



**US Army Corps  
of Engineers**<sup>®</sup>  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

**Date:** July 6, 2010

**Comment Period Ends:** August 5, 2010

**File Number:** NAE-2010-00322

**In Reply Refer To:** Greg Penta

**Or by e-mail:** [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil)

## REISSUANCE OF THE DEPARTMENT OF THE ARMY MAINE GENERAL PERMIT

The New England District, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751 hereby proposes to reissue the statewide Maine General Permit (GP), formerly the Maine Programmatic General Permit (PGP), pursuant to 33 CFR 325.5(c)(3) for minimal-impact activities within waters of the United States in the State of Maine. The existing PGP expires on October 11, 2010 and we propose to reissue the GP for another five years no later than this date. The reissued GP will continue the expedited review process for activities in Corps jurisdiction under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. This public notice is issued in accordance with 33 CFR 325.3(b) to coordinate reissuance of the GP with Federal resource agencies, state agencies and the public.

General Permits are encouraged under the President's plan as a way to streamline state and federal regulatory programs. The New England District has already had success with streamlining these programs with the use of PGPs throughout New England. A PGP has been in place in Maine since 1993. The current PGP is located at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under "State General Permits." The proposed GP is under "Public Notices" and titled "Draft ME GP (2010)." You may also contact Mr. Penta for a copy at (978) 318-8862 or [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil).

Successful use of the more flexible GP process in place of the Nationwide Permits (NWP) provides benefits to the public, including simplifying the process and expediting decisions while maintaining environmental protection. This GP authorizes activities formerly covered under the NWP program and currently covered under the existing PGP. The New England District suspended all NWPs in the six New England states on July 31, 2007.

Projects with minimal individual and cumulative effects on the aquatic environment will be approved administratively under this GP. All GP authorizations will be subject to the applicability requirements, procedures, and conditions contained in the GP documentation. Project eligibility under this GP will fall into two categories: Category 1 (notification form required) and Category 2 (application required). The Corps will coordinate Category 2 activities with state and federal resource agencies (U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and National Marine Fisheries Service) as required and determine if the individual and cumulative adverse environmental impacts are minimal and whether a project may proceed under GP authorization.

Projects that do not meet the terms and conditions of the GP will be subjected to Individual Permit review as detailed in 33 CFR 325. The GP reissuance does not alter the Individual Permit review procedures, but does provide some Individual Permit procedures and thresholds. The reissuance also does not alter the federal exemptions, which are not necessarily the same as the state's exemptions. In addition, each authorization

issued under the GP is not valid until all other required federal and state permits and/or certifications are obtained as listed on page 2 of the GP.

The proposed GP does not affect activities authorized under the existing PGP that have commenced work prior to the re-issuance. Activities which have commenced (i.e., are under construction or are under contract to commence) prior to the re-issuance date of this GP, in reliance upon the terms and conditions of the category under which it was authorized, shall remain authorized provided the activity is completed by the project-specific date the Corps provides to the permittee in the GP authorization letter.

#### Essential Fish Habitat

In 1996, the Magnuson-Stevens Fishery Conservation and Management Act was amended to require the Federal fishery management councils (Councils) to designate Essential Fish Habitat (EFH) for all Federally managed fish species. The EFH applies to those waters and substrates necessary to fish for spawning, feeding, breeding, and growth to maturity. The EFH designations made by the Councils include Massachusetts waters listed in Appendix H of the current PGP. Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires federal agencies proposing to authorize, fund, or to undertake actions, which may adversely effect EFH, to consult with National Marine Fisheries Service (NMFS) regarding the action. Accordingly, the Corps has and continues to consult with NMFS regarding the actions permitted under the GP. For certain types of actions that will likely result in no more than minimal adverse effects to EFH individually and cumulatively, NMFS has issued a statement of General Concurrence in accordance with the requirements of 50 CFR 600.920(g), dated January 17, 2002. The General Concurrence covers EFH consultation requirements for those activities permitted by the Corps, which individually and cumulatively have no more than minimal adverse effects on EFH.

The General Concurrence was drafted to cover most activities that would fall under Category 2 of the GP. The General Concurrence will cover those Category 2 actions in which NMFS concurs with the Corps determinations that the activity will result in no more than minimal adverse effects to EFH. In cases where NMFS does not concur with the Corps determination, NMFS will notify the Corps during coordination meetings or by other established means that this General Concurrence will not cover a specific Category 2 action. The NMFS will periodically review its findings of General Concurrence and may revise or revoke a General Concurrence if new information indicates that the covered actions are having more than minimal adverse effects on EFH.

#### Water Quality Certification

With this Public Notice, the Corps is requesting the Maine Department of Environmental Protection (DEP) and the Land Use Regulation Commission (LURC) determine whether to issue, deny, or waive Water Quality Certification (WQC) for certain activities. The DEP and/or LURC may or may not issue a notice regarding their tentative determination. Therefore, please send comments regarding WQC to the DEP at: James Cassida, Division of Land Resource Regulation, Bureau of Land and Water Quality, Maine DEP, 17 State House Station, Augusta, Maine 04333; or to LURC at: Samantha Horn-Olsen, LURC, 22 State House Station, Augusta, Maine 04333-0022

#### Coastal Zone Management (CZM) Consistency

With this Public Notice, the Corps is requesting that the Maine State Planning Office determine whether to issue, deny or waive Coastal Zone Management Consistency for certain activities. The Coastal Program may or may not issue a notice regarding their tentative determination. Therefore, please send comments regarding CZM consistency to Mr. Todd Burrows, Maine State Planning Office, Coastal Program, 184 State Street, State House Station 38, Augusta, Maine 04333.

Proposed Changes

The draft Maine GP that includes all of the proposed changes and improvements is attached to this public notice which is on our web site at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg), under "Public Notices" and titled "Proposed Maine General Permit (2010)." You may also call (978) 318-8862 or email [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil) for a copy. The proposed changes are highlighted on page 4 of this public notice.

Comments

We are seeking public comment in order to properly evaluate the proposal. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the date specified at the top of page 1. Any comments received will be considered by the Corps to determine whether to reissue or modify the GP as proposed. Submit your comments to: Mr. Greg Penta, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742-2751. Please contact Mr. Penta at (978) 318-8862 or [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil) if you have any questions.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when a hearing is the best means for understanding a wide variety of concerns from a diverse segment of the public.

Decision

The decision whether to issue the GP will be based on an evaluation of the probable impact of the proposed action on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

In accordance with 33 CFR 325.2(a)(8), we publish monthly a list of permits issued or denied during the previous month at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg), under the heading "General Permit Authorizations and Individual Permits." Relevant environmental documents, the Statement of Findings, and Record of Decision are available upon written request. Also visit [www.nae.usace.army.mil](http://www.nae.usace.army.mil) for more information on the New England District Corps of Engineers programs.

**THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.**



Robert J. DeSista  
Acting Chief, Regulatory Division

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If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_

## **Proposed Changes to the Maine General Permit (GP)**

Provided below are some of the proposed major changes to the GP. This is not a comprehensive list and readers should reference the draft Maine GP to view all of the proposed wording. The draft Maine GP is attached to this public notice which is on our web site at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg), under “Public Notices” and titled “Proposed Maine General Permit (2010).” You may also call (978) 318-8862 or email [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil) for a copy.

### **I. General Criteria**

We are proposing that proponents with work eligible for Category 1 submit the Category 1 Notification Form at Appendix B. This will provide endangered species information to the National Marine Fisheries Service and U.S. Fish and Wildlife Service.

### **III. Procedures**

1. Corps Authorizations: The threshold for reporting to the Corps was reduced from 15,000 square feet (SF) to 4,300 SF, regardless of whether or not the project is covered by a DEP Tier One permit with no cumulative impacts. This change is consistent with the efforts of the other Corps districts throughout the U.S. to meet the “No net loss wetlands policy” goal. The GP contains new language on avoidance, minimization and compensatory mitigation requirements.

2. Applying for a Permit: It is now clear that applicants must submit an application to the Corps and not just the state for work in Corps jurisdiction. However, applicants are still able to use the state application for the Corps rather than submit the Corps application, ENG Form 4345.

3. Review Procedures: The review procedures were simplified.

4. Approval Process: This section was added to provide information to the public.

### **V. General Permit Conditions**

1. General Condition 2, Federal Jurisdictional Boundaries.

The methods and submittals for jurisdictional determinations are now clearer.

2. General Condition 3, Minimal Direct, Secondary and Cumulative Impacts.

Applicants should provide information on secondary and cumulative impacts (see Appendix C).

3. General Condition 5, Single and Complete Projects.

Proponents must include any permanent historic fill placed since October 1995 that is associated with that project and all currently proposed temporary and permanent impact areas.

4. General Condition 10, Endangered Species.

This condition was modified, especially with updates regarding Atlantic salmon critical habitat and shortnose sturgeon habitat.

5. General Condition 11, Essential Fish Habitat.

The definitions and internal procedures were moved to Appendix E. Work that may be authorized under Category 1 is now listed.

6. General Condition 12, Wild and Scenic Rivers.

The review area for Wild and Scenic Rivers was clarified.

7. General Condition 17, Heavy Equipment in Wetlands.

Changes were made to this condition. The following was added, “The Construction mats are to be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland. Dragging construction mats into position is prohibited.”

8. General Condition 18, Temporary Fill.

Changes were made to this condition. Time limits for temporary fill are proposed.

9. General Condition 20, Bank Stabilization.

This would contain conditions for all bank stabilization projects (inland and coastal), not just coastal.

10. General Condition 22, Stream Work and Crossings

Major changes were made to this condition, including references to stream crossing standards and designation of high-quality stream segments. For Category 1, management techniques must be used to maintain normal flows within the stream boundary’s confines, however water diversions may be used immediately up and downstream of the work footprint.

11. General Condition 23, Wetland Crossings.

This new condition was added to address wetland crossings. Wetland crossings have different characteristics than stream crossings and therefore the requirements in General Condition 22 are not appropriate.

12. General Condition 28, Protection of Vernal Pools (VPs).

This condition contains new requirements. The draft “VP Directional Buffer Guidance Document” is attached to this public notice. Although the GP currently provides 500’ Category 1 thresholds as this is consistent with the Maine DEP’s requirements, we are considering increasing the 500’ thresholds to 750’ based upon ecological considerations.

13. General Condition 29, Invasive Species.

This new condition prohibits 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. All applications for Category 2 inland projects and Category 2 coastal fill projects proposing fill in Corps jurisdiction must include an Invasive Species Control Plan (ISCP).

14. General Condition 30, Cranberry Development Projects.

Stream diversions are now allowed under Category 2.

15. General Condition 34, Transfer of GP Verifications.

## **Appendix A – Inland Waters and Wetlands**

1. (a) NEW FILL/ EXCAVATION DISCHARGES

a. All projects filling >4300 square feet (SF) are not eligible for Category 1. As stated above, the threshold for reporting to the Corps was reduced from 15,000 square feet (SF) to 4,300 SF, regardless of whether or not the project is covered by a DEP Tier One permit with no cumulative impacts. This change is

consistent with the efforts of the other Corps districts throughout the U.S. to meet the “No net loss wetlands policy” goal.

b. Changes were made to the thresholds regarding vernal pools and construction mat placement.

c. Thresholds regarding stream work were moved to the new activity “(c) RIVER/STREAM/ STREAM/ BROOK WORK & CROSSINGS and WETLAND CROSSINGS.”

## 2. (b) BANK STABILIZATION PROJECTS

The Category 1 threshold for bank stabilization projects was increased from 100’ to 500’.

## 3. (c) RIVER/STREAM/ STREAM/ BROOK WORK & CROSSINGS *and* WETLAND CROSSINGS

This new category was added and basically brings forward some of the thresholds and requirements from General Condition (GC) 22.

## 4. (e) MISCELLANEOUS

Several new thresholds were added. The threshold for aquatic habitat restoration was moved from (a) Fill to here.

### **Appendix A – Navigable Waters**

#### 1. (a) FILL

a. An allowance was made for bank stabilization projects.

b. The Category 2 threshold for permanent fill or excavation in SAS was increased from 1000 SF to <1 acre.

#### 2. (c) REPAIR AND MAINTENANCE WORK

Requirements were added for pile driving.

#### 3. (d) DREDGING AND ASSOCIATED DISPOSAL

For Category 1, there is no allowance for dredging in areas designated as Atlantic salmon critical habitat or occupied by listed Atlantic salmon. For dredging in waters outside of Atlantic salmon critical habitat, applicants must contact NMFS to ensure no impacts to listed species such as shortnose sturgeon.

#### 4. (e) MOORINGS

“Not located in vegetated shallows” was changed to:

- No new moorings located in SAS.
- Existing, authorized moorings in SAS shall be replaced with elastic mooring systems, which preclude mooring chains from resting or dragging on the bottom substrate at all tides, and utilize a helical anchor where practicable.

#### 5. (f) STRUCTURES AND FLOATS

A Category 1 allowance was provided for 1) Private, bottom-anchored floats and 2) Private, pile-supported structures. Provisions were provided that would allow the work inside or outside of Atlantic salmon critical habitat or shortnose sturgeon habitat.

#### 6. (e) MISCELLANEOUS

Several new thresholds were added. The threshold for aquatic habitat restoration was moved from (a) Fill to here.

**Appendix A – Endnotes/Definitions**

These were modified and several new definitions were added. Direct, Secondary, and Cumulative Impacts/Effects was added and provides information for General Condition 3. The Vernal Pool definition was update to match the DEP’s definition and to reference available literature. “Aquatic Habitat Restoration, Establishment and Enhancement” was added.

**Appendix C - Information Required Checklist**

This was added to assist project proponents when putting together their application. It should result in more complete applications and faster processing time.

**Appendix E: Additional References**

This was added and provides additional information for project proponents including General Stream Crossing Standards.

## VP Directional Buffer Guidance Document

### Current regulatory zones

Typically, vernal pool regulations apply to the pool depression and a radial buffer around the pool. Buffers were established largely to protect the water quality of the amphibian breeding pool while providing some terrestrial habitat for the wood frogs and salamanders that breed in these pools. The size of the regulated zone varies from state to state. In Maine, the DEP's regulated zone is 250 feet (FT) from the high water mark of a Significant Vernal Pool's depression (Figure 1). An activity in this zone is eligible for a Permit by Rule (PBR) provided that habitat management standards are met, including maintaining a minimum of 75% of the 250 FT regulated zone as unfragmented forest. The Corps of Engineers proposed regulated zone in their draft October 2010 Maine General Permit is 500 FT from the high water mark of a vernal pool, regardless of whether the vernal pool is "significant" or not. An activity in this 500 FT zone is eligible for Category 1 provided that similar habitat management standards are met, including maintaining a minimum of 75% of the 500 FT regulated zone as unfragmented forest. Impacts to over 25% of the zone will require an application to the Corps for review for potential avoidance, minimization and compensatory mitigation measures.

