in-water cable;

(x) how the proposed construction equipment and methods avoid and/or minimize impacts related to the in-water environment and why the proposed construction equipment and methods are most suitable for construction of the in-water facility;

(xi) details on the area and duration of any temporary in-water closures of the near shore including recreational areas (e.g. fishing piers, parks, beaches) and potential work windows that avoid these areas during high use times as needed during HDD and cable laying activities and a description of how these areas have been minimized to the maximum extent practicable;

(xii) details on how mariners, including commercial,

recreational, for-hire (charter) fishermen, and other recreational boaters will be alerted to the presence of the in-water work area, including any Private Aids to Navigation (PATON) that may be required in State waters, and identification of activities that will be the subject of United States Coast Guard's (USCG) Local Notice to Mariners.

(3) Description of cable burial techniques and adjustments along the marine route, including a detailed graphical representation of anticipated minimum and maximum achievable burial depths based on sediment conditions at regular intervals that are appropriate for the scale of the project, and which provides:

(i) an evaluation of the likelihood of achieving target burial depths based on the results of the study; and

(ii) a quantitative analysis of risks to the cable and coastal users along the marine route.

(4) Written evaluation of the efficacy of alternative cable protection measures that may be required along the in-water route and justification for why the selected cable protection method is preferred at each site. The analysis shall:

(i) include, to the extent available, technical documentation from cable protection manufacturers; and

(ii) evaluate a range of cable protection measures, including but not limited to concrete mattresses with taper edges, crushed rock, and rock bags or other appropriate protection method(s)) with respect to their ability to maintain overtrawlability, minimize shifting over time, and avoid creating a discernable berm on the sediment surface.

Section 1102-4.3. EM&CP plans, profile drawings, and maps.

Section B of the EM&CP shall include the project's plans and profiles, details, sections and design drawings, and maps. Each drawing or figure shall be clearly titled, numbered, and dated as to its version. All final design drawings and figures must be

stamped and signed by a licensed Professional Engineer.

(a) *Plan view requirements*. Plan drawings at a legible common engineering scale (recommended at a scale minimum 1 inch = 200 feet) showing or otherwise including:

(1) A drawing index and drawing index (key) map.

(2) A legend identifying existing and proposed features shown on the plans.

(3) Contour lines at a minimum of 5-foot intervals. Where contours are based on recently completed on-site surveys, contours shall be taken at two-foot intervals, completed by a licensed surveyor, and referenced to the National Geodetic Vertical Datum (NGVD) or North American Vertical Datum of 1988 (NAVD88).

(4) Station numbering (stationing) along the centerline of proposed electric line(s) which shall be continuous along the entire length of the cable.

(5) Construction notes, including all appropriate information for the contractor.

(6) A table showing property owner information and associated parcel number, stationing, and type of easement(s).

(7) A table showing splice locations and methods, and associated stationing location.

(8) A table showing CI information, including owner information, station location of proposed crossings, and agreement status.

(9) The boundaries of any new, existing, and/or expanded ROW or road boundaries, and where conductors are to be constructed overhead, underground or in-water.

(10) Areas contiguous to the ROW or street within which the permittee will obtain additional property rights.

(11) Host and adjacent property lines and associated landowner information.

(12) Locations of each proposed structure related to the major electric transmission facility.

(13) Components of the major electric transmission facility complying with any applicable local setbacks, including fence, gate, down-guy anchor, any counterpoise required for the facility, conductors, insulators, location of mid-span splices, static wires, and any other components attached to facility structures.

(14) Unique symbols distinguishing proposed and existing overhead and underground conductors.

(15) Proposed trenchless and in-water installation locations, including the approximate lengths.

(16) On- and off-ROW temporary and permanent access roads, parking areas, lay-down areas and work pads, along with an indication of provisions for upgrading any existing access.

(17) Construction contract limit lines, property lines, designated floodways and flood-hazard area limits, buildings, sheds, structures to be relocated, and any plans for water service and sewage and waste disposal.

(18) Construction type, material, dimensions, and listing of any standards applied to construction of access roads.

(19) Limits of Disturbance for the proposed major electric transmission facility, including areas requiring temporary clearing needed for construction, including language referencing danger tree provisions/rights.

(20) For existing utility and non-utility facilities that will be acquired or require removal or relocation, indicate methods of removal of existing facilities, and show the new locations, types and configurations of relocated facilities.

(21) Location of the major electric transmission facility relative to nearby fence lines, roads, parks, trails, railways, airfields, hedgerows, surface waters, wetlands, streams, other water bodies, significant and unique habitats, associated facilities, nearby buildings or structures, major antennas, oil, gas, and potable water wells, and major utility infrastructure.

(22) Minimum clearance distances or proposed setbacks from permanent structures and buildings from known oil and gas wells.

(23) The location of any proposed new or expanded switchyard, substation, converter station, or other terminal or associated utility or non-utility structure.

(24) Type(s) of outdoor lighting, including design features to avoid off-site illumination and minimize glare, and the color and finish of all structures.

(25) The location and boundaries of any on- or off-ROW areas proposed to be used for fabrication, designated equipment parking, field office trailer, staging, access, lay-down, and conductor pulling.

(26) Any planned fencing, surface improvements, and screening of storage and staging areas.

(27) The locations for ready-mix concrete or flowable fill chute washout and any other cleaning activities.

(28) Location of any proposed temporary concrete batch plant(s) related to major electric transmission facility construction.

(29) Locations of all temporary and permanent erosion and sediment and stormwater management controls. Include the dimensions, material specifications and installation details for each post-construction stormwater management practice.

(30) Additional requirements for in-water cables:

(i) federal navigation channel locations;

(ii) location of aids to navigation;

(iii) co-located infrastructure and crossing locations;

(iv) any existing natural protective features or erosion protective structures or other existing or proposed structures including but not limited to berms, retaining walls, fences, bridges, piers, and other marine infrastructure;

(v) location of landfall and associated infrastructure (e.g., exit point, transition joint bay, etc.);

(vi) defined bathymetry contours within the facility siting corridor;

(vii) splice locations;

(viii) locations of known significant fish and wildlife habitat; threatened or endangered species or habitat; Recognized Ecological Complexes; shellfish management and conservation areas; shellfish and macroalgae aquaculture areas; fish passageways and structures; wintering areas for ducks and other waterfowls; and other exclusion zones;

(ix) locations of Federal Aids to Navigation (ATONs);

(x) locations of proposed cable protection measures;

(xi) anchorage areas and anchor avoidance areas;

(xii) any temporary in-water closures needed during horizontal directional drilling (HDD) and in-water preparation or construction; and

(xiii) locations of any proposed sand wave leveling.

