

U.S. Army Corps of Engineers New England District

General Permits for Massachusetts

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GPs for MA

Agenda

1. Background
2. How GPs for MA work
3. Changes/highlights
4. Discussion/questions



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GPs for MA

1. Background

- State GPs implemented in early 1990s
- One for each New England state
- More streamlined review than Individual Permits (IPs)
- No more than minimal individual & cumulative adverse effects on the aquatic environment



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GPs for MA

1. Background

- Nov. 2011:
 - ▶ Proposal to replace 6 state GPs w/1 NE GP doc.
- Oct. 2014:
 - ▶ Ended NE GP proposal
 - ▶ Pursue GPs state-by-state
- Jan. 2015:
 - ▶ MA GP expired
- Feb. 2015:
 - ▶ GPs for MA issued



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GPs for MA

2. How GPs for MA work

- Website:
 - nae.usace.army.mil >>
 - Missions >>
 - Regulatory >>
 - State General Permits >>

and then:

- Massachusetts (GPs for MA & referenced docs.)
- Permit Resources (referenced docs)



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GPs for MA

2. How GPs for MA work

- I. General Criteria
- II. Jurisdiction/Authorities to Issue Permits
- III. Eligible Activities (23)
- IV. General Conditions (41)
- V. Content of PCN
- VI. Definitions & Acronyms
- VII. Self-Verification Notification Form
- VIII. SHPO/THPO Notification Form
- IX. State-Specific Supplement



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GPs for MA

2. How GPs for MA work

Section I, General Criteria

- Self-Verification (formerly Cat 1)
 - ▶ May commence without written verification
 - ▶ SVNF required unless otherwise stated
 - ▶ Project proponent verifies eligibility
 - ▶ Corps acknowledges SVNF receipt in writing, but acknowledgement doesn't confirm SV eligibility



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GPs for MA

2. How GPs for MA work

Section I, General Criteria

- PCN (formerly Cat 2)
 - ▶ Permittee must submit a PCN
 - ▶ May only commence with written verification (i.e., a letter referencing plans and potentially w/special conditions)
 - ▶ 60-day review period (goal)
 - ▶ Encourage proponents to concurrently apply for local, state and Federal permits



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GPs for MA

2. How GPs for MA work

Section II, Jurisdiction/Auth. to Issue Permits

- Only Corps regulated activities require permits
 - ▶ Navigable waters of the U.S.
 - Structures in, over or under
 - Excavating or dredging from or depositing material in
 - Any other work affecting the course, location, condition, or capacity
 - E.g.: fill, utilities, withdrawals, dredging, piles, structures, oil spill booms, etc.
 - Navigable waters definition is important



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GPs for MA

2. How GPs for MA work

Section II, Jurisdiction/Auth. to Issue Permits

- Only Corps regulated activities require permits
 - ▶ All waters of the U.S.
 - Discharges of dredged or fill material, and discharges associated with excavation
 - E.g.: culverts, mats, cofferdams, utilities, bank stab., jetties, etc.



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GPs for MA

2. How GPs for MA work

Section III, Area Limits

- Table is only applicable when referenced
- Temp. + perm. impact area determines SV or PCN
- Perm. impact area determines PCN or IP
- Permanent impacts include some secondary impacts (see Footnote 2)
- Temporary discharges only authorized under GPs 6, 10 & 14



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2. How GPs for MA work

Section III, GPs 1 - 23

- Check top row to see if work is authorized
- Check IP column to see if work isn't authorized. If not, it may be auth. under another GP
- If authorized, read SV & PCN columns to see where activity fits
- SV & PCN columns typically state the opposite
 - ▶ E.g., see GC 1, SV #4 and PCN #4
- SV has “and” terms, PCN has “or” terms:
 - ▶ All SV terms must be true to be SV eligible, but...
 - ▶ One true PCN term = PCN required



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2. How GPs for MA work

Section III, GPs 1 – 23

- A project's various activities may be authorized under different GPs
- GC 5, Single and Complete, is particularly relevant



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GPs for MA

2. How GPs for MA work

Section III, GPs 1 – 23

- Example for a roadway:
 - ▶ SV eligible under GP 10, Linear Transportation (1000 SF)
 - ▶ SV eligible under GP 14, Temporary (1000 SF)
 - ▶ Therefore, SV eligible
- Example for a roadway:
 - ▶ SV eligible under GP 10, Linear Transportation
 - ▶ SV eligible under GP 14, Temporary
 - ▶ PCN required under GP 7, Bank Stabilization
 - ▶ Therefore, a PCN is required for the entire project





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2. How GPs for MA work

Section III, GPs 1 – 23

- Example for a subdivision:
 - ▶ SV eligible under GP 8, Residential Develop. (3000 SF)
 - ▶ SV eligible under GP 14, Temporary (3000 SF)
 - ▶ Therefore, >5000 SF and a PCN is required for the entire project



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3. Changes/highlights

- GP 1, Maintenance
 - ▶ Applies when:
 - Maintenance not authorized in original auth.
 - Grandfathered projects
 - ▶ New discharges require PCN
 - ▶ Not authorized/IP required:
 - Replacement of non-func. tide gates
 - Stream crossing culvert extensions
 - Culvert replacements



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Maintenance requirement
in 2010 MA GP



26. Environmental Functions and Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner that maintains as much as practicable, and minimizes any adverse impacts on, existing fish, wildlife, and natural environmental functions and values.