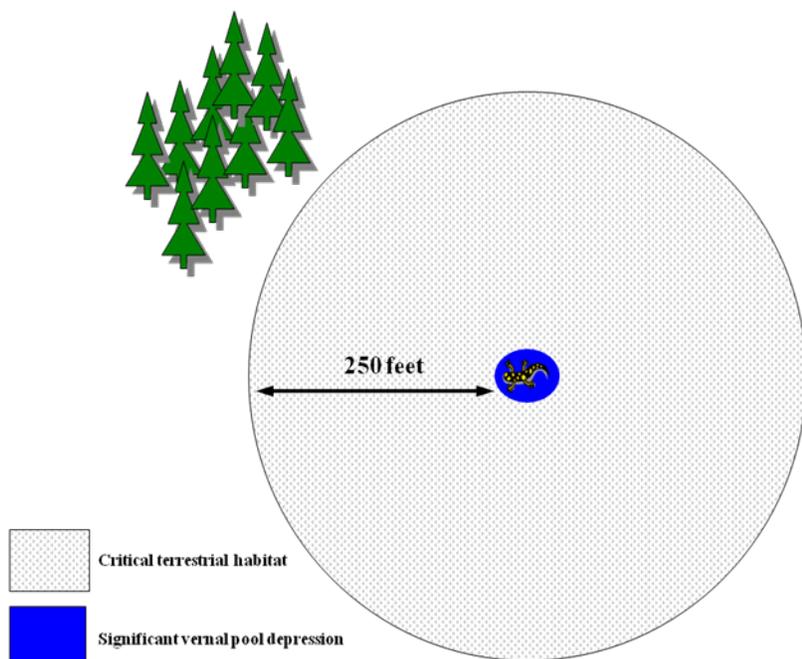


Figure 1:  
Maine DEP's regulated zone

However, circular zones often do not meet the terrestrial habitat needs of vernal pool species. Adult amphibians spend only 2 or less weeks in breeding pools before they move back into the forests where they spend the vast majority of their lifecycle (feeding and hibernating). Pool-breeding amphibians typically travel 750 FT (and as far as a mile or more) to reach non-breeding habitats. During their life-cycle, some species require 2 or more distinct habitats. For example, the wood frog uses vernal pools to breed, forested wetlands and moist stream bottoms to summer, and well-drained uplands to hibernate (Figure 2). Spotted salamanders typically breed in vernal pools and rely on small mammal burrows (often shrews) in upland forests for both summer habitat and for hibernating.

Given that current vernal pool regulations rely on regulating set circular zones around pools and may not conserve pool-breeding species or meet the needs of landowners, regulating agencies may choose to take a flexible approach like directional buffers that better serves both the human and amphibian communities.

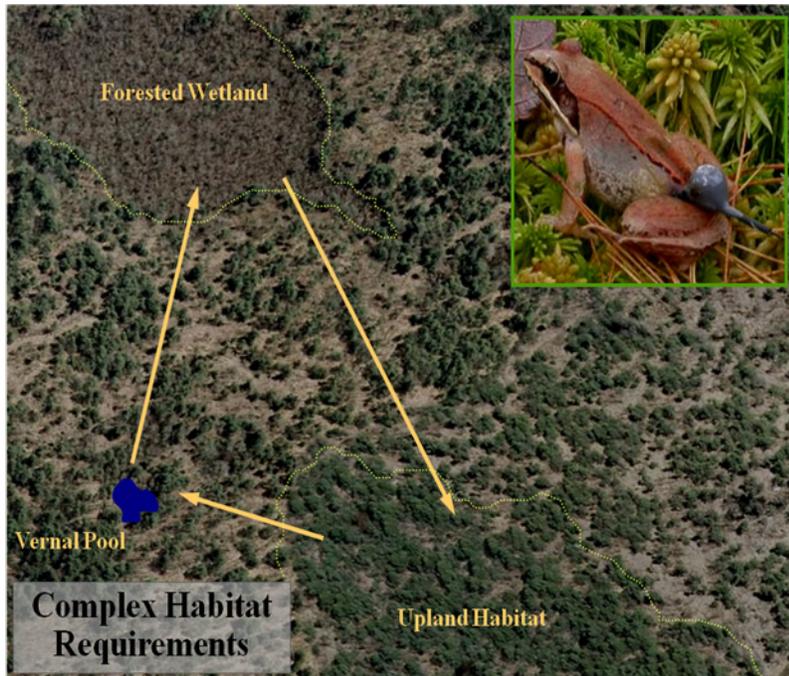


Figure 2:  
Complex habitat requirements

### Directional Buffers

Directional buffers are a vernal pool management tool that allows a flexible approach to conserving pool-breeding amphibian habitat. Directional buffers are buffers designed to link habitats used by pool-breeding amphibians (e.g., breeding pools, forested wetlands, uplands) with forested travel corridors at appropriate migration scales (750 FT or greater). Landowners, consultants, and regulators can work together to design a regulatory buffer that is site-specific. This flexible approach considers pool-breeding amphibian habitat as a network of connected habitat elements (e.g., breeding pools, upland forest, nearby forested wetlands). Often, this approach can reduce the amount of land potentially requiring protection by  $> 2/3$  from that of circular habitat models and can be better tailored to individual landowner needs.

### Example

In Figure 3a, there is a circular buffer around a significant vernal pool which includes field habitat that is not suitable for vernal pool-breeding amphibians (they are forest-dwelling species). The regulation as it stands would only allow the landowner to develop 25% of this zone thereby conserving land unsuitable for amphibians and suitable for development. Figure 3b illustrates a “directional buffer” alternative where a buffer is shaped to connect other elements of amphibian habitat for wood frogs. In this model, the pool is linked to forested wetlands used by wood frogs in the summer and includes a travel corridor that is suitable upland habitat for hibernation. The same amount of land is conserved using both approaches. Other models may connect pools to other vernal pools or to good upland habitat and may actually require less land.

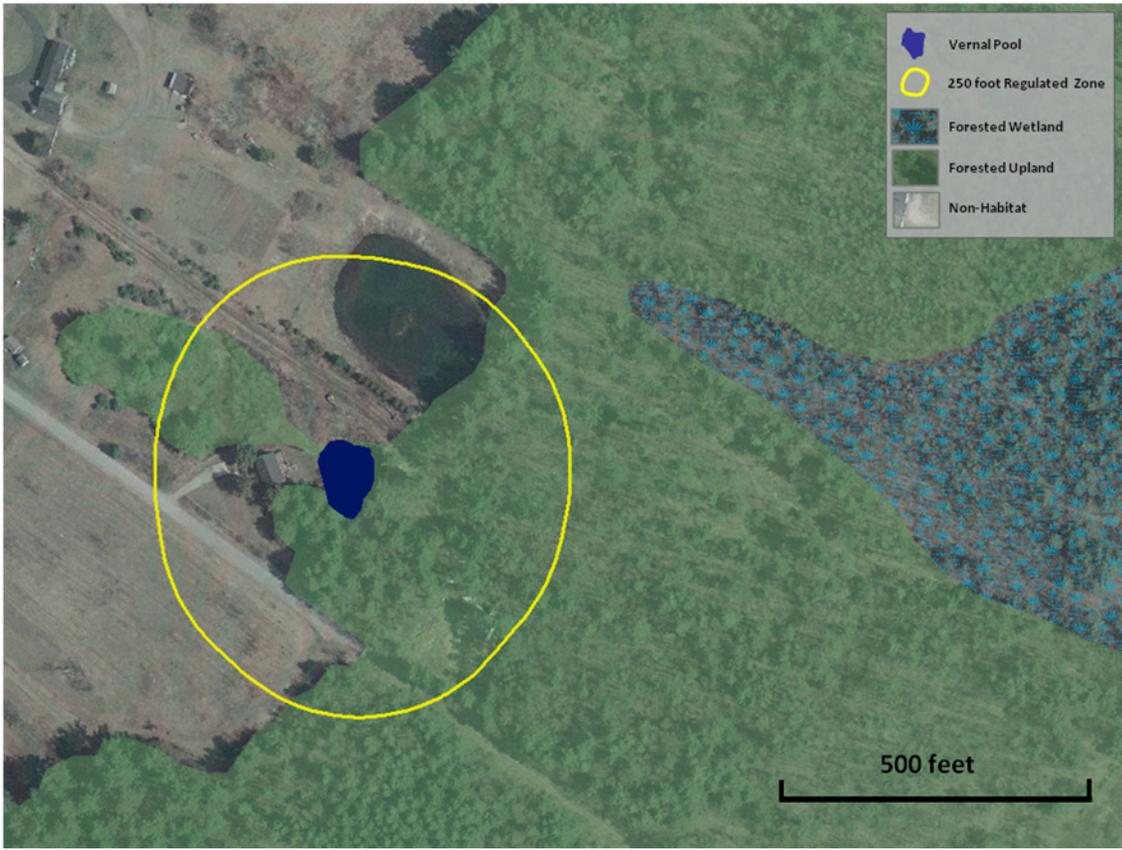


Figure 3a: Circular Buffer

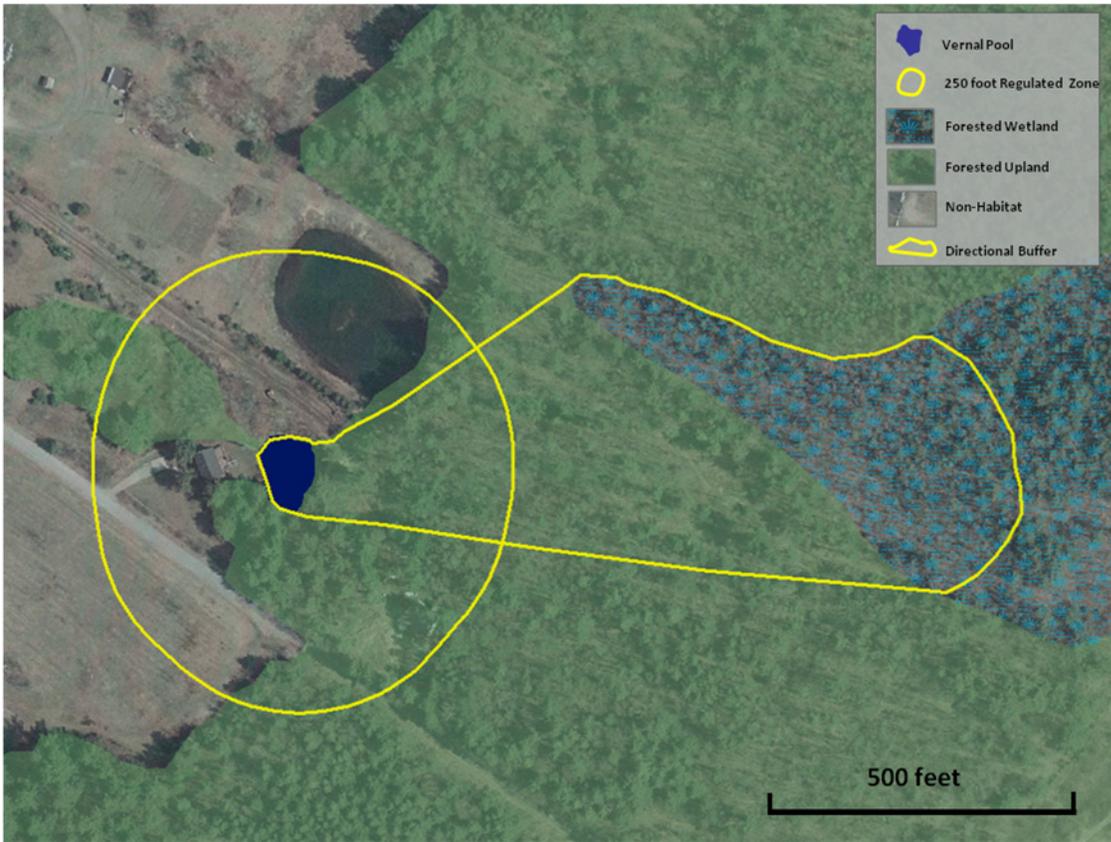


Figure 3b: Directional Buffer

**DEPARTMENT OF THE ARMY  
GENERAL PERMIT  
STATE OF MAINE**

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues this General Permit (GP) for activities in waters of the United States (U.S.) that have minimal individual and cumulative adverse effects on the aquatic environment within the State of Maine.

**I. GENERAL CRITERIA**

In order for activities to qualify for this GP, they must meet the GP's terms and eligibility criteria (pages 1 – 4), general conditions (GC) (Pages 5 – 17), and Appendix A - Definition of Categories.

Under this GP, projects may qualify for the following:

- Category 1: Notification form required.  
(Submittal of the Category 1 Notification Form at Appendix B with an attached state application form is required.)
- Category 2: Application required.

If your project is ineligible for Category 1, it may qualify for Category 2 or an Individual Permit and you must submit an application (see Page 3). The thresholds for Categories 1 and 2 are defined in Appendix A. This GP does not affect the Corps Individual Permit review process or activities exempt from Corps regulation.

**II. ACTIVITIES COVERED:**

- Work and structures that are located in, under or over any navigable water of the U.S.<sup>1</sup> that affect the course, location, condition, or capacity of such waters; or the excavating from or depositing of material in such waters. The Corps regulates this under Section 10 of the Rivers and Harbors Act of 1899);
- The discharge of dredged or fill material into waters of the U.S.<sup>2</sup>. The Corps regulates this under Section 404 of the Clean Water Act (CWA).<sup>3</sup>
- The transportation of dredged material for the purpose of disposal in the ocean. The Corps regulates this under Section 103 of the Marine Protection, Research and Sanctuaries Act.

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<sup>1</sup> Defined at 33 CFR 329 and Appendix A, Page 3.

<sup>2</sup> Defined at 33 CFR 328

<sup>3</sup> When there is a regulated discharge of dredged or fill material into waters of the U.S., the Corps will also consider secondary impacts, which are defined at Appendix A, Endnote/Definition 2.

### **III. PROCEDURES:**

#### **1. State Approvals**

Applicants are responsible for applying for and obtaining any of the required state or local approvals (see GC 1, Page 5). Federal and state jurisdictions may differ in some instances. State permits may be required for specific projects regardless of the general permit category.

In order for authorizations under this GP to be valid, when any of the following state approvals or statutorily-required reviews is also required, the approvals must be obtained prior to the commencement of work in Corps jurisdiction.

- Maine Department of Environmental Protection (DEP): Natural Resources Protection Act (NRPA) permit, including permit-by-rule and general permit authorizations (NRPA permit issuance constitutes both the state permit, 401 Water Quality Certification (WQC) and Coastal Zone Management (CZM) consistency); Site Location of Development Act permit; and Maine Waterway Development and Conservation Act permit.
- Maine Department of Conservation: Land Use Regulation Commission (LURC) permit.
- Maine Department of Marine Resources: Aquaculture Leases.
- Maine Department of Conservation, Bureau of Parks and Lands, Submerged Lands: Lease

NOTE: This GP may authorize projects that are not regulated by the State of Maine (e.g., seasonal floats or moorings).