(b) *Vegetation clearing and disposal plans*. Identify on the plan drawings:

(1) locations of sites requiring clearing of vegetation related to the proposed major electric transmission facility, including areas to be temporarily utilized during construction, including but not limited to temporary access roads, equipment storage areas, stockpile and laydown areas, and skid trails, and the geographic limits of such clearing including danger trees;

(2) specific methods for the type and manner of cutting and disposition or disposal method for cut vegetation, including areas where property owners request specific methods;

(3) methods for management of vegetation to be cut or removed at each site;

(4) any geographical area bounded by distinctly different cover types requiring different cut-vegetation management methods including areas requiring distinctly different cut-vegetation methods due to site conditions such as land use differences, population density, habitat or site protection, soil or terrain conditions, fire hazards, or other factors; and

(5) location of any areas where specific vegetation protection measures will be employed and the details of those measures to avoid damage to specimen tree stands of desirable species, important screening trees, or hedgerows.

(c) *Stormwater management and erosion controls*. Plan views shall show specific controls to divert stormwater, minimize erosion, and prevent sediment transport beyond the limits of the work area, in a manner that is consistent with the project SWPPP.

(d) *Wetlands, waterbodies, and other water resources*. On the plan view, indicate:

(1) Locations of wetlands, streams, and other water bodies.

(2) The name, water quality classification, location, and flow regime of all rivers, streams, and drainages within or adjacent to the facility ROW.

(3) The location and type of any wetland, delineated locations of wetland boundaries, and the extent of State-regulated wetland Adjacent Areas located within or adjacent to the facility ROW identified in the approved jurisdictional determinations.

(4) The location of all potable water sources, based on publicly available information, and the precautionary measures to be taken to protect each water source, including springs and wells on the facility ROW or within: (i) one hundred (100) feet of the ROW or access roads; (ii) five hundred (500) feet of horizontal directional drilling locations; or (iii) one thousand (1,000) feet of blasting operations.

(5) The type(s) and location(s) of measures to be taken to protect wetlands and waterbodies.

(6) The stream and wetland crossing method(s), with reference to the applicable crossing method details/typicals.

(7) For each new crossing of a "protected stream" and/or "navigable waters of the state", and streams with species protected under 6 NYCRR Part 182, provide:

(i) detailed plan, profile, and cross-sectional view plans;

(ii) drainage area and flow calculations to ensure that the design will safely pass the 1% annual (100-year return) chance storm event; and

(iii) location, quantity, and type of fill.

(8) Designated floodways or flood hazard areas to be traversed by the facility or access roads, or otherwise used for facility construction or the siting of associated facility components.

(e) *Agricultural areas.* On the plan view, indicate:

(1) Locations of sites under cultivation or in active agricultural use, including rotational pasture, pasture, hayland, and cropland.

(2) Locations of any unique agricultural lands including maple sugarbushes, organic muckland, and permanent irrigation systems, as well as areas used to produce specialty crops.

(3) Locations of vulnerable soils in agricultural areas that are sensitive to construction disturbance due to slope, soil wetness, and shallow depth to bedrock.

(4) Location of all land and water management features, including subsurface drainage facilities, surface drainage, diversion terraces, buried water lines, and water supplies.

(5) Site-specific techniques to be implemented to minimize construction-related impacts to agricultural resources.

(f) *Sensitive land uses and resources*. Indicate the location and identification of sensitive land uses and resources that may be affected by construction of the facility or by construction-related traffic.

(g) *Recreational*. Indicate the locations where recreational use areas would affect or be affected by the facility location, construction or other ROW preparation.

(h) *Sensitive sound receptors*. Show the locations of sensitive sound receptors pursuant to section 1102-2.9(f) of this Part.

(i) *Ecological and cultural resource environmentally sensitive areas.*

(1) Indicate measures for avoidance of archeological sites identified within the facility right-of-way or along the general alignment of any access roads to be constructed, improved, or maintained for the facility, consistent with the approved Site Avoidance Plan(s). The mapped locations of all identified archeological and environmentally sensitive sites within the ROW shall be identified as “Environmentally Sensitive Areas, No access” (ESAs) on the final construction

drawings. ESAs will be marked in the field to restrict access consistent with section 1102-3.4(g) of this Part.

(2) Protected native plants stands shall be identified in the plan view drawings, which shall note any such locations where the landowner has given permission for the removal of such protected native plants.

(3) Locations of construction fencing to restrict access to ecologically and environmentally sensitive areas during construction, including locations of protected native plants.

(j) *Above ground cultural resources*. Indicate the locations of historic/ above ground cultural resources and specify measures to minimize impacts to these resources.

(k) *Visual resources*. Indicate the locations of resources of statewide concern and any other visually sensitive resources identified in the VIA.

(l) *Invasive species*. Identify the location(s) of invasive species known or identified within or adjacent to the facility ROW and measures to minimize the spread, expansion, and introduction of invasive species.

(m) *Herbicides*. On the plan view and in the construction notes, indicate areas where herbicides will not be used.

(n) *Profiles*. Profile View, at an appropriate scale, to be included with relevant plan sheet, showing or otherwise including:

(1) The lowest conductor of an overhead design shall be shown in relation to ground at the maximum permissible conductor temperature for which the line is designed to operate (i.e., normally the short-time emergency loading temperature). If a lesser conductor temperature is used for the line profile, the maximum sag increase between the conductor temperature and the maximum conductor temperature shall be indicated for each ruling span.

(2) For underground project design, show relation of project to final surface grade, indicating design depth-of-cover.

(3) Existing surface grade (ground elevation) along major electric transmission facility route.

(4) Stationing that matches the related plan view on that sheet. Stationing shall be continuous from beginning of the major electric transmission facility to its end.

(5) All components of the proposed major electric transmission facility and corresponding elevations shown above or below the existing surface grade.

(6) Existing utility or non-utility structures and related elevations within the ROW and indicate those to be removed or relocated.

(7) Include circuit arrangements where new structures will accommodate existing circuits, indicate methods of removal of existing facilities, and show the new locations, types and configurations of relocated facilities.

(8) Proposed trenchless installations and waterbody crossing locations, elevations of proposed cables, and direction of cable pull, including the approximate lengths of such routes. Include plan and profile drawings of HDD bore paths and entry/exit pits.

(o) *In-water transmission facility profiles*. For in-water cables, provide installation requirements shown on profiles, including related elevations, including:

(1) Existing surface water level.