27. Invasive Species.

(a) The introduction, spread, or the increased risk of invasion of invasive plant or animal species on the project site, into new or disturbed areas, or areas adjacent to the project site caused by the site work is prohibited. See Appendix F.

(b) Unless otherwise directed by the Corps, all applications for Category 2 inland projects proposing fill in Corps jurisdiction shall include an Invasive Species Control Plan (ISCP). See Appendix F.

28. Inspections. The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is being or has been performed in accordance with the terms and conditions of this permit. The Corps may also require post-construction engineering drawings for completed work or post-dredging survey drawings for any dredging work. To facilitate these inspections, the permittee shall complete and return to the Corps:

- For Category 1 projects, the Category 1 Form (Appendix C).
- For Category 2 projects, the 1) Work-Start Notification Form and 2) Compliance Certification Form. Both are provided with each Category 2 authorization letter.

29. Maintenance. (a) The permittee shall maintain the work authorized herein in good condition and in conformance with the terms and General Conditions of this permit. (b) This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in Appendix A and/or any special conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized by the Corps and dredged. (c) For inland mosquito ditching and maintenance information, see www.nae.usace.army.mil, "Regulatory/Permitting," and then "Useful Links and Documents."

30. Property Rights. This GP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations.

31. Modification, Suspension, and Revocation. This GP or any work authorized under Category 1 or 2 may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7. Any such action shall not be the basis for any claim for damages against the United States.

32. Restoration Directive. The permittee, upon receipt of a notice of revocation of authorization under this GP, shall restore the wetland or waterway to its former conditions, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

33. Special Conditions. The Corps may independently, or at the request of the federal resource agencies, impose other special conditions on a project authorized pursuant to this GP that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special





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GPs for MA

3. Changes/highlights

- GP 2, Moorings
 - ▶ Low impact moorings in veg. shallows are SV eligible
 - ▶ PCN may be required even if authorized by a local harbormaster/municipality under MGL Chapter 91 Section 10A
- GP 3, Pile-Supp. Structures, Floats & Lifts
 - ▶ TOYs in GC 18 only apply to work in SV 9
 - ▶ GP 12(b) particularly relevant



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3. Changes/highlights

- GP 5, Dredging, Disposal, Beach Nour., Rock Relocation
 - ▶ Applies to work in navigable waters
 - ▶ Revised limits in SAS & intertidal zone
 - ▶ Beach nour. *in waters of U.S.* not assoc. w/dredging subject to PCN limits
 - ▶ Additional TOYs due to end. species



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3. Changes/highlights

- GP 6, Discharges of Dredged or Fill Material Incidental to Bridge Construction
 - ▶ No changes
 - ▶ For all GPs, GCs apply as applicable
 - ▶ GCs 18 & 30 are particularly relevant



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3. Changes/highlights

- GP 7, Bank and Shoreline Stabilization
 - ▶ SV when slope is more gradual than: 1V:3H in lakes/ponds; 1V:1H in non-tidal streams, and tidal waters & streams
 - ▶ 50 FT + 60 FT on each side of stream = 110 FT. PCN required.
 - ▶ IP required for >500 FT
 - ▶ Non-structural shoreline stabilization activities now eligible for authorization



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3. Changes/highlights

- GP 8, Residential, Commercial and Institutional Developments
 - ▶ No work in tidal waters
 - ▶ No stormwater systems or subsurface sewerage disposal systems
- GP 9, Utility Line Activities
 - ▶ Intake structures require PCN
 - ▶ Several new requirements.
 - ▶ Separate webinar for utility companies



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3. Changes/highlights

- GP 10, Linear Trans. Projects Including Stream Crossings
 - ▶ Stream Crossing BMPs
 - ▶ Permanent crossings in non-tidal streams are still SV eligible
 - ▶ PCN for work in navigable waters
 - ▶ Non-linear features authorized in GP 8



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3. Changes/highlights

- GP 11, Mining Activities
 - ▶ Similar requirements
- GP 12, Boat Ramps & Marine Railways
 - ▶ Similar requirements
 - ▶ PCN for ramps w/in 25 FT of prop. line



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3. Changes/highlights

- GP 14, Temp. Const., Access & Dewatering
 - ▶ Add temp. + perm. impacts to determine SV or PCN
 - ▶ PCN for temp. discharges >2 years
 - ▶ GC 17 is particularly relevant for work in streams
 - ▶ SV eligible for mats >5000 SF



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3. Changes/highlights

- GP 15, Reshaping Existing Drainage Ditches, New Ditches, & Mosquito Management
 - ▶ PCN for:
 - >500 FT of modified drainage ditch
 - new or relocated draining ditches



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3. Changes/highlights

- GP 16, Response Operations for Oil and Hazardous Substances
 - ▶ SV for booms placed for oil containment, absorption & prev. SVNf not required.
 - ▶ SV for response and cleanup, but work in certain waters requires Corps contact



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3. Changes/highlights

- GP 17, Cleanup of Haz. & Toxic Waste
 - ▶ Permanent impacts may meet or exceed the PCN limits on page 4 (no change)
 - ▶ SVNf required w/in 2 weeks
 - ▶ SV for booms placed for oil containment, absorption & prev. SVNf not required.