#### **2. Corps Authorizations**

The two GP review categories are listed below.

##### **a. Category 1 (Category 1 Notification Form required)**

##### **Eligibility Criteria**

Activities in Maine that:

- Are subject to Corps jurisdiction (see GC 2, Page 5),
- Meet the terms and eligibility criteria of this GP (Pages 1 - 4),
- Meet all GCs of this GP (Pages 5 – 17), and
- Meet the definition of Category 1 in Appendix A - Definition of Categories,

may proceed without application to the Corps provided:

- The Category 1 Notification Form (Appendix B) is submitted to the Corps before starting the work authorized by this GP.

Consultation with the Corps and/or outside experts is required when necessary to ensure compliance with this GP's general conditions (starting on Page 5) and related federal laws such as the National Historic Preservation Act, the Endangered Species Act (ESA), and the Wild and Scenic Rivers Act. For example, experts on historic resources may include the agencies and tribes referenced in GC 8, while experts on endangered species include the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). Project proponents are encouraged to contact the Corps with Category 1 eligibility questions.

Work that is not regulated by the State of Maine, but is subject to Corps jurisdiction, is eligible for Corps Category 1 authorization under this GP. The Maine DEP and LURC have waived WQC for projects authorized under Categories 1 and 2 of this GP. The Maine Coastal Program has determined that projects authorized under Categories 1 and 2 of this GP are consistent with Maine's CZM Program.

**b. Category 2 (Application to the Corps required)**

**Eligibility Criteria**

Activities in Maine that:

- Are subject to Corps jurisdiction (see GC 2, Page 5),
- meet the terms of this GP (Pages 1 - 4),
- meet all GCs of this GP (Pages 5 - 17),
- Meet the definition of Category 2 in Appendix A - Definition of Categories,

**require an application to and written approval from the Corps.** The Corps will coordinate review of Category 2 activities with federal and state agencies, as appropriate. To be eligible and subsequently authorized, an activity must result in no more than minimal impacts to the aquatic environment as determined by the Corps based on comments from the review team and the criteria listed above. This may require project modifications involving avoidance, minimization or compensatory mitigation for unavoidable impacts to ensure the net effects of a project are minimal. Compensatory mitigation may take the form of wetland preservation, creation, enhancement and/or "in-lieu fee" for inclusion into the Natural Resources Mitigation Fund<sup>1</sup> for projects between 4300 square feet (SF) and 3 acres.

Projects in DEP and LURC territories filling between 4,300 and 15,000 SF should be prepared to provide proof of their in-lieu fee (ILF) payment to the DEP to expedite permit review. In accordance with GC 16 of this GP and the Maine ILF Agreement<sup>1</sup>, project proponents shall avoid and minimize wetland impacts to the greatest extent practicable. This will reduce the ILF dollar total for applicants. The ILF compensation program was established to provide applicants with a flexible compensation option over and above traditional permittee responsible compensation projects.

**3. Applying for a Permit**

All applicants for Category 2 projects must:

- a. Apply directly to the Corps using the Corps application form (ENG Form 4345<sup>2</sup>) or state application form, and apply directly to the state (DEP, LURC, BPL or DMR) as applicable using the appropriate state form, if the work is regulated by the Corps and the state.
- b. Apply directly to the Corps using the Corps application form (ENG Form 4345<sup>2</sup>) if the work is not DEP or LURC regulated.
- c. Attach the Information Required Checklist (Appendix C) with the required information to all Corps applications to help ensure the application is complete and to speed project review.
- d. Submit a copy of their application materials to the Maine Historic Preservation Commission (MHPC) and the five Indian tribes listed at Appendix D, at the same time, or before,

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<sup>1</sup> The Maine In-Lieu Fee Agreement is at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under "Mitigation."

<sup>2</sup> Located at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under the heading "Forms."

they apply to the state (DEP or LURC) or the Corps, to be reviewed for the presence of historic, archaeological or tribal resources in the permit area that the proposed work may affect. Submittals to the DEP or Corps shall include information to indicate that this has been done (a copy of the applicant's cover letter to MHPC and tribes or a copy of the MHPC and tribal response letters is acceptable).

#### **4. Review Procedures**

The Corps will coordinate review of all Category 2 activities with federal and state agencies, as appropriate, to ensure that the work will result in no more than a minimal impact to the aquatic environment. Applicants are responsible for applying for the appropriate state and local approvals listed on Page 2

**Emergency Procedures:** 33 CFR 325.2(e)4 states that an “emergency” is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.” The Corps will work with all applicable agencies to expedite authorization according to established procedures in emergency situations.

**Individual Permit Procedures:** Proponents of work that does not meet the terms and general conditions of this GP must submit the Corps application form and the appropriate application materials to the Corps at the earliest possible date in order to expedite the Individual Permit review process. General information and application forms can be obtained at our website or by calling us (see Appendix D). Individual WQC and CZM consistency concurrence are required when applicable from the State of Maine before Corps permit issuance. The Corps encourages applicants to concurrently apply for a Corps Individual Permit and state permits.

#### **5. Approval Process**

Applicants for Category 2 activities may not proceed with work in Corps jurisdiction until written authorization is received from the Corps. If the Corps determines that the Category 2 activity is eligible for the GP, the Corps will send an authorization letter directly to the applicant. The Corps will attempt to issue a written eligibility determination within the state's review period. If the Corps determines that the activity is not eligible under the GP or that additional information is required, the Corps will notify the applicant in writing and send a copy to the DEP or LURC. Applicants are responsible for obtaining all applicable approvals listed on Page 2 from the appropriate state and local agencies before commencing work in Corps jurisdiction.

## V. GENERAL PERMIT CONDITIONS:

The following conditions apply to activities authorized under this Maine GP, unless otherwise specified, including all Category 1 (notification required) and Category 2 (application required) activities:

**1. Other Permits.** Authorization under this GP does not obviate the need to obtain other federal, state, or local authorizations required by law. This includes, but is not limited to, the project proponent obtaining a Flood Hazard Development Permit issued by the town, if necessary. Inquiries may be directed to the municipality or to the Maine Floodplain Management Coordinator at (207) 287-8063. See <http://www.maine.gov>.

### **2. Federal Jurisdictional Boundaries.**

(a) Applicability of this GP shall be evaluated with reference to federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the federal criteria defined at 33 CFR 328 “Waters of the U.S.” and 33 CFR 329 “Navigable Waters of the U.S.”

Note: Waters of the U.S. include the subcategories “navigable waters of the U.S.” and “wetlands.”

(b) For projects filling <4300 SF of waters of the U.S. that do not qualify for Category 1 (e.g., vernal pool, secondary or endangered species impacts, etc.) and therefore require an application to the Corps, and those filling  $\geq$ 4300 SF, applicants shall delineate all waters of the U.S. that will be filled (direct impacts) in accordance with the Corps of Engineers Wetlands Delineation Manual and the most recent regional supplements (see Appendix E). In addition, applicants shall approximately identify all waters of the U.S. on the property and known waters adjacent to the property in order for the Corps to evaluate secondary impacts. The waters of the U.S. shall be clearly shown on the project plans submitted with the application. This includes all waters of the U.S. in areas under DEP or LURC jurisdiction regardless of whether they’re shown on LURC zoning maps.

(c) On a case-by-case basis, the Corps may modify/refine the above delineation and identification requirements for waters of the U.S.

### **3. Minimal Direct, Secondary and Cumulative Impacts.**

(a) Projects authorized by this GP shall have no more than minimal direct, secondary and cumulative adverse environmental impacts. Applicants should provide information on secondary and cumulative impacts as stated in Appendix C. Mitigation may be required to offset unavoidable impacts (see GC 16) and to ensure that they are no more than minimal.

(b) Secondary impacts to waterway and/or wetland areas, (e.g., areas drained, flooded, cleared, excavated or fragmented) shall be added to the total fill area when determining whether the project qualifies for Category 1 or 2. Direct, secondary and cumulative impacts are defined at Appendix A, Endnote 2.

(c) Site clearing, grading and construction activities in the upland and habitat surrounding vernal pools (“vernal pool management areas”) are secondary impacts. See GC 28.

**4. Discretionary Authority.** Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require Category 2 or Individual Permit review based on concerns for the aquatic environment or for any other factor of the public interest [33 CFR 320.4(a)]. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal or if there is a special resource or concern associated with a particular

project that is not already covered by the remaining conditions of the GP and that warrants greater review. Whenever the Corps notifies an applicant that an Individual Permit may be required, the project is not authorized under this GP and no work may be conducted until an Individual Permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this GP. NOTE here from MPO to look up NWP's. Why?

## **5. Single and Complete Projects.**

(a) This GP shall not be used to piecemeal work and shall be applied to single and complete projects<sup>1</sup>. When determining the review category in Appendix A (Category 1 or 2) for a single and complete project, proponents must include any permanent historic fill placed since October 1995 that is associated with that project and all currently proposed temporary and permanent impact areas.

(b) A single and complete project must have independent utility<sup>1</sup>.

(c) Unless the Corps determines the activity has independent utility<sup>1</sup>:

i. This GP shall not be used for any activity that is part of an overall project for which an Individual Permit is required,

ii. All components of a single project and/or all planned phases of a multi-phased project (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be treated together as constituting one single and complete project<sup>1</sup>.

(d) For linear projects, such as power lines or pipelines with multiple crossings, the single and complete project<sup>1</sup> is all crossings of a single water of the U.S. (i.e., single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies and crossings of such features cannot be considered separately. If any crossing requires a Category 2 activity, then the entire linear project shall be reviewed as one project under Category 2

**6. Permit On-Site.** For Category 2 projects, the permittee shall ensure that a copy of this GP and the accompanying authorization letter are at the work site (and the project office) authorized by this GP whenever work is being performed, and that all personnel with operation control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this GP. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means this GP and the authorization letter (including its drawings, plans, appendices and other attachments) and also includes permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

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<sup>1</sup> Single and Complete Project and Independent Utility are defined at Appendix E.  
Maine GP

**7. St. John/St. Croix Rivers.** This covers work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission. This includes any temporary or permanent use, obstruction or diversion of international boundary waters which could affect the natural flow or levels of waters on the Canadian side of the line, as well as any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters when the activity could raise the natural level of water on the Canadian side of the boundary.

**8. Historic Properties.** Any activity authorized by this GP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Maine Historic Preservation Commission (MHPC), the National Register of Historic Places, and the five federally-recognized tribes listed in Appendix D. Project proponents shall apply to the Corps (as required on Page 3) for all projects that would otherwise qualify for Category 1 if there is the potential for an effect on a historic property within the area of potential effects (APE). Pursuant to 36 CFR 800, the APE is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking. Historic properties include those that are eligible for inclusion, but not necessarily listed on the National Register. If the permittee, either prior to construction or during construction of the work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the Corps and the MHPC and/or applicable tribe(s).

**9. National Lands.** Any of the following work is not eligible as a Category 1 project:

- (a) Activities that impinge upon the value of any National Wildlife Refuge, National Forest, National Marine Sanctuary, National Park or any other area administered by the National Park Service, U.S. Fish and Wildlife Service (USFWS) or U.S. Forest Service..
- (b) Work on Corps properties and Corps-controlled easements (Appendix A, Endnote 8).
- (c) Any proposed temporary or permanent modification or use of a federal project (including but not limited to a levee, dike, floodwall, channel, sea wall, bulkhead, jetty, wharf, pier, or other work built but not necessarily owned by the United States), which would obstruct or impair the usefulness of the federal project in any manner, and/or would involve changes to the authorized federal project's scope, purpose, and/or functioning that go beyond minor modifications required for normal operation and maintenance is not eligible for Category 1 and requires review and approval by the Corps pursuant to 33 USC 408.

**10. Endangered Species.**

(a) No activity may be authorized under this GP (Category 1 or 2) which would:

- i. Be “likely to adversely affect” a threatened or endangered species, a proposed species, designated or proposed critical habitat (all herein referred to as “listed species or habitat”) as identified under the Federal Endangered Species Act (ESA),
- ii. Result in a “take” of any federally-listed threatened or endangered species of fish or wildlife, or
- iii. Result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants.

(b) Work in Inland Waters and Wetlands and the non-tidal portions of Navigable Waters (i.e., the Penobscot River, Kennebec River and Lake Umbagog) is not eligible for Category 1 if it is in critical habitat or the action area of a listed species.

i. Work in Atlantic salmon critical habitat<sup>1</sup> located in all Inland Waters and Wetlands<sup>2</sup> that are streams, lakes, or the non-tidal portions of Navigable Waters<sup>3</sup> that are streams (i.e., the Penobscot River and Kennebec River) is not eligible for Category 1. Project proponents must check the site in Footnote 1 below.

ii. Work in shortnose sturgeon habitat, a listed species, in all Inland Waters and Wetlands<sup>2</sup> that are streams, lakes, or the non-tidal portions of Navigable Waters<sup>3</sup> that are streams (i.e., the Penobscot River and Kennebec River) is not eligible for Category 1.

iii. Project proponents must contact the USFWS to ensure that work in all Inland Waters and Wetlands<sup>2</sup> and on coastal beaches is not in critical habitat or the action area of a listed species. The USFWS contact information is provided in Appendix D, Page 1.

(c) Work in the tidal portions of Navigable Waters<sup>3</sup> may be eligible for Category 1. Reference Appendix A (Navigable Waters, Pages 5 – 9) and the other terms and general conditions (GC 11 is particularly relevant) of this GP to ensure Category 1 eligibility.

(d) Proponents must submit an application to the Corps if any of the activities in 10(a)-10(c) that do not qualify for Category 1 may occur and provide information on federally-listed species or habitat to allow the Corps to conduct any required consultation under Section 7 of the ESA.

(e) Although some work is excluded from Category 1 as stated in (b) and (c) above, work may qualify for Category 1 if a no effect determination has been made for that work by federal action agency such as the Corps.

(f) The Corps review may consider state endangered and threatened species.