(2) Present sediment surface, including the presence of designated or historic dredged material sites.

(3) Profile drawing of HDD bore path and entry/exit pits.

(4) Proposed in-water route of major electric transmission facility shown at target burial depth.

(5) Federal navigation channel and proposed separation between the bottom of the channel and proposed target burial

depth.

(6) Co-located infrastructure and crossing locations.

(7) Locations of cable protection measures.

(8) Bridges, piers, and other marine infrastructure.

(9) Location of landfall and associated infrastructure.

(10) Splice locations.

(11) Locations of Federal Aids to Navigation (ATONs).

(12) Anchorage areas and anchor avoidance areas.

(13) Locations of any proposed sand wave leveling.

(14) Location of any known unexploded ordnances (UXO).

(15) Locations of known significant fish and wildlife habitat; threatened or endangered species or habitat; Recognized Ecological Complexes; shellfish management and conservation areas; shellfish and macroalgae aquaculture areas; fish passageways and structures; wintering areas for ducks and other waterfowls; and other exclusion zones.

(p) *Typical details and elevation requirements.* Provide the following typical details and elevation requirements for the for final facility design and construction:

(1) Typical underground infrastructure section details with dimensions of proposed depth, trench width, level of cover, separation requirements between circuits/cables, clearing width limits for construction and operation of the facility, temporary stockpile width, limits of disturbance, required permanent ROW and a description of the cable installation processes.

(2) Details for typical tower foundations.

(3) Typical details of any proposed vaults, including vault

dimensions, level of cover, clearing limits for construction and operation of the facility, and LOD for installation.

(4) Details for typical overhead electric transmission lines, including a profile of the centerlines at an exaggerated vertical scale and typical elevation views including height above grade and structure layouts.

(5) Details for typical overhead structure, buildings, and any proposed equipment foundations including plan and section information. If multiple foundation designs are to be utilized for the major electric transmission facility, specify the foundation type at each location on the foundation plans, either listed in a table or indicated on corresponding plans.

(6) Typical detail drawings for switchyards, substation, converter stations other buildings and interconnection facilities, including fencing, gates, and station equipment and infrastructure, which shall include:

(i) the length, width, height, material of construction, color, and finish of all buildings, structures, conductors, insulators, and other fixed equipment; and

(ii) a general arrangements drawing showing elevation mark pointers with reference to associated elevation views, including views of all components of the station.

(7) For each proposed permanent point of access or access type, a typical installation plan view, cross section, and side view with appropriate dimensions, including temporary and permanent widths, and identification of materials to be used along with corresponding material thickness.

(i) Provide diagrams and specifications (include plan and side views with appropriate typical dimensions) for each erosion control feature to be used for access roads.

(ii) Provide diagrams and specifications (include plan

and side view with appropriate dimensions) for each type of access road stream crossing method.

(8) Typical details of any other proposed access (e.g., helicopter or barge placement).

(9) Typical details of any proposed agricultural resource protection measures.

(10) Manufacturer provided information regarding the design, safety and testing information for associated components of the major electric transmission facility including, but not limited to inverters, transformers, cables and conductors, circuit breaker, relay protection and communication system to be installed during construction, or as related to the transmission facility for operation.

Section 1102-4.4. EM&CP additional plans and appendices.

Section C of the EM&CP shall include additional plans and appendices required by the permit or otherwise proposed by the permittee.

(a) *Other permits and approvals.* Copies of all required permits and approvals for construction of the project, which may be incorporated by reference, and including a copy of any Interconnection Agreements (IA) for the project, prior to the activity for which the permit or approval is required.

(b) *Quality Assurance and Control Plan*. A Quality Assurance and Control Plan, which shall include:

(1) Job titles and qualifications necessary, demonstrating how the permittee will monitor and assure conformance of facility design, engineering and installation, including general concrete testing procedures with a plan outlining the monitoring and testing of concrete procedures in conformance with and reference to all applicable codes and standards.

(2) The frequency with which the Quality Control Audits will be performed.

(3) Description of how the permittee will ensure that the transmission line structures and components it purchases conform to the specification for structures and components described in the EM&CP.

(c) *Traffic Control Plan.* A Traffic Control Plan to ensure safety and minimize potential delays to local traffic during construction, which shall describe, at a minimum, the following:

(1) Maps and plans showing final haul routes developed in consultation with the office, county and municipal highway officials and local school districts. Final haul routes shall be accurately depicted in drawings submitted with the Traffic Control Plan.

(2) Copies of all necessary transportation permits and approvals from the affected State, county, and municipal agencies and authorities for such equipment and/or materials on such route. Such permits shall include but not be limited to: Highway Work Permits to work within the ROW, permits to exceed posted weight limits, Highway Utility Permits to construct facilities within ROW, Traffic Signal Permits to work within ROW, Special Haul Permits for oversize/overweight vehicles, NYSDOT Use and Occupancy Permit, and Divisible Load overweight Permits.

(3) Copies of all necessary agreements with utility companies for raising or relocating overhead wires where necessary to accommodate the oversize/overweight delivery vehicles, if applicable.

(4) A copy of all road use and restoration agreements, if any, between the permittee and landowners, municipalities, or other entities, regarding repair of local roads damaged by heavy equipment, construction or maintenance activities during construction and operation of the facility.

(5) Confirmation that:

(i) types and placement of signs shall be determined in consultation with the jurisdictional agency; and

(ii) flag persons shall be present when equipment is crossing any public road, when equipment is being loaded or unloaded from a vehicle parked on a public road, and where multiple-lane traffic has been reduced to less lane(s).

(6) If applicable, the Traffic Control Plan shall include a Work Zone Traffic Control (WZTC) plan(s) identifying procedures to be used to maintain traffic and provide a safe construction zone for those activities within the roadway ROW.

(i) WZTC plans shall also be provided for each location where construction vehicles will access the project ROW from the local roadway.

(ii) WZTC plans shall address temporary signage, lane closures, placement of temporary barriers, and traffic diversion.

(d) *Stormwater Pollution Prevention Plan.*

(1) Include the Storm Water Pollution Prevention Plan (SWPPP) and NYSDEC's Letter of Authorization under the SPDES Construction General Permit for Stormwater Discharges from Construction Activity and/or a NYSDEC-approved SPDES Individual Permit for the project.