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3. Changes/highlights

- GP 18, Scientific Measurement Devices
 - ▶ PCN for:
 - some perm. impacts
 - some biological sampling devices
 - weirs and flumes
 - ▶ TOYs only apply to weirs and flumes



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3. Changes/highlights

- GP 19, Survey Activities
 - ▶ PCN for:
 - some perm. impacts and seismic work
 - exploratory trenching in waterways



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3. Changes/highlights

- GP 20, Agricultural activities
 - ▶ No work in tidal waters
 - ▶ PCN in certain rivers
 - ▶ Farm ponds:
 - PCN in non-perennial streams
 - IP in perennial streams



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3. Changes/highlights

- GP 21, Fish & Wildlife Harvesting and Attraction Devices & Activities
 - ▶ PCN for some activities incl. aquaculture
- GP 22, Habitat Restoration, Establishment & Enhancement
 - ▶ Perm. impacts may meet or exceed the PNC limits (no change)
 - ▶ SV requires environmental agency approval
 - ▶ PCN for conversion



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3. Changes/highlights

- GP 23, Previously Authorized Activities
 - ▶ Changes made to protect listed species
 - ▶ Work needs a written verification/ authorization letter from the Corps under the 2010 MA GP to qualify (submittal of a Cat. 1 Notification Form and Corps acknowledging receipt was not sufficient).
 - ▶ For all GPs, all GCs apply as applicable, e.g., GC 30 SVNF, is required



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3. Changes/highlights

- GP 22, Habitat Restoration, Establishment & Enhancement
 - ▷ Perm. impacts may meet or exceed the PNC limits (no change)
 - ▷ SV requires environmental agency approval
 - ▷ PCN for conversion
- GP 23, Previously Authorized Activities
 - ▶ Changes made to protect listed species
 - ▶ For all GPs, all GCs apply unless otherwise stated
 - ▶ GC 30 SVNF, particularly relevant



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3. Changes/highlights

- GC 4, Mitigation
 - ▶ Applicants shall consider riparian/ forested buffers for stormwater management and LID BMPs
 - ▶ Comp. mitigation generally required
- GC 5, Single & Complete Projects
 - ▶ Combine GPs, but can't exceed limit



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3. Changes/highlights

- GC 6, Historic properties
 - ▶ SHPO & THPO coordination:
 - SV: recommended
 - PCN: required (no change)
 - Areas of Interest: See Sec. IX, Part C
 - ▶ Use Corps or MHC form (see Sec. IX, Part B (2)(c)).
 - ▶ Contact Corps before archaeological work



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3. Changes/highlights

- GC 8, Fed. T&E species
 - ▶ USFWS species: Must check USFWS website
 - ▶ NMFS species: Corps will coordinate w/NMFS
- GC 9, Wild & Scenic Rivers
 - ▶ Requires PCN (no change)
- GC 12, Pile Driving and Removal
 - ▶ SV: piles ≤ 12 " or installed 1Nov-15Mar



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3. Changes/highlights

- GC 14, Heavy Equipment in Wetlands
 - ▶ May be operated on dry or frozen wetlands
- GC 15, Temporary Fill
 - ▶ Considered perm. if not removed promptly
- GC 16, Restoration of SAS
 - ▶ More detailed restoration and compaction



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3. Changes/highlights

- GC 17, Soil Erosion, Sed. & Turb. Controls
 - ▶ Biodegradable requirements
 - ▶ No unconfined fill or excavation
 - ▶ Non-embedded removal during TOY restr.
 - ▶ Embedded removal during TOY window but may remain through restriction
 - ▶ Water diversion requirements



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3. Changes/highlights

- GC 18, TOY Work Windows & Restrictions
 - ▶ Applies to certain GPs
 - ▶ MassDEP or ConCom may modify TOY after consulting w/MA DMF or DF&W w/exceptions.
- GC 19, Aquatic Life Movements & Management of Water Flows
 - ▶ PCN for perm. impoundments
 - ▶ Alter course or condition if (+) benefit



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3. Changes/highlights

- GC 24, Vernal Pools
 - ▶ Effects to all VPs shall be avoided & minimized
 - ▶ PCN plans must show VPs on and offsite, and Corps will decide if a VP is jurisdictional
 - ▶ PCN for discharges in a VP, or a VP w/in 500 FT of any regulated activity



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3. Changes/highlights

- GC 25, Invasive & other unacceptable species
 - ▶ Non-native species and cultivar use when is appropriate and specified in writing
- GC 26, Blasting (new)
- GC 27, Suitable Material (new)



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3. Changes/highlights

- Stream channelization definition:
 - ▶ The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the U.S.



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Questions?