**11. Essential Fish Habitat.** Any work in any aquatic habitat in the following rivers and streams, including all tributaries to the extent that they are currently or were historically accessible for salmon migration, shall not be authorized under Category 1 of the GP and must be screened for potential impacts to EFH (see Appendix E for more information).

|                    |                    |                 |                         |
|--------------------|--------------------|-----------------|-------------------------|
| Androscoggin River | Aroostook River    | Boyden River    | Dennys River            |
| Ducktrap River     | East Machias River | Hobart Stream   | Kennebec River          |
| Machias River      | Narraguagus River  | Orland River    | Passagassawaukeag River |
| Patten Stream      | Penobscot River    | Pleasant River  | Presumpscot River       |
| Saco River         | Sheepscoot River   | St. Croix River | Tunk Stream             |
|                    | Union River        |                 |                         |

The above does not apply to the following activities which may qualify for Category 1 work:

- Exploratory drilling and borings for bridges.
- Moorings (see Appendix A, Page 5 for Category 1 thresholds and requirements)
- Structures and floats (see Appendix A, Page 5 for Category 1 thresholds and requirements)

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<sup>1</sup> Atlantic salmon critical habitat in Inland Waters and Wetlands, and in Navigable Waters, is shown at: [www.nero.noaa.gov/prot\\_res/alt/salmon/DPSMapBook/DPSPDFmaps/ATSMMapBook.pdf](http://www.nero.noaa.gov/prot_res/alt/salmon/DPSMapBook/DPSPDFmaps/ATSMMapBook.pdf). Atlantic salmon critical habitat in Navigable Waters are more specifically described as those waters from the Kennebec River to its mouth at Merrymeeting Bay, northeast to the Canadian border, including the Androscoggin River upstream to the Brunswick Dam, and other streams northeast of this line to the limit of their tidal reaches.

<sup>2</sup> See Appendix A, Page 1 for definition.

<sup>3</sup> See Appendix A, Page 3 for definition.

**12. Wild and Scenic Rivers.** Any activity that occurs in the designated main stem of, within 0.25 mile up or downstream of the designated main stem of, or in tributaries within .25 miles of the designated main stem of a National Wild and Scenic River, or in “bordering and contiguous wetlands” (see Appendix A, Endnote 1) that are adjacent to the designated main stem of a National Wild and Scenic River, or that has the potential to alter flows within a river within the National Wild and Scenic River System, is not eligible for Category 1 regardless of size of the impacts. This condition applies to both designated Wild and Scenic Rivers and rivers officially designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. National Wild and Scenic Rivers System segments for Maine as of October 2010 include: Allagash River beginning at Telos Dam continuing to Allagash checkpoint at Eliza Hole Rapids, approximately 3 miles upstream of the confluence with the St. John River (length = 92 miles).

**13. Federal Navigation Project.** Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project (see Appendix F) than a distance of three times the project’s authorized depth shall be subject to removal at the owner’s expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

**14. Navigation.**

(a) There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

(b) The permittee understands and agrees that, if future U.S. operations require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S.. No claim shall be made against the U.S. on account of any such removal or alteration.

**15. Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

**16. Avoidance, Minimization and Compensatory Mitigation.**

Discharges of dredged or fill material into waters of the U.S., including wetlands, shall be avoided and minimized to the maximum extent practicable. Compensatory mitigation of unavoidable direct and indirect impacts may be required on a case-by-case basis (see Appendix E). Unless specifically authorized, no work shall drain a water of the U.S. by providing a conduit for water on or below the surface.

**17. Heavy Equipment in Wetlands.** Operating heavy equipment other than fixed equipment (drill rigs, fixed cranes, etc.) within wetlands shall be minimized, and such equipment shall not be stored, maintained or repaired in wetlands, to the maximum extent practicable. Where construction requires heavy equipment operation in wetlands, the equipment shall either have low ground pressure (typically <3 psi), or it shall be placed on swamp/construction/timber mats mats (herein referred to as “construction mats” and defined at Appendix A, Endnote 4) that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation. Construction mats are to be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland. Dragging construction mats into position is prohibited. Other support structures that are capable of safely supporting equipment may be used with written Corps authorization (Category 2 authorization or Individual Permit). Similarly, the permittee may request written authorization from the Corps to waive use of mats during frozen, dry or other conditions. An adequate supply of spill containment equipment shall be maintained on site.

**18. Temporary Fill.**

Temporary fill that qualifies for Category 1 (e.g., <4300 SF of combined temporary and permanent fill associated with the single and complete project) or is authorized in writing under Cat 2, shall adhere to the following:

(a) All temporary fill shall be stabilized to prevent its eroding into portions of waters of the U.S., including wetlands, where it is not authorized.

(b) Unconfined temporary fill authorized for discharge into waters of the U.S., including wetlands, shall consist of material that minimizes impacts to water quality (e.g. sandbags, clean gravel, stone, aggregate, etc.).

(c) Temporary fill authorized for discharge into wetlands should be placed on geotextile fabric or other material (e.g., straw) laid on the pre-construction wetland grade where practicable to minimize impacts.

(d) Temporary fill shall be removed as soon as it is no longer needed, disposed of at an upland site, and suitably contained to prevent subsequent erosion into waters of the U.S, including wetlands.

To qualify for Category 1, temporary fill placed during the:

i. Growing season must be removed before the beginning of the next growing season.

ii. Non-growing season may remain throughout the following growing season, but must be removed before the beginning of the next growing season.

(e) Waters of the U.S., including wetlands, where temporary fill was discharged shall be restored (see GC 19).

(f) Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including coffer-dams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must be placed in a manner that will not be eroded by expected high flows (see GC 21).

(g) Construction mats and corduroy roads (see GC 17 above) are considered as temporary fill when they are removed immediately upon work completion. The area must be restored (see GC 19).

**19. Work Site Restoration.**

(a) Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and

vegetation schemes are approximately the same, unless otherwise authorized.

(b) Upon completion of construction, all disturbed wetland areas (the disturbance of these areas must be authorized) shall be properly stabilized. Any seed mix shall contain only plant species native to New England and shall not contain any species listed in the “Invasive and Other Unacceptable Plant Species” Appendix in the “New England District Compensatory Mitigation Guidance” (see Appendix E). This list may be updated periodically.

(c) In areas of authorized temporary disturbance, if trees are cut they shall be cut at ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.

## **20. Bank Stabilization.**

(a) Projects involving construction or reconstruction/maintenance of bank stabilization structures within Corps jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable.

(b) Project proponents must stabilize the bank considering this sequential minimization process: avoidance of aquatic resource impacts, diversion of overland flow, vegetative stabilization, stone-sloped surfaces, and walls/bulkheads. Vertical walls/bulkheads shall only be used in situations where reflected wave energy can be tolerated. Refer to Appendix E for design guidance.

(c) Inland Water bank stabilization activities necessary for erosion prevention must meet all of the following criteria to qualify for Category 1: (i) No material is placed in excess of the minimum needed for erosion protection; (ii) The activity is no more than 200 feet in length along the bank; (iii) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark; (iv) Structures angled steeper than 3H:1V and any material other than angular or subangular stone or fiber roll revetments require at least a Category 2 review. (v) The activity does not involve discharges of dredged or fill material into special aquatic sites; (vi) No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any water of the U.S.; (vii) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and, (viii) The activity is not a stream channelization activity.

## **21. Sedimentation and Erosion Control.**

(a) Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, installation of sediment control barriers (i.e. silt fence, vegetated filter strips, geotextile silt fences, hay bales or other devices) down hill of all exposed areas, retention of existing vegetated buffers, application of temporary mulching during construction, and permanent seeding and stabilization shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment.

(b) Temporary sediment control barriers shall be removed upon completion of work, but not until all disturbed areas are permanently stabilized. The sediment collected by these sediment barriers shall be removed and placed at an upland location and stabilized to prevent its later erosion into a waterway or wetland.

(c) All exposed soil and other fills shall be permanently stabilized at the earliest practicable date (see GC 19).

## 22. Stream Work and Crossings<sup>1</sup>.

[Notes:

(1) GC 22(a) and (b) above apply to Inland Waters and Wetlands (see Appendix A, Page 1 for definition) and Navigable Waters (see Appendix A, Page 5 for definition). GC 21(c)-(l) above only apply to Inland Waters and Wetlands that are streams. All new and replacement crossings in Navigable Waters require an application to the Corps and at least a Category 2 review. These should be designed in accordance with the General Stream Crossing Standards provided in Appendix E.

(2) Work in Atlantic salmon critical habitat as stated in see GC 10(b) and some stream work such as crossings on EFH waters (see GC 11) is not eligible for Category 1.]

(a) All permanent crossings of rivers, streams, brooks, etc. (hereon referred to as “streams”) shall be suitably culverted, bridged, or otherwise designed to i) withstand and to prevent the restriction of high flows to qualify for Category 1, and ii) not obstruct the movement of or not substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, beyond the actual duration of construction unless the activity’s primary purpose is to impound water to qualify for Category 1 or 2. (NOTE: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this GP).

(b) Any work that temporarily or permanently impacts upstream or downstream flood conditions, or permanently impacts wetlands in excess of Category 1 thresholds, must be reviewed at least under Category 2. The loss of upstream wetlands may be offset by the overall benefits of the river restoration. See the document referenced in Appendix E, Page 2, 8(c) for guidance.

(c) For new stream crossings to qualify for Category 1:

i. Must ensure compliance with GC 22(a) and GC 22(b) above.

ii. Shall be designed and constructed<sup>2</sup> to conform to the Standards contained in the latest version of the Maine DEP’s Permit By Rule Standards at 06-096, Chapter 305: Permit by Rule, Section 10. Stream crossings (bridges, culverts and fords).

iii. Shall be designed and constructed<sup>1</sup> to conform to the Corps General Stream Crossing Standards provided in Appendix E of this document.

(d) Replacement stream crossings:

i. Must ensure compliance with GC 22(a) and GC 22(b) above to qualify for Category 1.

ii. Shall be designed and constructed<sup>1</sup> to conform to the Standards contained in the latest version of the Maine DEP’s Permit By Rule Standards at 06-096, Chapter 305: Permit by Rule, Section 10. Stream crossings (bridges, culverts and fords) to qualify for Category 1.

iii. Shall be designed and constructed<sup>1</sup> to conform to the Corps General Stream Crossing Standards provided in Appendix E of this document to qualify for Category 1.

iv. On High-Quality Stream Segments are not eligible for Category 1. High-Quality Stream Segments are shown at WEBSITE PENDING and include:

1. Class A Waters or Class AA Waters (Maine Statutes, Title 38, Sections 465 and 467)

2. Outstanding river segments (Maine Statutes, Title 38, Section 480-P)

3. Those hosting state or federal threatened or endangered species.

4. Those providing high value cold water fisheries.

5. Designated federal or state wild and scenic rivers.

6. EFH streams (see GC 11).

(e) Culvert extensions do not qualify for Category 1 and must be reviewed by the Corps.

<sup>1</sup> The Corps generally does not regulate non-tidal drainage systems and irrigation ditches excavated on dry land.

<sup>2</sup> See Appendix E, 8(b) for design and construction methodology.

(f) Temporary stream crossings.

i. Temporary stream crossings or cofferdams shall be used for equipment access across streams (see Appendix E). Note: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine the review category in Appendix A.

ii. Temporary stream crossings shall be removed within 180 days.

iii. Temporary stream crossings that aren't spans<sup>1</sup> (typically culverts) must be designed in accordance with 1-6 below to qualify for Category 1. Category 2 applications should include information demonstrating 2-6 below:

1. Installed and removed during the low flow period specified in GC 22(l) below.

2. Placed on geotextile fabric or other material where practicable to ensure restoration to the original grade. Soil may not be used to construct or stabilize these structures and rock must be large enough to allow for easy removal without disrupting the streambed.

3. Designed and maintained to withstand and pass high flows. Water height should be no higher than the top of the culvert's inlet. A minimum culvert diameter of two feet is required to pass debris. Culverts must be aligned to prevent bank erosion or streambed scour.

4. Equipped with energy dissipating devices installed downstream if necessary to prevent scour.

5. Designed and maintained to prevent soil from entering the waterbody.

6. Removed upon the completion of work. Impacts to the streambed or banks requires restoration to their original condition using stream simulation methods.<sup>2</sup>

(g) Projects using slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), plastic pipes, and High Density Polyethylene (HDPE) pipes do not qualify for Category 1, either as new work or maintenance activities.

(h) Project proponents for Category 1 and 2 work should design new and replacement stream crossings using the least intrusive and environmentally damaging method following this sequential minimization process: 1) spans with no stream impacts, 2) spans with stream impacts, and 3) embedded culverts with stream simulation or low-slope design. For Category 2 work, this should speed the application review process and result in a faster decision.

(i) The permittee shall maintain the work authorized herein in good condition and in conformance with the terms and general conditions of this permit to facilitate aquatic life passage as stated in GC 22(a). Culverts that develop "hanging" inlets or outlets, result in bed washout, or a stream that doesn't match the characteristics of the substrate in the natural stream channel such as mobility, slope, stability confinement will require maintenance or repair to comply with this GC. This does not apply to GC 22(f) above.

(j) Maintenance and replacements of stream crossings. An existing stream crossing must be authorized and in compliance with all conditions of its authorization(s) to qualify for maintenance not subject to regulation. See Appendix A, Endnote 7. A non-serviceable crossing is not eligible for maintenance and is therefore considered as a replacement crossing (see 22(d)).

(k) For Category 1 work: i) No fill or open trench excavation in flowing waters. Bank stabilization work below ordinary high water (OHW) shall utilize cofferdams and erosion controls to prevent sediment input to the stream and to minimize turbidity and sedimentation impacts for sensitive life stages. Bank stabilization above OHW must utilize erosion controls. ii) Management techniques such as temporary flume pipes, culverts, cofferdams, etc. must be used to maintain normal flows

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<sup>1</sup> For the purposes of this GP, spans are bridges, three-sided box culverts, open-bottom culverts or arches that span the stream with footings landward of bankfull width.

<sup>2</sup> See Appendix E, 8(b) for design and construction methodology.

within the stream boundary's confines, however water diversions may be used immediately up and downstream of the work footprint. See Appendix A, Endnote 6.

(l) For projects that otherwise meet the terms of Category 1, in-stream construction work shall be conducted during the low flow period July 15 - October 1 in any year. Projects that are not to be conducted during that time period are ineligible for Category 1 and shall be screened pursuant to Category 2, regardless of the waterway and wetland fill and/or impact area.

### **23. Wetland Crossings.**

(a) All temporary and permanent crossings of wetlands shall be suitably culverted, bridged, or otherwise designed to: i) Withstand and prevent the restriction of high flows, ii) Not obstruct the movement of or not substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the wetland, including those species that normally migrate through the area, beyond the actual duration of construction unless the activity's primary purpose is to impound water. See Appendix E for the Maine DEP's crossing standards.

(b) To qualify for Category 1, new and replacement wetland crossings that are permanent shall be culverted, spanned or bridged in such a manner as to preserve hydraulic and ecological connectivity, at its present level, between the wetlands on either side of the road. To meet this requirement, we recommend that culverts, spans or bridges be placed at least every 50 feet with an opening at least 2 feet high and 3 feet wide at ground level. Closed bottom culverts shall be embedded at least 6 inches with a natural bottom.

(c) In the case of non-compliance, the permittee shall take necessary measures to correct wetland damage due to lack of hydraulic and ecological connectivity.