(e) *Wetland and Stream Delineation Report.*

(1) A wetland and surface water delineation report including a series of maps identifying the boundaries of all wetlands and waterbodies present within the temporary and permanent ROWs as well as those outside the ROWs, which are within one hundred (100)-feet for freshwater wetlands and three hundred (300) feet for tidal wetlands of any areas to be disturbed. The report shall consist of a description of waterbody and wetland characteristics including Cowardin wetland classifications, the Fisheries Index Number (FIN) or Waterbody Index Number (WIN), a description of stream flow (perennial, intermittent, or ephemeral), summary of the field data collected, and associated spatial data.

(2) *Wetland and Surface Water Jurisdictional Determination.* The office will conduct a site visit, as needed, to inspect the delineated boundaries of all wetlands and waterbodies for accuracy and to assist in determining the classification of any wetlands and surface waters for the purpose of a jurisdictional determination. The office, in consultation with NYSDEC and, where applicable, the APA, shall provide a final approved jurisdictional determination to the permittee within (90) ninety days of receipt of the wetland and surface water delineation report, unless seasonal conditions prevent the office from completing a determination, in which case the office shall provide a jurisdictional determination as soon as practicable following suitable field conditions.

(f) *Wetland Restoration and Mitigation Plan.* A Wetland Mitigation Plan, developed in consultation with the office to compensate for unavoidable loss of wetland functions and values, which shall include the following:

(1) Proposal to address wetland mitigation for all permanent impacts to State-regulated wetlands and federally-regulated wetlands, if prescribed by the Army Corps of Engineers. If such proposal is to prepare a detailed mitigation plan for State regulated wetlands, it shall separately address impacts to each of the wetland benefits described in ECL section 24-0105(7). Plans shall provide for wetland mitigation in the same watershed to the maximum extent possible.

(2) Implement either of the mitigation actions set forth in paragraphs (3) and (4) of this subdivision or a combination thereof to meet the mitigation requirement.

(3) Plans to compensate for unavoidable loss of wetland functions and values, including the following:

(i) the creation, restoration, or enhancement of compensatory wetlands at appropriate ratios;

(ii) a construction timeline for the mitigation activities;

(iii) construction details for meeting all requirements contained in the permit conditions;

(iv) agreed-upon performance standards for determining wetland mitigation success;

(v) provisions for post-construction annual monitoring and reporting for a period of five years after completion of the wetland mitigation; and

(vi) plans for corrective actions after each monitoring period to implement corrective actions for any areas that do not meet the required performance standards in order to increase the likelihood of meeting the performance standards after five years.

(4) Subject to the approval of the office, payment of wetland mitigation credits for unavoidable wetland impacts into:

(i) an existing wetland mitigation bank; or

(ii) an in-lieu fee program; or

(iii) any other wetland mitigation fee program.

The purchase of mitigation banking credits or payments into an in-lieu fee program or other mitigation fee program shall occur, to the maximum extent practicable, within a service area that includes the location of the facility. The office may give the permittee credit, in whole or in part, for mitigation fees paid to another State or Federal agency or authority.

(g) *Stream Crossing Plan.* A site-specific Stream Crossing Plan shall be provided for all stream crossings using trenchless crossing methods. Each site-specific Stream Crossing Plan must be prepared and stamped by a qualified engineer licensed in New York State. For each proposed trenchless crossing location, the Stream Crossing Plan must include:

(1) Detailed engineering plans with plan views and cross sections that contains the stream channel, crossing

alignment, locations of boring pits, pullback areas, laydown areas, areas of vegetative clearing/cutting, erosion and sediment control measures, and dewatering wells (if necessary).

(2) Geotechnical data characterizing the soils for the entire depth profile of the crossing.

(3) A site-specific analysis of the potential for inadvertent returns, including but not limited to, an evaluation of soil strength to resist drilling fluid pressure, and the likelihood to maintain borehole stability.

(4) A site-specific analysis of the appropriate depth beneath the waterbody to assure sufficient cover is provided considering vertical and horizontal movement of the stream. This analysis should consider 0.2 percent chance flow events anticipated over the life of the facility, including an appropriate design flow multiplier to account for future flows given a changing climate.

(h) *Inadvertent Returns Plan.* A site-specific plan to address inadvertent returns of drilling fluids that occur within a stream or wetland that includes dedicated equipment and staff on site during active directional drilling as well as identification of downstream access points to immediately collect drilling fluid released into the stream and halt additional spread.

(1) The plan shall establish procedures for notifying the office, NYSDEC and, where applicable, the APA, of any inadvertent returns or other releases of drilling fluids within 24 hours.

(2) Within seven (7) days of notifying the office, NYSDEC and, where applicable, the APA, of an inadvertent return or other release of drilling fluids, the permittee must develop and submit to the office a “Corrective Action Plan” to remove any remaining drilling fluid and restore the wetland or waterbody to pre-existing conditions. At a minimum, the “Corrective Action Plan” shall include a description of the condition(s) requiring corrective action, methods and schedule for conducting the corrective action(s). The

permittee shall implement the approved "Corrective Action Plan" immediately after receiving written approval from the office, according to the approved schedule.

(i) *Drilling Fluid Management Plan. A plan* describing procedures and requirements for drilling fluid management, including the following:

(1) drilling Fluid Safety Data Sheet and any chemical authorization forms;

(2) description of how drilling fluids will be managed on site, stored, and transported;

(3) description of procedures for disposal of drilling fluids, including plans for characterization of whether drilling fluids constitute hazardous or solid waste, and when such drilling fluids are anticipated to be disposed at an off-site facility, the name and location of any offsite disposal facilities; and

(4) description of how drilling fluids will be neutralized for disposal.

(j) *Spill Prevention Control and Countermeasures Plan.* Provide a plan for the storage, handling, transportation, and disposal of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be used during, or in connection with, the construction, operation, or maintenance of the facility.

(1) Address how to avoid spills and improper storage or application in the vicinity of any wetland, river, creek, stream, lake, reservoir, spring, well, or other ecologically sensitive site, or existing recreational area along the ROW and access roads.

(2) Describe procedures for responding to and remediating the effects of any spill of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances in accordance with applicable State and Federal laws, regulations, and guidance.

(k) *Dewatering Plan.* Provide a Dewatering Plan for onshore temporary dewatering operations associated with project construction that includes:

(1) Plans for discharging water generated from dewatering operations that does not exceed NYSDEC standards, criteria, or guidance values.

(2) Measures to avoid direct discharges into any wetland, stream, or other waterbody, except where approved in a SPDES permit.

(3) Plans for handling, treatment and disposal of water generated from dewatering operations that exceeds NYSDEC standards, criteria, or guidance values.