(d) Any work that permanently impacts flooding, wetlands on either side of the wetland crossing, or wetland drainage from the upgradient side of the wetland crossing does not qualify for Category 1.

### **24. Discharge of Pollutants.**

(a) All activities involving any discharge of pollutants into waters of the U.S., including wetlands, authorized under this GP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (CWA) (33 USC 1251), and applicable State and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this GP, the authorized work shall be modified to conform with these standards within six months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the Corps in consultation with the EPA. Issuance of a LURC or DEP NRPA permit confirms that State water quality standards are met.

(b) All projects authorized by this GP shall be designed, constructed and operated to minimize or eliminate the discharge of pollutants.

(c) All activities involving any discharge of pollutants into waters of the U.S., including wetlands, authorized under this GP must comply with Section 402 [33 U.S.C. 1342] of the CWA and the requirements of the National Pollutant Discharge Elimination System (40 CFR 122).

**25. Spawning, Breeding and Migratory Areas.** Activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities, in fish migratory areas, fish and shellfish spawning or nursery areas, or amphibian and migratory bird breeding areas, during spawning or breeding seasons shall be avoided and minimized to the maximum extent practicable.

**26. Storage of Seasonal Structures.** Coastal structures, such as pier sections and floats, that are removed from the waterway for a portion of the year (often referred to as seasonal structures) shall be stored in an upland location located above mean high water (MHW) and not in tidal wetlands. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is seaward of MHW. This is intended to prevent structures from being stored on the marsh substrate and the substrate seaward of MHW. Seasonal storage of structures in navigable waters, e.g., in a protected cove on a mooring, requires Corps and local harbormaster approval.

**27. 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 is practicable, and minimize any adverse impacts on existing fish, wildlife, and natural environmental functions and values.

**28. Protection of Vernal Pools (VPs).**

(a) Impacts to VP Management Areas<sup>1</sup> for all VPs on, and known VPs surrounding, the project site shall be minimized to the greatest extent practicable.

(b) The following management practices from the DEP's Significant Wildlife Habitat regulations<sup>2</sup> must be followed for all work within 500' of all VPs in order to qualify for Category 1:

1. No disturbance within the vernal pool depression or vernal pool envelope (area within 100 feet of the VP Depression's edge);

2. Maintain a minimum of 75% of the Critical Terrestrial Habitat (area within 100-500 feet of the Vernal Pool Depression's edge) as unfragmented forest with at least a partly-closed canopy of overstory trees to provide shade, deep litter and woody debris;

3. Maintain or restore forest corridors connecting wetlands and significant vernal pools;

4. Minimize forest floor disturbance; and

5. Maintain native understory vegetation and downed woody debris.

(c) To qualify for Category 1, plans accompanying applications to the Corps shall show Cape Cod style-curbings<sup>2</sup> or no curbing options<sup>2</sup> on new roads within 500' of a VP to facilitate amphibian passage.

(d) For work not complying with the requirements in (b) and (c) above, applicants shall submit an application to the Corps with information on directional buffers in accordance with the VP Directional Buffer Guidance Document<sup>2</sup>. Conservation of buffer land will typically be required.

(e) GC 2 requires applicants to delineate or approximately identify on the project plans all waters of the U.S., which include vernal pools. Appendix A, Page 2 lists VP Category 1 thresholds.

**29. 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 E.

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

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<sup>1</sup> The Corps VP Management Area, which includes the VP and a 500' radius from the VP's edge, is defined at Appendix A, Page 9, Endnote 5.

<sup>2</sup> Appendix E, Page 3 provides links to the state's Significant Wildlife Habitat regulations and references that provide impact minimization measures to reference when designing projects.

**30. Cranberry Development Projects.** For cranberry development projects authorized under the GP, the following conditions apply:

- If a cranberry bog is abandoned for any reason, the area must be allowed to revert to natural wetlands unless an Individual Permit is obtained from the Corps allowing the discharge of fill for an alternate use.
- No stream diversion shall be allowed under Category 1 of this GP.
- No impoundments of intermittent streams shall be allowed under Category 1, or no impoundment of perennial streams shall be allowed under Category 1 or 2 this GP.
- The project shall be designed and constructed to not cause flood damage on adjacent properties.

**31. 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 GP. 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 B).
- For Category 2 projects, the 1) Work-Start Notification Form and 2) Compliance Certification Form whenever either is provided with a Category 2 authorization letter.

**32. 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. Each maintenance dredging event exceeding the Category 1 thresholds (see Appendix A, Page 6) requires a new written Corps authorization unless an unexpired, written Corps authorization specifies that the permittee may “dredge and maintain” an area for a particular time period. Category 1 or 2 maintenance dredging includes only those areas and depths previously authorized and dredged.

(c) Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2) (see Appendix A, Endnote 7).

(d) For inland mosquito ditching and maintenance information, see [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) and then “Useful Links and Documents.”

**33. Property Rights.** This PGP 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.

**34. Transfer of GP Verifications.** When the structures or work authorized by this GP are still in existence at the time the property is transferred, the terms and conditions of this GP, including any special conditions, will continue to be binding on the new owner(s) of the property. The permittee may transfer the GP verification to the new owner by submitting a letter to the Corps (see Appendix D for address) to validate the transfer. A copy of the GP verification must be attached to the letter and the letter must contain the following statement and signature: “When the structures or work authorized by this GP are still in existence at the time the property is transferred, the terms and conditions of this GP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this GP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

**35. 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.

**36. 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 condition 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.

**37. 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 conditions, constitutes a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

**38. False or Incomplete Information.** If the Corps makes a determination regarding the eligibility of a project under this GP and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the GP authorization shall not be valid and the U.S. government may institute appropriate legal proceedings.

**39. Abandonment.** If the permittee decides to abandon the activity authorized under this GP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Corps.

**40. Enforcement Cases.** This GP does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps or EPA enforcement action, until such time as the enforcement action is resolved or the Corps and/or EPA as appropriate determines that the activity may proceed independently without compromising the enforcement action.

**41. Duration of Authorization.** This GP expires on October 11, 2015. Activities authorized under this GP that have commenced (i.e., are under construction) or are under contract to commence before this GP expires will have until October 11, 2016 to complete the activity under the terms and conditions of the current GP.

**42. Previously Authorized Activities.**

(a) Projects that have received written authorization from the Corps and that were completed under the previous PGPs, nationwide permits, regional general permits or letters of permission, shall remain authorized as specified in each authorization letter.

(b) Activities authorized pursuant to 33 CFR Part 330.3 (“Activities occurring before certain dates”) are not affected by this GP.

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District Engineer

Date

**APPENDIX A: DEFINITION OF CATEGORIES**

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| <p><b>A. INLAND WATERS AND WETLANDS</b></p>   | <p><b>Inland Waters and Wetlands:</b> Waters that are regulated under Section 404 of the Clean Water Act, including rivers, streams, lakes, ponds and wetlands, and excluding Section 10 Navigable Waters of the U.S. The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this GP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands<sup>1</sup> to tidal waters are reviewed in the Navigable Waters section. (See II. Navigable Waters on the next page.)</p> <p>Projects not meeting Category 1 require an application for review as a Category 2 or Individual Permit project. All Category 1 and 2 projects must comply with all of this GP’s applicable terms (Pages 1 – 4) and general conditions (Pages 5–17).</p>   |  |
| <p><b>ACTIVITY</b></p>  | <p><b>CATEGORY 1</b></p>  | <p><b>CATEGORY 2</b></p>   |
| <p>(a) NEW FILL/ EXCAVATION DISCHARGES</p> <p>(You must reference (b) – (e) below for other thresholds that may be relevant to your project.)</p> | <p>1. &lt;4,300 SF (in LURC territories or DEP areas) of inland waterway and/or wetland fill and associated secondary impacts<sup>2</sup> (e.g., areas drained, flooded, fragmented, mechanically cleared or excavated). Fill area includes all temporary and permanent fill, and regulated discharges associated with excavation. Construction mats are considered as fill. [See General Condition (GC) 18(g).] <u>Provided:</u></p> <ul style="list-style-type: none"> <li>• Historic fill + proposed impact area &lt;4300 SF and subdivision fill complies with GC 5, Single and Complete Projects.</li> <li>• No work in special aquatic sites (SAS)<sup>4</sup> other than wetlands.</li> </ul> <p>2. Construction mats<sup>4</sup> of any area necessary to conduct activities that were previously authorized, authorized under Category 1, or not subject to regulation (see Endnote 7). Authorized construction mats must be in place for &lt;3 months, removed immediately upon work completion, and the wetlands must be restored (see GC 19).</p> <p>3. The following work is excluded from Cat 1 for all vernal pools<sup>5</sup> (VPs) on, or known VPs surrounding, the project site (see GCs 3, 16 and 28):</p> <ol style="list-style-type: none"> <li>a. Any work in the VP depression<sup>5</sup>, or</li> <li>b. Any work in the VP envelope<sup>5</sup> (including roads and driveways), or</li> <li>c. Any new or existing work that individually or cumulatively impacts &gt;25% of the VP Management Area<sup>5</sup>.</li> <li>d. Exception: 3b and 3c don’t apply to temporary impacts associated with construction mats in previously disturbed areas of existing utility project (e.g., transmission lines, gas pipelines) or linear transportation project (e.g., roads, highways, railways, trails, airport runways and taxiways) right-of-ways provided there is a Vegetation Management Plan that avoids, minimizes and mitigates</li> </ol> | <p>1. ≥4,300 SF (in LURC territories or DEP areas) to &lt;3 acres inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback</p> <p>2. Specific activities with impacts of any area ≥4,300 SF required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.</p> <p>3. Temporary structures, work, and discharges (including construction mats<sup>4</sup>) ≥4,300 SF necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps, authorized under Category 1, or not subject to Corps regulation. GCs 16-19 are particularly relevant.</p> <p>See GC 2 and Appendix C for wetland delineation requirements.</p> |

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|  | <p>impacts to aquatic resources.</p> <p><u>Notes:</u></p> <p>* See GC 2 and Appendix C for VP delineation requirements.</p> <p>* See Appendix E, Page 3 for VP documents providing mitigation guidance.</p>   |  |
| <p><b>(b) BANK STABILIZATION PROJECTS</b></p>  | <p><b>1. Inland bank stabilization &lt;500 FT long and &lt;1 CY of fill per linear foot below OHW, provided:</b></p> <ul style="list-style-type: none"> <li>• Work complies with the GCs (GC 20 in particular), including: <ul style="list-style-type: none"> <li>• No structures angled steeper than 3H:1V allowed. Only rough-faced stone or fiber roll revetments allowed.</li> <li>• No in-stream work involving excavation in flowing waters. Management techniques or temporary water diversions are required (see GC 22(k)).</li> </ul> </li> <li>• In-stream work limited to Jul 15 - Oct 1 (see GC 22 (l)).</li> <li>• No work in vernal pools<sup>5</sup> or SAS<sup>3</sup>.</li> <li>• GC 10 Endangered Species and GC 11 Essential Fish Habitat are particularly relevant.</li> </ul>  | <p>1. Inland bank stabilization ≥500 FT long and/or ≥1 CY of fill per linear foot, or any amount with fill in wetlands.</p>                        |
| <p><b>(c) RIVER/STREAM/ STREAM/ BROOK WORK &amp; CROSSINGS and WETLAND CROSSINGS</b></p> | <p>1. River, stream and brook work and crossings:</p> <ul style="list-style-type: none"> <li>• Must comply with the GCs (GC 22 in particular), including: <ul style="list-style-type: none"> <li>o No slip lining (see GC 22 (g)).</li> <li>o No in-stream work involving fill or excavation in flowing waters. Management techniques must be used to maintain normal flows within the stream boundary's confines, however water diversions<sup>6</sup> may be used immediately up and downstream of the work footprint (see GC 22 (k)).</li> <li>o In-stream work limited to Jul 15 - Oct 1 (see GC 22 (l)).</li> </ul> </li> <li>• No work in riffles and pools<sup>3</sup>.</li> <li>• No stream relocations.</li> <li>• No dams or dikes<sup>6</sup>.</li> <li>• Work in areas designated as Atlantic salmon critical habitat or occupied by listed Atlantic salmon, or any other area occupied by a listed species is not eligible for Category 1 (see GC 10).</li> <li>• No work in EFH streams except for the activities stated in GC 11.</li> </ul> <p>2. Wetland crossings must comply with the particularly relevant GC 23.</p> | <p>1. Work not qualifying for Category 1.</p> <p>2. The discharge of accumulated bottom sediment from or through a dam into downstream waters.</p> |

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| <p><b>(d) REPAIR, REPLACEMENT, AND MAINTENANCE OF AUTHORIZED FILLS</b></p> | <p>1. Repair or maintenance of existing, currently serviceable, authorized fills with no expansion or change in use.</p> <ul style="list-style-type: none"> <li>• Conditions of the original authorization apply</li> <li>• Minor deviations in fill design allowed.<sup>7</sup></li> </ul>  | <p>2. Replacement of non-serviceable fills, or repair/maintenance of serviceable fill, with expansion &lt;3 acres, or with a change in use.</p>   |
| <p><b>(e) MISCELLANEOUS</b></p>  | <p>1. Activities required for the containment and cleanup of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and any existing state contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action. SAS<sup>3</sup> must typically be restored in place at the same elevation.</p> <p>2. Scientific measurement devices whose purpose is to measure and record scientific data, such as staff gages, water recording devices, water quality testing and improvement devices, and similar structures. Structures may not restrict movement of aquatic organisms.</p> <p>3. Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching, soil surveys, sampling, and historic resources surveys (but not recovery). Exploratory trenches must be restored in accordance with GC xx. The construction of temporary pads is authorized provided the discharge doesn't exceed 25 CY. This doesn't authorize permanent structures or the drilling and the discharge of excavated material from test wells for oil and gas exploration (the plugging of such wells is authorized).</p> <p>4. Any work not commenced nor completed that was authorized in a written letter from the Corps under the PGP in effect between October 11, 2005 and October 11, 2010. The terms and general conditions of this GP apply along with any special conditions in the written authorization.</p> | <p>1. Aquatic habitat restoration, establishment, and enhancement of wetlands and riparian areas and the restoration and enhancement of streams and other open waters with impacts of any area <math>\geq 4,300</math> SF, provided those activities result in net increase in overall aquatic resource functions and services.<sup>8</sup></p> <p>2. Projects where an EIS is required by the Corps are not eligible for Category 2.</p> |