(4) Description of any plans for discharge of effluent from dewatering operations into a municipal sewer system, including:

(i) Procedures for prior notification to the municipality, including the timing and expected amount of effluent to be discharged.

(ii) Confirmation that the permittee will not discharge effluent from dewatering into any municipal sewer system during periods of precipitation, or when a precipitation event is forecasted to occur within twenty-four hours without prior approval.

(l) *Geotechnical Engineering Report.* Provide a Geotechnical Engineering Report for the project, including:

(1) The results of any on-site field observations, borings, test pits, and any other geotechnical field investigations for the facility.

(2) A description of the characteristics and suitability of on-site soils to support underground electrical design, structure foundations, and construction of other facility components.

(3) Where applicable, a description of the subsurface conditions and/or stratigraphy found at foundation level, including factors such as soil corrosivity (for both steel and concrete), soil resistivity, bedrock competence, and subsurface hydrologic characteristics, including at the locations of splice vaults, splice pits, towers, switchyards, substations, converter stations, and other facility components, as appropriate.

(4) An evaluation of the suitability of subsurface conditions where hydraulic horizontal directional drilling is proposed.

(5) Description of mitigation measures, where recommended based on subsurface conditions.

(6) Recommendations for construction of access roads and building and equipment foundations including, as applicable:

(i) An engineering assessment to determine the types and locations of foundations to be employed and access road design specifications.

(ii) If piles are to be used, a description and preliminary calculation of the number and length of piles to be driven, the daily and overall total number of hours of pile driving work to be undertaken to construct the facility, and an assessment of pile driving impacts on surrounding properties and structures due to vibration.

(iii) The identification of mitigation measures regarding pile driving impacts including a plan for securing compensation for damages that may occur due to pile driving.

(m) *Blasting Plan.* Provide a Blasting Plan (if applicable) consistent with NYSDOT "Geotechnical Engineering Manual GEM-22" that includes or otherwise addresses the following:

(1) Provisions demonstrating compliance with sections 1102-

3.4(o) and 1102-3.4(v) of this Part.

(2) The results of any pre-blast surveys of any buildings or other structures within five hundred (500) feet of any proposed blasting locations, including, for each survey:

(i) photos depicting the existing structural integrity of the building, well, or other structure; and

(ii) written inspection report, signed and dated by the property owner, noting both existing flaws at structures at the property and undamaged areas.

(3) Well and water supply intake protection measures consistent with section 1102-3.5(l) of this Part.

(4) Description of measures to control airborne debris, which may include rubber tire or woven steel blasting mats.

(5) Blasting communications protocols describing procedures and timeframes for notifying host communities and adjacent property owners (and persons residing on such properties) within one thousand (1,000) feet of the blasting site. Blasting notifications to host communities and property owners shall occur at least 48 hours before blasting is initiated at a specific location and shall specify:

(i) blasting locations, procedures, and schedule; and

(ii) Procedures for filing a complaint associated with blasting operations consistent with the Complaint Management Plan required by subdivision (s) of this section.

(6) Procedures for post-blasting surveys to assess complaints or reports of blasting impacts on developed properties, including a description of how and when such post-blast surveys will be performed and documented, and complaints resolved.

(7) A plan for securing compensation for damages that may occur due to blasting.

(n) *Net Conservation Benefit Plan.* An executed Net Conservation Benefit Plan or proof that the required payment was made into the Endangered and Threatened Species Mitigation Bank Fund, if required. The Net Conservation Benefit Plan shall comply with the requirements of section 1102-3.4(x) of this Part.

(o) *Invasive Species Management and Control Plan.* An Invasive Species Control and Management Plan (ISCMP) prepared in compliance with 6 NYCRR Part 575, which shall include the following information:

(1) Baseline mapping of all invasive species within the facility area and for one hundred (100) feet beyond the facility's LOD. The baseline mapping and data shall include the relative abundance and distribution of each invasive species prior to the commencement of any construction activities.

(2) Identification of specific control, removal, and disposal measures to be implemented for each identified and mapped invasive species/plant community during construction activities.

(3) Detailed sequence and schedule for all mechanical and chemical control measures to be implemented during construction activities.

(4) A detailed monitoring plan and specific sampling protocols for each identified and mapped invasive species/plant community within the facility corridor and for one hundred (100) feet beyond the LOD.

(5) Identification of specific control contingency measures to be implemented as part of the ISCMP for each identified and mapped invasive species for the duration of the facility adaptive management and monitoring period (i.e., 5 years, unless extended). The ISCMP shall include a detailed sequence and schedule for all contingency mechanical and chemical control measures to be implemented during the monitoring period.

(6) Specific contingency measures to be implemented to achieve the final site restoration criteria.

(7) Details regard the responsible party or parties designated to implement the ISCMP and what financial assurances exist to ensure successful monitoring and ISCMP implementation.

(8) Plan for post-construction invasive species monitoring, which shall require:

(i) Post construction surveys of:

(a) LOD, both within the ROW and off-ROW areas and access roads;

(b) temporary off-ROW access road areas during the final SWPPP inspections; and

(c) LOD areas, including permanent access roads, after the second full growing season from final SWPPP signoff.

(ii) All post-construction surveys shall utilize the same invasive species survey protocols used during the baseline pre-construction survey.

(9) The ISCMP shall include construction Best Management Practices (BMPs)for the on-site management of invasive species, including:

(i) contractor/subcontractor/employee training on cleaning and other invasive species management procedures;

(ii) inspection of construction materials and equipment by trained staff;

(iii) minimization of ground disturbance in IS dominated areas;

(iv) proper clearing and disposal practices (i.e., cut and leave in dominated area or dispose off-site in

landfill-incinerator or approved disposal site);

(v) equipment cleaning; and

(vi) restoration.

(10) The ISCMP shall describe procedures for minimization for invasive species propagation, including but not limited to:

(i) preparing ROW travel routes to prevent IS spread through contact with equipment/vehicles by any practical combination of matting, IS burial, clean fill cover or IS eradication; and

(ii) providing cleaning stations for equipment/vehicles whenever leaving IS dominated areas along ROW.

(p) *Cultural Resources Avoidance, Minimization and Mitigation Plan.* A Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP) for the project, providing:

(1) For any areas where the permittee could not obtain access permissions prior to application filing:

(i) Copies of completed Phase IB, Phase II and Phase III studies, and approved Site Avoidance Plan(s) if applicable.

(ii) A description and documentation of the permittee's consultation with OPRHP/SHPO, local historic preservation groups, and Indigenous Nations related to such studies.

(iii) Final OPRHP/SHPO effect or impact determination letter(s) for such areas, if applicable.