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| <b>II. NAVIGABLE WATERS</b>   | <b>Navigable Waters of the United States:</b> Waters that are subject to the ebb and flow of the tide and/or the tidal and non-tidal portions of the Federally designated navigable waters (the Penobscot River, Kennebec River, and Lake Umbagog) (Section 10 Rivers and Harbors Act of 1899). The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the federally designated navigable rivers. For the purposes of this GP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands <sup>1</sup> to tidal waters are also reviewed in this Navigable Waters section.   |  |
|   | Projects not meeting Category 1 require an application for review as a Category 2 or Individual Permit project.<br>All Category 1 and 2 projects must comply with all of this GP's applicable terms (Pages 1 – 4) and general conditions (Pages 5 – 17).   |  |
|   | <b>CATEGORY 1</b>  | <b>CATEGORY 2</b>  |
| (a) FILL  | <p>1. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the U.S., including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit or appropriate approval. Causeways and approach fills are not included in this category and require Category 2 or Individual Permit authorization.</p> <p>2. Bank stabilization projects &lt;100 linear feet:</p> <ul style="list-style-type: none"> <li>• No fill below approximately MHW.</li> <li>• No fill or equipment will occur in SAS<sup>3</sup>.</li> <li>• Work conducted in the intertidal zone must be conducted in-the-dry during low water, or between Nov. 8 – Apr. 9.</li> <li>• No structures angled steeper than 3H:1V and only rough-faced stone or fiber roll revetments allowed.</li> <li>• No driving of piles or sheeting.</li> <li>• Project proponents must contact the USFWS for work on coastal beaches to ensure no impacts to piping plovers, least terns or their habitat (see GC 10(b)iii).</li> </ul> | 1. <1 acre temporary or permanent fill, excavation and/or secondary impacts (e.g., areas drained, flooded, fragmented or mechanically cleared) in waterway or SAS <sup>3</sup> . |
| <b>(b) RIVER/<br/>STREAM/BROOK<br/>WORK &amp;<br/>CROSSINGS<br/>and WETLAND<br/>CROSSINGS</b> | 1. No new fill allowed in Category 1. Therefore no new crossings or replacement crossings that do not fit the (b) Repair and Maintenance activity below.   |  |

|   | <b>CATEGORY 1</b>   | <b>CATEGORY 2</b>   |
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| <b>(c) REPAIR AND MAINTENANCE WORK</b>      | <p>1. Repair, replacement in-kind, or maintenance<sup>7</sup> of existing, currently serviceable<sup>7</sup>, authorized structures or fills:</p> <ul style="list-style-type: none"> <li>• No substantial expansion or change in use.</li> <li>• Conditions of the original authorization apply.</li> <li>• No substantial expansion or change in use.</li> <li>• Must be rebuilt in same footprint, however minor deviations in structure design allowed<sup>7</sup>.</li> <li>• Minor deviations for work involving piles shall adhere to the following: <ul style="list-style-type: none"> <li>○ Must be drilled and pinned to ledge, or</li> <li>○ Vibratory hammers used to install any size and quantity of wood, concrete or steel piles, or</li> <li>○ Impact hammers limited to one hammer and &lt;50 piles installed/day with the following: wood piles of any size, concrete piles ≤18-inches diameter, steel piles &lt;12-inches diameter if the hammer is ≤3000 lbs and a wood cushion is used between the hammer and steel pile, and</li> <li>○ Piles installed in-the-dry during low water or in-water between Nov. 8<sup>th</sup> - Apr. 9<sup>th</sup>.</li> <li>○ In-water noise levels shall not exceed &gt;187dB at a distance &gt;10m from the pile being installed.</li> <li>○ In-water noise levels &gt;155dB shall not exceed 12 consecutive hours on any given day and a 12 hour recovery period (i.e., in-water noise below 155dB) must be provided between work days.</li> </ul> </li> <li>• Minor deviations not allowed for fill or equipment in SAS.</li> </ul> | <p>1. Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion &lt;1 acre, or with a change in use.</p>  |
| <b>(d) DREDGING AND ASSOCIATED DISPOSAL</b> | <p>1. Maintenance dredging<sup>10</sup> for navigational purposes &lt;1,000 CY with upland disposal. Includes return water from upland contained disposal area, provided:</p> <ul style="list-style-type: none"> <li>• Proper siltation controls are used.</li> <li>• Dredging &amp; disposal operation limited to Nov. 1 – Jan. 15.</li> <li>• No impact to SAS<sup>3</sup>.</li> <li>• No dredging in intertidal areas.</li> <li>• No dredging in areas designated as Atlantic salmon critical habitat or occupied by listed Atlantic salmon (area provided at footnote to GC 10, Page 8).</li> </ul>   | <p>1. Maintenance dredging<sup>10</sup> ≥1,000 CY, new dredging &lt;25,000 CY, or projects not meeting Category 1. Includes return water from upland contained disposal areas. Disposal includes:</p> <ul style="list-style-type: none"> <li>• Upland.</li> <li>• Beach nourishment (above MHW) of any area provided dredging’s primary purpose is navigation or sand is from an upland source.</li> <li>• Open water &amp; confined aquatic disposal, if Corps finds the material suitable.</li> </ul> |

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|              | <ul style="list-style-type: none"> <li>• For dredging in waters outside of Atlantic salmon critical habitat, applicants must contact NMFS (see App. D) to ensure no impacts to listed species such as shortnose sturgeon.</li> </ul>   | <p>2. Beach nourishment associated with dredging when the primary purpose is not navigation requires an Individual Permit.</p> <p>3. Maintenance or new dredging<sup>10</sup> and/or disposal in or affecting a SAS<sup>3</sup> requires an Individual Permit. See II(a) above for dredge disposal in wetlands or waters.</p>   |
| (e) MOORINGS | <p>1. Private, non-commercial, non-rental, single-boat moorings authorized by the local harbormaster, provided:</p> <ul style="list-style-type: none"> <li>• Not associated with any boating facility<sup>11</sup></li> <li>• Not located in a Federal Navigation Project<sup>10</sup> other than a Federal Anchorage<sup>10</sup>. Moorings in Federal Anchorage not associated with a boating facility<sup>11</sup>.</li> <li>• No interference with navigation.</li> <li>• No new moorings located in SAS<sup>8</sup></li> <li>• Existing, authorized moorings in SAS<sup>8</sup> shall be replaced with elastic mooring systems, which preclude mooring chains from resting or dragging on the bottom substrate at all tides, and utilize a helical anchor where practicable.</li> <li>• May be located in or outside of Atlantic salmon critical habitat or shortnose sturgeon habitat.</li> </ul> <p>2. Minor relocation of previously authorized moorings and moored floats consistent with Harbormaster recommendations, provided:</p> <ul style="list-style-type: none"> <li>• Consistent with local regulations</li> <li>• Not located in SAS<sup>8</sup></li> <li>• Does not interfere with navigation.</li> <li>• May be located in or outside of Atlantic salmon critical habitat or shortnose sturgeon habitat:</li> </ul> | <p>1. Moorings associated with a boating facility<sup>11</sup>.</p> <p>2. Moorings that don't meet the terms in Category 1 and don't require an Individual Permit.</p> <p>3. Moorings located such that they, and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits<sup>13</sup> of a Corps Federal Channel<sup>12</sup>. (See Appendix F.) The buffer zone is equal to three times the authorized depth of that channel.</p> <p>4. An IP is required for moorings within the horizontal limits<sup>11</sup>, or with moored vessels that extend, into the horizontal limits of a Federal Navigation Project<sup>12</sup>, except those in Federal Anchorages<sup>12</sup> under Category 1.</p> |

|                           | <b>CATEGORY 1</b>   | <b>CATEGORY 2</b>   |
|---------------------------|---|---|
| (f) STRUCTURES AND FLOATS | <p>1. Reconfiguration of existing authorized structures or floats.</p> <p>2. Private, bottom-anchored floats &lt;200 SF.</p> <p>3. Private, pile-supported structures that are not boating facilities<sup>10</sup> for navigational access to the waterway &lt;400 SF with attached floats totaling &lt;200 SF.</p> <p><u>Provided (for 1 -3 above):</u></p> <ul style="list-style-type: none"> <li>• Structures are ≤4’ wide and have at least a 1:1 height:width ratio<sup>15</sup>.</li> <li>• Piles: <ul style="list-style-type: none"> <li>○ Must be drilled and pinned to ledge, or</li> <li>○ Vibratory hammers used to install any size and quantity of wood, concrete or steel piles, or</li> <li>○ Impact hammers limited to one hammer and &lt;50 piles installed/day with the following: wood piles of any size, concrete piles ≤18-inches diameter, steel piles &lt;12-inches diameter if the hammer is ≤3000 lbs and a wood cushion is used between the hammer and steel pile.</li> <li>○ Piles installed in-the-dry during low water or in-water between Nov. 8<sup>th</sup> - Apr. 9<sup>th</sup>.</li> <li>○ In-water noise levels shall not exceed &gt;187dB at a distance &gt;10m from the pile being installed.</li> <li>○ In-water noise levels &gt;155dB shall not exceed 12 consecutive hours on any given day and a 12 hour recovery period (i.e., in-water noise below 155dB) must be provided between work days.</li> </ul> </li> <li>• Floats supported a minimum of 18” above the substrate during all tides.</li> <li>• Structures &amp; floats not located within 25’ of any vegetated shallows<sup>14</sup>.</li> <li>• Moored vessels not positioned over SAS<sup>3</sup>.</li> <li>• No structure located within 25’ of the riparian property boundary.</li> <li>• No structure extends across &gt;25% of the waterway width at</li> </ul> | <p>1. Private structures or floats, including floatways/skidways, built to access waterway (seasonal and permanent)</p> <p>2. Expansions to existing boating facilities<sup>11</sup>.</p> <p>3. An Individual Permit is required for structures or floats, including floatways/skidways, located such that they and/or vessels docked or moored at them are within the horizontal limits<sup>13</sup> of a Corps Federal Navigation Project<sup>12</sup> (see App. F).</p> <p>4. An Individual Permit is required for structures and floats associated with a new or previously unauthorized boating facility<sup>11</sup>.</p> |

|           |   |   |
|-----------|---|---|
|           | <p>mean low water.</p> <ul style="list-style-type: none"> <li>• Not located within the buffer zone of the horizontal limits<sup>13</sup> of a Corps Federal Navigation Project<sup>12</sup> (see App. F). The buffer zone is equal to three times the authorized depth of that Federal Navigation Project.</li> <li>• May be located inside or outside of Atlantic salmon critical habitat or shortnose sturgeon habitat.</li> </ul>  |   |
| (g) MISC. | <p>All of the activities below may be located in or outside of areas occupied by listed Atlantic salmon, areas designated as Atlantic salmon critical habitat, or areas occupied by shortnose sturgeon:</p> <ol style="list-style-type: none"> <li>1. Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days after use is discontinued.</li> <li>2. The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard. (See 33 CFR 66, Chapter I, subchapter C).”</li> <li>3. Oil spill clean-up temporary structures or fill.</li> <li>4. Fish and wildlife harvesting, enhancement, and attraction devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, and clam and oyster digging, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). This does not authorize artificial reefs or impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks. No activity in SAS and no hazard to navigation.</li> <li>5. Scientific measurement devices and survey activities such as exploratory drilling, surveying and sampling activities. Does not include oil and gas exploration and fill for roads or construction pads. Applicants must contact NMFS to ensure no impacts to listed species such.</li> <li>6. Shellfish seeding (brushing the flats<sup>9</sup>) projects.</li> </ol> | <ol style="list-style-type: none"> <li>1. Structures or work in or affecting tidal or navigable waters, that are not defined under any of the previous headings listed above. Includes, but is not limited to, utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, floatways/skidways, bridges, tunnels and horizontal directional drilling activities seaward of the MHW line.</li> <li>2. Shellfish/finfish (other than Atlantic salmon), or other aquaculture facilities with no more than minimal individual and cumulative impacts to environmental resources or navigation. A 25’ eelgrass set back is recommended. Aquaculture guidelines are provided at: <a href="http://www.maine.gov/dmr/aquaculture/index.htm">www.maine.gov/dmr/aquaculture/index.htm</a>.</li> <li>3. Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must typically be restored in place at the same elevation to qualify.</li> <li>4. Aquatic habitat restoration, establishment and enhancement provided those activities are proactive and result in net increases in aquatic resource functions and services.<sup>9</sup></li> <li>5. Projects where an EIS is required by the Corps are not eligible for Category 2.</li> </ol> |

|  |  |  |
|--|--|--|
|  | <p>7. Shellfish Aquaculture Limited Purpose Aquaculture (LPA) projects &lt;400 SF in areas and not within 25' of eelgrass. Aquaculture LPA guidelines are provided at: <a href="http://www.maine.gov/dmr/aquaculture/index.htm">www.maine.gov/dmr/aquaculture/index.htm</a>.</p> <p>8. Marine railway work not eligible for maintenance<sup>7</sup> (i.e. not currently serviceable<sup>7</sup> or in non-compliance) may be replaced “in-kind” with minor deviations<sup>7</sup> provided:</p> <ul style="list-style-type: none"> <li>• Work is in the intertidal zone</li> <li>• No fill expansion below HTL.</li> <li>• Work conducted in-the-dry during low water or in-water between Nov. 8 – Apr. 9.</li> </ul> <p>9. Any work not commenced nor completed that was authorized in a written letter from the Corps under the PGP in effect between October 11, 2005 and October 11, 2010. The terms and general conditions of this GP apply along with any special conditions in the written authorization. This does not allow continued disposal of dredged material at the Portland Disposal Site.</p> |  |
|--|--|--|

**Endnotes/Definitions**

<sup>1</sup>**Bordering and Contiguous Wetlands:** A bordering wetland is immediately next to its adjacent waterbody and may lie at, or below, the ordinary highwater mark (MHW in navigable waters) of that waterbody and is directly influenced by its hydrologic regime. Contiguous wetlands extend landward from their adjacent waterbody to a point where a natural or manmade discontinuity exists. Contiguous wetlands include bordering wetlands as well as wetlands that are situated immediately above the ordinary highwater mark and above the normal hydrologic influence of their adjacent waterbody. Note, with respect to the federally designated navigable rivers, the wetlands bordering and contiguous to the tidally influenced portions of those rivers are reviewed under “II. Navigable Waters.”

<sup>2</sup>**Direct, Secondary, and Cumulative Impacts/Effects:**

Direct Impacts: The immediate loss of aquatic ecosystem within the footprint of the fill.

Secondary Effects: These are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. Information about secondary effects on aquatic ecosystems shall be considered prior to the time final section 404 action is taken by permitting authorities. Some examples of secondary effects on an aquatic ecosystem are a) fluctuating water levels in all impoundment and downstream associated with the operation of a dam, b) septic tank leaching and surface runoff from residential or commercial developments on fill, and c) leachate and runoff from a sanitary landfill located in waters of the U.S. Put another way, secondary effects are those impacts outside the footprint of the fill that arise from and are associated with the discharge of dredged or fill material, including the operation of an activity or facility associated with the discharge. Examples may include habitat fragmentation; interruption of travel corridors for wildlife (for example, for amphibians that migrate to and from seasonal or vernal pools used as breeding habitat); hydrologic regime changes; and impacts from operation and maintenance activities for constructed facilities; such as noise/lighting, storm water runoff, and road kill of wetland dependent wildlife. Using the directions contained in the guidelines, we consider the circumstances of a proposed discharge and the project of which it is a part to evaluate the scope, extent, severity, and permanence of direct, secondary, and cumulative adverse effects upon the aquatic ecosystem.

**Cumulative Impacts:** The extent of past, present, and foreseeable developments in the area may be an important consideration in evaluating the significance of a particular project's impacts. Although the impacts associated with a particular discharge may be minor, the cumulative effect of numerous similar discharges can result in a large impact. Cumulative impacts should be estimated only to the extent that they are reasonable and practical.

<sup>3</sup>**Special Aquatic Sites:** Includes wetlands and saltmarsh, mudflats, riffles and pools, and vegetated shallows.

<sup>4</sup>**Construction Mats:** Constructions, swamp and timber mats (herein referred to as "construction mats") are generic terms used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from a variety of materials in various sizes. A timber mat consists of large timbers bolted or cabled together. Corduroy roads, which are not considered to be construction mats, are cut trees and/or saplings with the crowns and branches removed, and the trunks lined up next to one another. Corduroy roads are typically installed as permanent structures. Like construction mats, they are considered as fill whether they're installed temporarily or permanently.

<sup>5</sup>**Vernal Pools:** A vernal pool, also referred to as a seasonal forest pool, is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet or outlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana sylvatica*), spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp (*Eubranchipus* sp.), as well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species. A vernal pool intentionally created for the purposes of compensatory mitigation is included in this definition. For the purposes of this GP, the presence of any of the following species in any life stage in any abundance level/quantity would designate the waterbody as a vernal pool: fairy shrimp, blue spotted salamanders, spotted salamanders or wood frogs. The Corps may determine during a Category 2 review that a waterbody should not be regulated as a VP based on available evidence. For the purposes of this GP\*, the VP Management Areas are the: Vernal Pool Depression (includes the vernal pool depression up to the spring or fall high water mark, and includes any vegetation growing within the depression), Vernal Pool Envelope (area within 100 FT of the VP Depression's edge) and Critical Terrestrial Habitat (area within 100-500 FT of the Vernal Pool Depression's edge). [\*Note: Critical Terrestrial Habitat is defined as 100 -750 FT on page 243 of the document Science and Conservation of Vernal Pools in Northeastern North America, Calhoun and deMaynadier, 2008, which is referenced in Appendix E, page 3, Paragraph 10(b).

<sup>6</sup>**Water Diversions:** Water diversions are activities such as bypass pumping or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary's confines aren't water diversions. "Normal flows" are defined as no change in flow from pre-project conditions.

<sup>7</sup>**Maintenance:** In accordance with 33 CFR 323.4(a)(2), any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404 of the CWA: "Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design." (This could include replacement work if it meets this definition, and stream crossings typically must be an exact replica crossing in the same footprint to qualify.) Otherwise, the following work is regulated and subject to the Category 1 or 2 thresholds in Appendix A above: The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 – "Activities occurring before certain dates," provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make repair, rehabilitation, or replacement are authorized. No seaward expansion for bulkheads or any other fill activity is considered Category 1 maintenance. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. Only structures or fills that were previously authorized and are in compliance with the terms and condition of the original authorization can be maintained as a non-regulated activity under 33 CFR 323.4(a)(2), or in accordance with the Category 1 or 2 thresholds in Appendix A. Note: The state's maintenance provisions may differ from the Corps and may require reporting and written authorization from the state.

<sup>8</sup>**Aquatic Habitat Restoration, Establishment and Enhancement:** The Corps will decide if a project qualifies and must determine in consultation with federal and state agencies that the net effects are beneficial. The Corps may refer to Nationwide Permit 27 published in the 3/12/07 Federal Register. Activities authorized here may include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes,

and berms; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands in inland waters; the construction of open water areas; the construction of native shellfish species habitat over unvegetated bottom for the purpose of habitat protection or restoration in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

<sup>9</sup> **Brushing the Flats:** The placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).

<sup>10</sup> **Maintenance Dredging:** This includes only those areas and depths previously authorized by the Corps and dredged.

<sup>11</sup> **Boating Facilities:** Facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominiums, etc.

<sup>12</sup> **Federal Navigation Projects (FNPs):** FNPs are comprised of Federal Channels and Federal Anchorages. See Appendix F for their location and contact the Corps for more information. “Horizontal Limits” is the outer edge of an FNP. “Buffer Zone” is equal to three times the authorized depth of that channel.

<sup>13</sup> **Horizontal Limits:** The outer edge of a Federal Navigation Project (FNP). See Appendix F and contact the Corps for information on FNP’s.

<sup>14</sup> **Vegetated Shallows:** Subtidal areas that support rooted aquatic vegetation such as eelgrass

<sup>15</sup> **Structures:** The height of structures shall at all points be equal to or exceed the width of the deck. For the purpose of this definition, height shall be measured from the marsh substrate to the bottom of the longitudinal support beam.

DRAFT



## Appendix B: Category 1 Form

(for all Inland and Navigable Water Projects in Maine subject to Corps jurisdiction)

### US Army Corps of Engineers®

New England District

Submit this **before** work commences to the following address. Call (207) 623-8124 with any questions.

Maine Project Office  
New England District  
US Army Corps of Engineers  
675 Western Avenue #3  
Manchester, ME 04351

Permittee: \_\_\_\_\_

Permittee Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

Work Locations/Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

Latitude/Longitude Coordinates: \_\_\_\_\_

Waterway Name: \_\_\_\_\_

Work Description: \_\_\_\_\_

Area of wetland impact: \_\_\_\_\_ SF (leave blank if work involves structures & no fill in Navigable Waters)

Area of waterway impact: \_\_\_\_\_ SF (leave blank if work involves structures & no fill in Navigable Waters)

Area of compensatory mitigation provided: \_\_\_\_\_ SF

Work will be done under the following Appendix A categories (circle all that apply):

- I. Inland Waters and wetlands:    a    b    c    d    e
- II. Navigable Waters:                a    b    c    d    e    f    g

Contractor: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

Proposed Work Dates: Start: \_\_\_\_\_ Finish: \_\_\_\_\_

Will American Recovery and Reinvestment Act (ARRA) funds be used for any of this project? \_\_\_\_\_

Your name/signature below, as permittee, indicates that you accept and agree to comply with the terms, eligibility criteria, and general conditions of Category 1 of this Maine General Permit.

Permittee Name/Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**US Army Corps  
of Engineers**®  
New England District

## **Appendix C: Information Required Checklist** (Category 2 & Individual Projects)

All applicants for Category 2 and Individual Projects must submit this checklist with their application to the Corps (see Page 3) and include at least the following information. Project applications will be considered complete upon the Corps receipt of the necessary information in this checklist. For a more comprehensive checklist, see [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg), “Forms” and then “Application and Plan Guideline Checklist.” Check with our office for project-specific requirements.

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

**All Projects:**

- Corps application form (ENG Form 4345) as appropriate.
- Indicate that application materials were submitted to the Maine Historic Preservation Commission (MHPC) and the appropriate tribes (see Section 3(d) on Page 4).
- Purpose of the project.
- Legible, reproducible black and white (no color) plans no larger than 11”x17” with bar scale. Provide locus map and plan views of the entire property.
- Typical cross-section views of all wetland and waterway fill areas and wetland replication areas.
- On each plan, show the following for the project when applicable:
- Vertical datum and the NAVD 1988 equivalent with the vertical units as U.S. feet. Don’t use local datum;
- Horizontal state plane coordinates in U.S. survey feet based on the [insert state grid system] for the [insert state] [insert zone] NAD 83.
- Show project limits with existing and proposed conditions.
- Volume, type, and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below the ordinary high water in inland waters and below the high tide line in coastal waters.
- Photographs of wetland/waterway to be impacted.
- Volume, type, and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below the ordinary high water in inland waters and below the high tide line in coastal waters.
- Provide information on secondary and cumulative effects associated with the project. See GC 3.
- Provide information on any federal or state authorized work, wetland/waterway fill, or conservation restrictions or easements associated with the project. See GC 5.
- The name(s) of federal endangered and threatened “listed species or habitat” present in the action area (see GC 10 and Appendix E).
- On-site alternatives analysis. Contact the Corps for guidance.
- A statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

## **Inland Waters**

- Delineation of all waters of the United States on the project site, including special aquatic sites and vernal pools. Use federal delineation methods and include Corps wetland delineation data sheets (see GC 2 and Appendix A - Endnotes 1 and 5).
- Invasive Species Control Plan (see GC 29).

## **Stream Crossings (see the design and construction manual referenced in Appendix E).**

(1) Plans showing the following information:

- Structure location including inlet and outlet inverts located with x, y, z coordinates or equivalent and taken from the long profile.
- Extension of channel excavation and filling.
- Road locations, edges, centerline, geometric description of curvature, widths, and curve widening, p-line or x, y, z coordinates.
- Channel work identified including bank erosion control features, grade control, and channel linings.
- Estimated drainage area at the crossing location.

(2) Streambed details, with figures, which show the following:

- The distance from the top of the right bank to the top of the left bank.
- Average stream approach channel slope and percent gradient within the crossing, measured using a clinometer, hand level or other survey equipment.
- A shaped streambed in the structure, usually sloping downward toward the center to form a low-water channel.
- Approximate elevations, spacing, diameters, and locations of rocks for steps, bankline, and other channel rocks for roughness.
- Details for sediment retention structures, if any, within embedded structures.
- A visual estimate of dominant channel materials upstream, downstream, and if applicable, within the existing crossing.
- The streambed simulation materials and its extent, depth and length within the crossing.
- Pebble count upstream, downstream, and if applicable, within the existing crossing.
- Channel information for the design reference reach including bank full width, bankfull depth, entrenchment ratio, sinuosity, flood prone width, a long profile that is 7-10 bankfull widths long with grade controls, pools and gradients shown, an appropriate reference reach cross section with channel details, reference reach pebble count, including a narrative explaining why the cross section is considered representative.

(3) Existing crossing metrics on the plan, including:

- Existing riparian zone, including the extent and type of existing vegetation surrounding or in the stream bank.
- Existing crossing type and dimensions, including material, length, and dimensions.
- Existing tailwater control, including its location and materials, and pool configuration.

(4) The dewatering system as follows:

- Estimates of the maximum flow anticipated during construction, including any summer storm estimates;
- Location, height, and width of the diversion dam.
- Sump locations, including estimate of necessary flow and sump capacity.
- Backwater prevention method.
- Sediment treatment plan with methods, release point, and extent.

(5) Structural details of the crossing, including the following:

- Structural section, gauge or thickness, and material, minimum and maximum cover limits;
- Structures, drawn to scale, on elevation view showing bed material location relative to structure, and special backfill zones;
- Structural excavation quantity and total excavation estimate.
- Footing depth and width for spans (bottomless arches, open-bottom culverts, bridges, etc).

(6) Impact Analysis:

- Crossing impact assessment to wildlife and fisheries and aquatic organisms (pre- and post design) including direct and secondary impacts.
- Replacements: an analysis of current crossing compatibility, stability of upstream and downstream channel and bank, recent scour events, systems analysis on hydrology, ecological stability and sediment loading.

**Waters subject to the ebb and flow of the tide**

- On each plan show the vertical datum and the NAVD 1988 equivalent with the vertical units as U.S. feet. Don't use local datum. In coastal waters this may be mean higher high water (MHHW), mean high water (MHW), mean low water (MLW), mean low lower water (MLLW) or other tidal datum with the vertical units as U.S. feet. MLLW and MHHW are preferred. Provide the correction factor detailing how the vertical datum (e.g., MLLW) was derived using the latest National Tidal Datum Epoch for that area, typically 1983-2001.
- Show the high tide line (HTL) elevations when fill is involved
- Limits of any Federal Navigation Project in the vicinity of the project area and horizontal State Plane Coordinates in U.S. survey feet for the limits of the proposed work closest to the Federal Navigation Project;
- Delineation of all waters of the United States on the project site, including special aquatic sites and vegetated shallows (e.g., eelgrass beds). Use federal delineation methods and include Corps wetland delineation data sheets (See GC 2, and Appendix A - Endnotes 1, 3 and 14).
- Identify and describe potential impacts to Essential Fish Habitat (see GC 11).

**Information typically required for dredging projects:**

- Sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing. For projects proposing open water disposal, applicants are encouraged to contact the Corps as early as possible regarding sampling and testing protocols. Sampling and testing of sediments without such contact should not occur and if done, would be at the applicant's risk.
- The area in square feet and volume of material to be dredged below mean high water.
- Existing and proposed water depths.
- Type of dredging equipment to be used.
- Nature of material (e.g., silty sand).
- Any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects.
- Information on the location and nature of municipal or industrial discharges and occurrence of any contaminant spills in or near the project area.
- Location of the disposal site (include locus sheet).
- Identify and describe potential impacts to Essential Fish Habitat (see General Condition 11).
- Delineation of submerged aquatic vegetation (e.g., eelgrass beds).