(2) A narrative summary and demonstration that impacts of construction and operation of the facilities on cultural resources (including archeological sites and historic/ above ground resources) will be avoided or minimized to the extent practicable by selection the proposed facility's location, design and/or implementation of identified mitigation

measures. At a minimum, the Cultural Resources Avoidance, Minimization and Mitigation Plan shall consist of any approved Site Avoidance Plan(s) prepared pursuant to section 1102-1.1(c) of this Part and subdivision (o)(1) of this section, and incorporate any additional avoidance, minimization, or mitigation measures identified by the office, in consultation with OPRHP/SHPO and any Indigenous Nations.

(3) A Final Unanticipated Discovery Plan pursuant to section 1102-2.11(d) of this Part, which shall be updated, at a minimum, to include the current names, titles, and contact information of individuals within the permittee's construction organizational structure, agency contacts, and Indigenous Nation contacts as referenced within the Unanticipated Discovery Plan.

(4) A Cultural Resources Mitigation and Offset Plan, either as adopted by Federal permitting agency in subsequent National Historic Preservation Act (NHPA) section 106 review, or as required by the office, in consultation with OPRHP/SHPO and any Indigenous Nations, in the event that the NHPA section 106 review does not require that the mitigation plan be implemented. Proof of mitigation funding awards for offset facility implementation to be provided within two (2) years of the start of construction of the facility.

(q) *Visual Resources Management Plan.*

(1) The permittee shall implement the approved Final Visual Resources Management Plan required by section 1102-2.10(c) of this Part, including the following:

(i) adoption of visual design feature requirements;

(ii) visual contrast minimization and mitigation measures; and

(iii) final Screen Planting Plans, details, specifications, and master plant list.

(2) *Construction period oversight.* The permittee shall

retain a qualified landscape architect, arborist, or certified nursery and landscape professional (CNLP), to inspect the screen plantings for two (2) years following installation to identify any plant material that did not survive, appears unhealthy, is damaged, and/or otherwise needs to be replaced. Such plant material that fails to provide proper mitigation in workmanship or growth shall be removed and replaced within two years following the completion of the installation of the plantings and maintained accordingly for the life of the project.

(3) *Long term/operational screen plantings management*. Provide an inspection and maintenance program for the life of the project, including plans for replacement of plantings where such visual screenings have failed. The permittee shall at a minimum provide detailed maintenance measures for screen plantings; make any required updates to the master plant list of replacement plants; provide a regular inspection schedule; and conduct an annual screening effectiveness review.

(r) *Drainage Remediation Plan*. A Drainage Remediation Plan to address inadvertent damages to surface or sub-surface drainage, including:

(1) a demonstration of the likelihood of impacts to surface or subsurface drainage and how the interruption of drainage may impact land used in agricultural production within and outside of the facility corridor; and

(2) an identification of methods of repair for damaged drainage features.

(s) *Final operational noise assessment*. At least sixty (60) days prior to construction, the permittee shall file a revised computer sound modeling and assessment as specified in section 1102-2.9 of this Part, to reflect the final specifications of equipment selected for installation; final facility design and layout; list of sensitive sound receptors indicating the use, property type classification, and type of each receptor (see section 1102-2.9(f) of this Part), and any other changes to demonstrate that the project is designed to meet the design goals specified in section

1102-2.9(b) of this Part, and the operational noise limits specified in section 1102-3.5(a) of this Part at sensitive sound receptors.

(t) *Complaint Management Plan.* A Complaint Management Plan for construction and operation of the project, which shall describe the following:

(1) The name, mailing address, local or toll-free telephone number, and email address of the appropriate facility contact for development, construction, and operations.

(2) Methods for registering a complaint, which shall include a phone number, email address, mailing address, project website, and a form to report complaints. The toll-free or local phone number shall include a recorded outgoing message that will, when a call is not answered by a person, provide the caller with the name of the permittee's representative as well as:

(i) the number to be called in case of emergency; and

(ii) when the caller can expect a return call.

(3) Process for responding to all inquiries or complaints with an acknowledgement of receipt to the complainant within one business day.

(4) Process for responding to and resolving complaints in a consistent, timely, and respectful manner.

(5) Process for logging and tracking of all complaints received and resolutions achieved, with records of the following for each complaint containing:

(i) the name and contact information of the person filing the complaint;

(ii) location and owner of the property where the complaint originated;

(iii) date and time of the underlying event causing the

complaint;

(iv) description of the complaint; and

(v) current status and description of measures taken to resolve complaint.

(6) Reporting to the office of any complaints not resolved within ten (10) business days of receipt.

(7) Provisions for mediating complaints not resolved within sixty (60) days.

(8) Provision of annual reports of complaint resolution tracking to the office.

(u) *Long-Range ROW Management Plan.* The Long-Range ROW Management Plan ("LRRMP") shall:

(1) Describe methods for routine maintenance of the ROW for the operational life of the project, including management of danger trees, defined as any tree rooted outside of a project ROW that due to its proximity and physical condition (i.e., mortality, lean, decay, cavities, cracks, weak branching, root lifting, or other instability) poses a particular danger to a conductor or other key component of a transmission facility, specifications for clearances, inspection and treatment schedules, and environmental controls.

(2) Include vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species.

(3) Describe proposed chemical and mechanical techniques for managing undesirable vegetation, including herbicide use and limitations, specifications, and control measures.

(4) Establish fence-line clearances, and overhead wire security clearance zone specifications, indicating applicable safety, reliability and operational criteria.

(5) Specify inspection and target treatment schedules and

exceptions.

(6) Describe standards and practices for inspection of facility easements for erosion hazard, maintenance and repair of drainage, stormwater and sediment control facilities, hazardous conditions after storm events, or other incidents.

(7) Describe landowner notification procedures for planned ROW inspection and maintenance activities.

(8) Substantially comply with Part 84 of this Title and the final orders issued by the Public Service Commission in Cases 04-E-0822 and 10-E-0155.

(v) *Pre-Installation Trial Plan (for In-Water Facilities).* A Pre-Installation Trial Plan for any proposed in-water cable installation methods for which suspended sediment and water quality monitoring is required, including jetting or mass flow excavation tools. The plan shall:

(1) Establish that pre-installation trials will be conducted within representative sections or areas proximate to the proposed in-water cable route, approximately one-thousand (1,000) feet in length.

(2) Allow for evaluation of compliance with limits for turbidity, total suspended solids, and applicable water quality standards for any other constituents specified in the permit.

(3) Describe how the results of the trials will be used to establish operating conditions that will minimize the suspension of in-situ sediments and contaminants during in-water cable installation activities.

(4) Describe how water quality monitoring and sampling will be completed during the trials in a manner that is consistent with the Suspended Sediment and Water Quality Monitoring Plan.

(5) Describe how the results of the pre-installation trials will be evaluated in coordination with the Aquatic

Environmental Monitor, the office, and NYSDEC, to establish operational conditions and controls to minimize risks for water quality violations during construction.

(w) *Suspended Sediment and Water Quality Monitoring Plan (for In-Water Facilities).* The Suspended Sediment and Water Quality Monitoring Plan shall establish monitoring and sampling procedures to be conducted during pre-installation trials, dredging, blasting, dewatering of dredged material, barge decanting, pre-sweeping, pre-trenching, jet trenching activities, cable installation and maintenance, and decommissioning activities that involve disturbance of sediments. The plan shall:

(1) Specify sample location, depth of samples, frequency of sampling.

(2) Describe procedures for background sampling and monitoring during construction activities for which sampling and monitoring is required.

(3) Describe the use an Acoustic Doppler Current Profiler, or similar technology, to locate the sediment plume.

(4) Require whole water samples in the vertical water column from at least three depths, as determined by the office, which are representative of surface, mid-depth, and bottom conditions at the edge of the applicable mixing zone.

(5) Include an up-current transect outside the influence of monitored construction activities.

(6) Provide that during monitored construction activities, the permittee will perform real-time turbidity monitoring and water quality sample collection for total suspended solids and any constituents required by the permit.

(x) *Dredge Management Plan (for In-Water Facilities).* The Dredge Management Plan for in-water facility construction shall:

(1) Describe methods and equipment purpose and specifications for any proposed dredging.

(2) Describe measures to ensure all equipment remains in good operating condition throughout dredging operations.

(3) Describe procedures for dredge materials management and disposal.

(4) Describe procedures for complying with dredging requirements defined at section 1102-3.4(aa)(8) of this Part.

(5) Describe procedures for dredge material dewatering or barge decant, where applicable, including:

(i) a minimum settling time of twenty-four (24) hours;

(ii) additionally sampling for projects with contaminated sediments;

(iii) completed authorization request forms for water treatment chemicals, such as flocculants, planned for use; and

(iv) practices that will be implemented to reduce resuspension of sediments.

(6) Describe procedures for handling, storage, and disposal of contaminated dredged materials.

(y) *Anchoring Plan (for In-Water Facilities).* The Anchoring Plan shall:

(1) Discuss how the use of anchoring, if any, during construction and maintenance activities will avoid and/or minimize impacts to sensitive benthic habitats and Significant Coastal Fish and Wildlife Habitats (e.g., use of vessels equipped with dynamic positioning systems, installing mid-line buoys) and avoid impacts to existing buried assets.

(2) Outline the parameters for the use of anchors and spuds and identify discrete “No Anchor” areas within the facility corridor in the event anchoring is ultimately required.

(3) Describe how midline buoys or alternative measures will

be employed to minimize sediment disturbance caused by anchor sweeps during construction of the marine route.

(z) *Mariner Notification and Communications Plan (for In-Water Facilities).* For public notification to mariners and NYSDEC-Licensed Fishermen, the Mariner Notification and Communications Plan shall:

(1) Specify the information and relevant contact information that will be provided for notices of project in-water construction and maintenance activities.

(2) Describe plans for posting of notices of in-water project activities on the project website and to the USCG within a reasonable timeframe to allow for the USCG to post such notices prior to commencement of such project activities.

(3) Describe pre-construction consultation with local mariners, NYSDEC-Licensed Fishermen, and recreational fishermen who are known or anticipated to operate within the vicinity of the project. The plan shall summarize any consultations that have occurred and describe any additional consultations that are anticipated prior to construction.

(4) Include confirmation that the permittee has requested from NYSDEC an initial list of mailing and email addresses associated with potentially affected NYSDEC-Licensed Fishermen and describe plans for updating the list periodically throughout construction and as-needed prior to any post-construction in-water activities.

(aa) *Cable Monitoring and Maintenance Plan (for In-Water Facilities).* The Cable Monitoring and Maintenance Plan shall:

(1) Provide methods for determining the actual cable location and burial depth of the in-water cables and the timing for undertaking such efforts, including, for example, the use of distributed temperature sensing (DTS) technology.

(2) Include a requirement that the permittee establish depth of burial relative to sediment surface and the accurate level

of the sediment surface relative to vertical datum during post-construction survey operations.

(3) Describe methods for maintaining burial depth.

(4) Establish procedures for periodic monitoring of the actual burial depth (measured from the top of the cable) of the in-water cable throughout the operational life of the project.

(5) Describe procedures for evaluating risks if any section of the in-water cable that is at least twenty-five (25) feet long reaches an actual burial depth of less than four feet at any point during the operational life of the project, unless the actual burial depth at the time of installation was less than four feet.

(6) Describe procedures for remedying cable exposures with any time-of-year restrictions.

(7) Describe procedures for remedying cable exposures that pose a hazard to public safety, navigation, or marine resources outside of time-of-year restrictions, including avoidance and minimization techniques for threatened or endangered species and species of special concern.

(8) Include plans for marking the location of any cable exposures and procedures for immediately notifying the office of any third-party anchor strikes of the cable.

(ab) *Decommissioning and site restoration Plan*. For projects meeting the applicability criteria in section 1102-3.4(ae)(1) of this Part:

(1) a Final Decommissioning Plan consistent with section 1102-3.4(ae) of this Part, including updated decommissioning and site restoration cost estimates;

(2) proof of executed financial security for each host municipality or the State based on the estimated cost associated with the removal and restoration of the facilities located within the jurisdiction of each such host

municipality or the State, in accordance with section 1102-3.4(ae) of this Part.

(ac) *Site Security Plan*. Submit a Site Security Plan consistent with section 1102-2.8(b) of this Part.

(ad) *Facility Lighting Plan.* Submit a Facility Lighting Plan(s), which shall address:

(1) security lighting, designed to avoid off-site light trespass, at substations, switchyards, and converter stations, and any exterior equipment storage yards;

(2) plan and profile figures demonstrating proposed lighting arrangement and illumination levels (including lumens, location, and direction of lights for the facility or task use, worker safety, and tall structure marking requirements);

(3) exterior lighting design shall be limited to lighting required for health, safety, security, emergencies, and operational purposes, and shall be specified to avoid off-site lighting effects as follows:

(i) using task lighting as appropriate to perform specific tasks; limiting the maximum total outdoor lighting output based on the lowest allowable Occupational Safety and Health Administration limits; task lighting fixtures shall be designed to be placed at the lowest practical height and directed to the ground and/or work areas to avoid being cast skyward or over long distances, incorporate shields and/or louvers where practicable, and capable of manual or auto-shut off switch activation rather than motion detection;

(ii) require the Use of Luminaires with an Illuminating Engineering Society/International Dark-Sky Association (IES/IDA) IES TM-15-20 Backlight Uplight Glare Rating System Uplight (U0) rating.

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Subpart 1102-5. Post-construction Compliance Filings.

Section 1102-5.1. Post-construction compliance filings.

(a) *Updated equipment information*. Any updated information regarding the design, safety, and testing for the major electric transmission facility, including any switchyard, substation, converter station, and components thereof, and other major equipment to be installed during construction, as well as information regarding the design, safety, and testing for any equipment installed during facility operation as a replacement of failed or outdated equipment, shall be filed within fourteen (14) days of completion. Replacement of major facility components with different make, model, size, or other material modification shall be subject to review and approval of the office pursuant to section 1100-11.1 of Part 1100 of this Title.

(b) *As-built plans*. As-built plans in both physical and electronic copies shall be filed, and may be filed on a confidential basis, within nine (9) months of the in-service date of the facility and shall include the following:

(1) spatial data acceptable to the office, showing all components of the facility (i.e., cables, substation, buildings, access roads, point of interconnection, vaults, structures, etc.), providing final facility component locations and elevations;

(2) actual cable burial depths for underground and in-water cables;

(3) locations and types of any cable protection measures for in-water facilities;

(4) details for all facility component crossings of, and co-located installations of facility components with, existing utility infrastructure and assets: showing cover, separation distances, any protection measures installed, and locations of such crossings and co-located installations; and

(5) structures required for post-construction stormwater and sediment control.

(c) *Final cost*. Within six (6) months following project completion, the permittee shall provide to the office a full accounting of all project costs, including an explanation of variances, if any, between projected and actual costs. Such accounting may be filed on a confidential basis. The accounting shall separately detail all costs incurred by the permittee as a result of its purchase of a structure or component for installation in the project that did not conform to the specification for structures and components described in the EM&CP. The analysis contained within this accounting shall be divided into the following sections:

(1) summary of project costs for each cost category listed at section 1102-2.20 of this Part;

(2) expenditures breakdown per cost category;

(3) comparison of estimated versus actual expenditures;

(4) conclusion and explanation of significant variances; and

(5) accounting of non-conforming structures or components.

(d) *Invasive species.*

(1) Upon completion of the post-construction surveys, a final report shall be prepared and filed with the office. The final report shall discuss whether the goals of the Invasive Species Control and Management Plan (ISCMP) have been achieved and if any additional post-construction monitoring may be warranted based on whether an expansion of Identified Invasive Species of Special Concern (ISSC) or High Concern (ISHC)are present as a result of construction.

(2) If the post construction monitoring report shows the aerial extent of ISSC or ISHC has expanded as a result of project construction, the final report shall include an Adaptive Management Strategy for achieving the goals of the ISCMP. The office, in consultation with the other agencies, will determine whether the goals of the post construction monitoring have been achieved or, if applicable, whether the

Adaptive Management Strategy must be implemented.

(e) *Wetland Planting Remedial Plan.* If, after two (2) years, monitoring demonstrates that the criteria for restoration (eighty (80) percent native species cover) is not met, the permittee must submit a Wetland Planting Remedial Plan (WPRP). The WPRP must include an evaluation of the likely reasons for the results, including an analysis of poor survival; a description of corrective actions to ensure a successful restoration; and a schedule for conducting the remedial work. Once accepted by the office, the WPRP must be implemented according to the schedule approved by the office.

(f) *Wetland Mitigation Remedial Plan.* If, after five (5) years, monitoring demonstrates that the wetland mitigation is still not meeting the established performance standards, the permittee must submit a Wetland Mitigation Remedial Plan (WMRP). The remedial plan must include an evaluation of the likely reasons for not achieving performance standards, a description of corrective actions to ensure a successful mitigation, and a schedule for conducting the remedial work. Once accepted by the office, the WMRP must be implemented according to the schedule approved by the office.

(g) *Decommissioning.* The decommissioning and site restoration estimates contained in the approved Decommissioning and Site Restoration Plan shall be updated based on the as-built project, and to reflect inflation and any other increases due to labor or other costs, by a qualified independent engineer licensed in the State of New York, after one (1) year of project operation, and every fifth year thereafter, provided that the permittee may submit an attestation with appropriate justification if there are no material changes to the previously filed decommissioning estimates. The value of the letters of credit, or other financial security, secured for decommissioning purposes shall not be reduced below the initial Final Decommissioning Cost Estimate submitted in compliance with section 1102-4.3(aa) of this Part without the express approval of the office, based on a new analysis

demonstrating a significant change in market conditions.

(1) Letter(s) of credit (or other financial assurance approved by the office) and copies of agreements between the permittee and the towns, cities, and villages, establishing a right for each municipality to draw on the letters of credit dedicated to its portion of the facility shall be provided to the office after one (1) year of facility operation and updated every fifth year thereafter specifying changes (due to inflation or other cost increases) to the structure of the letters of credit (or other financial assurance approved by the office).

(h) *Noise*. For converter stations (including any adjoining substation) not located in cities with a population over one million, to evaluate compliance with the operational noise limits, after the commercial operation date of the facility the permittee shall:

(1) Implement a Sound Testing Compliance Protocol (STCP) approved by the office for post-construction noise performance evaluations.

(2) Within eight (8) months following the commercial operation date of the facility, the permittee shall complete at least one post-construction sound compliance test and submit the results by filing a report from an independent acoustical or noise consultant specifying whether the facility is in compliance with all permit conditions regarding noise.

(3) If the results of the post-construction sound compliance test(s), or any subsequent test conducted by the permittee or the office indicate that the facility does not comply with permit conditions for noise, the permittee shall:

(i) Present noise minimization options to the office (e.g., sound barriers, enclosures, replacement or maintenance of noisy components, silencers, low-noise fans), within sixty (60) days after the filing of a non-compliant test result, or a violation of permit

conditions on noise.

(ii) Upon approval from the office, implement any noise minimization measures within one hundred and fifty (150) days.

(iii) Test, document, and present results of any minimization measures implemented demonstrating compliance with all permit conditions on noise, no later than 90 days after implementation.