## Appendix D: Contacts and Tribal Areas of Interest

### 1. **FEDERAL**

#### U.S. Army Corps of Engineers

Maine Project Office  
675 Western Avenue #3  
Manchester, Maine 04351  
(207) 623-8367, (207) 623-8206 (fax)

#### Federal Endangered Species

U.S. Fish and Wildlife Service  
Maine Field Office  
17 Godfrey Drive, Suite 2  
Orono, Maine 04473  
(207) 866-3344, (207) 866-3351 (fax)

#### Wild and Scenic Rivers

National Park Service  
North Atlantic Region  
15 State Street  
Boston, Massachusetts 02109  
(617) 223-5203

#### Bridge Permits

Commander (obr)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, New York 10004  
(212) 668-7021; (212) 668-7967 (fax)

#### Federal Endangered Species

National Marine Fisheries Service  
Maine Field Office  
17 Godfrey Drive Suite 1  
Orono, ME 04473  
(207) 866-7379, (978) 866-7342 (fax)

#### Federal Endangered Species & EFH

National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, Massachusetts 01939  
(978) 281-9102, (978) 281-9301 (fax)

### 2. **STATE OF MAINE**

#### Maine Department of Environmental Protection (for State Permits & Water Quality Certifications)

Division of Land Resource Regulation  
Bureau of Land and Water Quality  
17 State House Station  
Augusta, Maine 04333  
(207) 287-7688

Southern Maine Regional Office  
312 Canco Road  
Portland, Maine 04103  
(201) 822-6300

Eastern Maine Regional Office  
106 Hogan Road  
Bangor, Maine 04401  
(207) 941-4570

Northern Maine Regional Office  
1235 Central Drive - Skyway Park  
Presque Isle, Maine 04769  
(207) 764-0477

#### Maine Land Use Regulation Commission (LURC) [call (800) 452-8711 for appropriate office]

22 State House Station  
Augusta, Maine 04333-0022  
(207) 287-2631, (207) 287-7439 (fax)

45 Radar Road  
Ashland, ME 04732-3600  
(207) 435-7963, (207) 435-7184 (fax)

Lakeview Drive  
P.O. Box 1107  
Greenville, Maine 04441  
(207) 695-2466, (207) 695-2380 (fax)

191 Main Street  
East Millinocket, ME 04430  
(207) 746-2244, (207) 746-2243

(For CZM Determinations)

State Planning Office  
Coastal Program  
184 State Street  
State House Station 38  
Augusta, Maine 04333  
(207) 287-1009

(For Aquaculture Leases)

Maine Department of Marine Resources  
P.O. Box 8  
West Boothbay Harbor, Maine 04575  
(207) 633-9500

(For Submerged Lands Leases)

Maine Department of Conservation  
Bureau of Parks and Lands  
22 State House Station  
Augusta, Maine 04333  
(207) 287-3061

**3. HISTORIC PROPERTIES**

Maine Historic Preservation Commission  
(MHPC)

State House Station 65  
Augusta, Maine 04333-0065  
(207) 287-2132, (207) 287-2335 (fax)

Houlton Band of Maliseet Indians

Attn: Tribal Chief  
88 Bell Road  
Littleton, Maine 04730  
(207) 532-4273, x215, (207) 532-2660 (fax)

Passamaquoddy Tribe of Indians

Pleasant Point Reservation  
Attn: Tribal Council  
P.O. Box 343  
Perry, Maine 04667  
(207) 853-2600, (207) 853-6039 (fax)

Aroostook Band of Micmacs

Attn: Mr. Williams Phillips, Chief  
7 Northern Road  
Presque Isle, Maine 04769  
(207) 764-1972, (207) 764-7667 (fax)

Passamaquoddy Tribe of Indians

Indian Township Reservation  
Attn: Donald Soctomah, THPO  
P.O. Box 301  
Princeton, Maine 04668  
(207) 796-2301, (207) 796-5256 (fax)

Penobscot Indian Nation

Indian Island Reservation  
Attn: Ms. Bonnie Newsom, THPO  
12 Wabanaki Way  
Indian Island, Maine 04468  
(207) 817-7471, (207) 817-7450 (fax)

**4. ORGANIZATIONAL WEBSITES:**

Army Corps of Engineers  
Army Corps of Engineers Headquarters  
Environmental Protection Agency  
National Marine Fisheries Service  
U.S. Fish and Wildlife Service  
National Park Service  
State of Maine  
State of Maine -Aquaculture Guidelines

[www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg)  
[www.usace.army.mil](http://www.usace.army.mil) (click "Services for the Public")  
[www.epa.gov/owow/wetlands/](http://www.epa.gov/owow/wetlands/)  
[www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)  
[www.fws.gov](http://www.fws.gov)  
[www.nps.gov/rivers/index.html](http://www.nps.gov/rivers/index.html)  
[www.maine.gov](http://www.maine.gov)  
[www.maine.gov/dmr/aquaculture/index.htm](http://www.maine.gov/dmr/aquaculture/index.htm)

## Appendix E: Additional References

### 1. GC 2: Federal Jurisdictional Boundaries.

- (a) Corps Wetlands Delineation Manual, regional supplements, and Corps Wetland Delineation Data Sheets: [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) and then “Wetlands and Jurisdictional Limits.”
- (b) The USFWS publishes the 1988 National List of Plant Species that Occur in Wetlands ([www.nwi.fws.gov](http://www.nwi.fws.gov)). The Natural Resources Conservation Service (NRCS) publishes the current hydric soil definition, criteria and lists: <http://soils.usda.gov/use/hydric>. For the Field Indicators for Identifying Hydric Soils in N.E., see [www.neiwpsc.org/hydricsoils.asp](http://www.neiwpsc.org/hydricsoils.asp).

### 2. GC 5:

*Single and complete project* means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. For example, if construction of a residential development affects several different areas of a headwater or isolated water, or several different headwaters or isolated waters, the cumulative total of all filled areas should be the basis for deciding whether or not the project will be covered by Category 1 or 2.

The *Independent utility* test is used to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

### 3. GC 10: Threatened and Endangered Species.

- (a) The following USFWS and NMFS sites must be referenced to ensure that listed species or critical habitat are not present in the action area (GC 10(b)) or to provide information on federally-listed species or habitat (GC 10(c)):

[www.fws.gov/newengland/EndangeredSpec-Consultation\\_Project\\_Review.htm](http://www.fws.gov/newengland/EndangeredSpec-Consultation_Project_Review.htm) and [www.nero.noaa.gov/prot\\_res/esp/ListE&Tspec.pdf](http://www.nero.noaa.gov/prot_res/esp/ListE&Tspec.pdf).

- (b) The Endangered Species Act Consultation Handbook – Procedures for Conducting Section 7 Consultations and Conferences,” defines action area as “all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. [50 CFR 402.02].”

### 4. GC 11: Essential Fish Habitat.

As part of the PGP screening process, the Corps may coordinate with NMFS in accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed “Essential Fish Habitat (EFH)”, and is broadly defined to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” There are EFH waters throughout inland and coastal waters in Maine. For additional information, see the EFH regulations 50 CFR 600 at [www.nero.noaa.gov/hcd](http://www.nero.noaa.gov/hcd) including the “Guide for EFH Descriptions” at [www.nero.noaa.gov/hcd/list.htm](http://www.nero.noaa.gov/hcd/list.htm). Additional information on the location of EFH can be obtained from NMFS (see Appendix D for contact information).

### 5. GC 16: Avoidance, Minimization and Compensatory Mitigation.

- (a) See Corps website ([www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg)) under “Mitigation” to view the April 10, 2008 “Final Compensatory Mitigation Rule” (33 CFR 332) and related documents. The Q&A document states: “In order to reduce risk and uncertainty and help ensure that the required compensation is provided, the rule establishes a preference hierarchy for mitigation options. The most preferred option is mitigation bank credits, which are usually in place before the activity is permitted. In-lieu fee program credits are second in the preference hierarchy, because they may involve larger, more ecologically valuable compensatory mitigation projects as

compared to permittee-responsible mitigation. Permittee-responsible mitigation is the third option, with three possible circumstances: (1) conducted under a watershed approach, (2) on-site and in kind, and (3) off-site/out-of-kind.

(b) In-lieu fee may be used as compensatory mitigation for the purpose of restoring, enhancing, creating or preserving wetland functions in Maine. See the Maine In-Lieu Fee Agreement at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Mitigation.”

#### **6. GCs 19 and 29: Invasive Species.**

(a) Information on what are considered “invasive species” is provided in our [Mitigation Plan Checklist Guidance](http://www.nae.usace.army.mil/reg) at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Mitigation.”

(b) Information on preparing an ISCP is in our document "Invasive Species Control/Management Plan (ISCP) Guidance" at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Invasive Species”.

(c) The June 2009 “Corps of Engineers Invasive Species Policy” is also under “Invasive Species” and provides policy, goals and objectives.

#### **7. GC 20: Bank Stabilization.**

This generally eliminates bodies of water where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife. See the Corps Coastal Engineering Manual [EM 1110-2-1100](http://www.nae.usace.army.mil) at [www.nae.usace.army.mil](http://www.nae.usace.army.mil) under “Useful Links and Documents” for design and construction guidance.

#### **8. GC 22: Stream Crossings and Work.**

(a) The version of the Maine regs that must be used to comply with this GP is titled “Chapter 305, Permit by Rule Standards, Section 10 Stream Crossings,” provided at ADDRESS and on the Corps website at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “State General Permits” and then “Maine.”

(b) Projects should be designed and constructed to ensure long-term success using the most recent manual located at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Stream and River Continuity,” currently “Stream Simulation: An Ecological Approach to Providing Passage for Aquatic Organisms at Road-Stream Crossings, by the U.S. Forest Service.” Section 5.3.3 is of particular importance. Sections 7.5.2.3 Construction Methods and 8.2.11 Stream-Simulation Bed Material Placement both show important steps in the project construction.

(c) General Stream Crossing Standards

i. Culverts must be embedded:

- $\geq 2$  feet for box culverts and other culverts with smooth internal walls,
- $\geq 1$  foot for corrugated pipe arches
- $\geq 1$  foot and at least 25 percent for corrugated round pipe culverts

ii. For new crossings, spans<sup>1</sup> are required to avoid or cause minimal disruption to the streambed and to meet the requirements of GC 22(a) and (b). Footings and abutments must be landward of 1.2 times bankfull width. To the greatest extent practicable, work in the stream shall be minimized, and design and construction shall allow the streambed’s natural structure and integrity to remain intact. Any fill or excavation of the streambed below bankfull width other than footings, support pilings, or work specified in 22(f), 22(k)ii or 22(k)iii, requires Category 2 review and, unless demonstrated otherwise, stream simulation to establish substrate and banks in the span structure and work area as specified in iv and v below. Stream simulation design and construction shall be in accordance with the document in (b) above.

iii. For replacement crossings, spans<sup>1</sup> are required to meet the requirements of GC 22(a) and (b). Footings and abutments shall be landward of 1.2 times bankfull width. Unless demonstrated otherwise, stream

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<sup>1</sup> For the purposes of this GP, spans are bridges, three-sided box culverts, open-bottom culverts or arches that span the stream with footings landward of bankfull width.

simulation<sup>1</sup> is required to establish substrate and banks in the span structure and work area as specified in iv and v below. Stream simulation design and construction shall be in accordance with the document in (b) above.

iv. Crossings must have a natural bottom substrate within the structure matching the characteristics of the substrate in the natural stream channel and the banks (mobility, slope, stability, confinement, grain and rock size) at the time of construction and over time as the structure has had the opportunity to pass significant flood events. To allow terrestrial passage for wildlife and prevent undermining the footings, crossings shall have a bank on both sides of the stream matching the horizontal profile of the existing stream and banks. See 8(b) above.

v. Crossings must be designed with appropriate bed forms and streambed characteristics so that water depths and velocities are comparable to those found in the natural channel at a variety of flows. In order to provide appropriate water depths and velocities at a variety of flows and especially low flows it is usually necessary to reconstruct the streambed or preserve the natural channel within the structure. Otherwise, the width of the structure needed to accommodate higher flows will create conditions that are too shallow at low flows. The grain and rock size, and arrangement of streambed materials within the structure should be in accordance with iii above. Flows could go subsurface within the structure if only large material is used without smaller material filling the voids. See 8(b) above.

(d) High-Quality Stream Segments. For more information see:

1. High-Quality Stream Segments are shown at [WEBSITE PENDING].

2. Class A Waters or Class AA Waters: [www.mainelegislature.org/legis/statutes/38/title38sec465.html](http://www.mainelegislature.org/legis/statutes/38/title38sec465.html), and [www.mainelegislature.org/legis/statutes/38/title38sec467.html](http://www.mainelegislature.org/legis/statutes/38/title38sec467.html).

3. Outstanding river segments [www.mainelegislature.org/legis/statutes/38/title38sec480-P.html](http://www.mainelegislature.org/legis/statutes/38/title38sec480-P.html).

(e) The Massachusetts Dam Removal and the Wetland Regulations guidance may be used to evaluate the positive and negative impacts of culvert replacement, including the loss of upstream wetlands, which may be offset by the overall benefits of the river restoration. See [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) and then “Stream and River Continuity.”

(f) GC 22(i): The Skidder Bridge Fact Sheet at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Stream and River Continuity” may be a useful temporary span construction method.

**9. GC 23: Wetland Crossings.** The Maine DEP’s crossing standards are at 06-096 DEP, Chapter 305: Permit by Rule, 9) Crossings (utility lines, pipes and cables). [www.maine.gov/dep/blwq/rules/NRPA/2009/305/305\\_effective\\_2009.pdf](http://www.maine.gov/dep/blwq/rules/NRPA/2009/305/305_effective_2009.pdf)

## **10. GC 28: Protection of Vernal Pools.**

a. The state’s Significant Wildlife Habitat rules (Chapter 335, Section 9(C) “Habitat management standards for significant vernal pool habitat”) are located on the state’s website at [www.maine.gov/dep/blwq/docstand/nrpage.htm#rule](http://www.maine.gov/dep/blwq/docstand/nrpage.htm#rule) under “Rules,” or on the Corps website at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “State General Permits” and then “Maine.” These rules contain vernal pool requirements to minimize impacts to vernal pools.

b. The following documents provide conservation recommendations:

i. Best Development Practices: Conserving pool-breeding amphibians in residential and commercial development in the northeastern U.S., Calhoun and Klemens, 2002. Chapter III, Management Goals and Recommendations, pages 15 – 26, is particularly relevant. (Available for purchase at [www.maineaudubon.org/resource/index.shtml](http://www.maineaudubon.org/resource/index.shtml) and on Corps website\*.)

ii. Science and Conservation of Vernal Pools in Northeastern North America, Calhoun and deMaynadier, 2008. Chapter 12, Conservation Recommendations section, page 241, is particularly relevant. (Available for purchase via the internet. Chapter 12 is available on Corps website\*.)

\* [www.nae.usace.army.mil/reg/index.htm](http://www.nae.usace.army.mil/reg/index.htm) under “Useful Links and Documents.”

c. Cape Cod Curbing: For smaller roads and driveways, the most important design feature to consider is curbing. Granite curbs and some traditional curbing can act as a barrier to amphibian and hatchling turtle

movements. Throughout the northeast U.S. and Canada, large numbers of salamanders have been intercepted in their migrations by curbs and catch basins. Use of Cape Cod curbs rather than traditional curbing may be one solution. Alternatively, where storm water management systems require more traditional curbing, it may be possible to design in escape ramps on either side of each catch basin. Cape Cod curbing is shown on page 35 of the Best Development Practices document cited in 11.c.i above. Bituminous material is not required; other materials such as granite are acceptable.

d. The VP Directional Buffer Guidance Document is located on the Corps website at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “State General Permits” and then “Maine” and also under “Useful Links and Documents.”

**11. GCs 29 and 19: Invasive Species.** Information on preparing an ISCP and what are considered as “invasive species,” is provided our document “Invasive Species Control/Management Plan (ISCP) Guidance” at [www.nae.usace.army.mil/reg](http://www.nae.usace.army.mil/reg) under “Invasive Species.” Also, the June 2009 “Corps of Engineers Invasive Species Policy” is also under “Invasive Species” and provides policy, goals and objectives.

**12. GC 32: Maintenance.** River restoration projects that are designed to accommodate the natural dynamic tendencies of the fluvial system are maintained in accordance with the project’s design objectives (Category 1) or the Corps authorization letter (Category 2). These projects are generally designed to support and implement channel assessment and management practices that recognize a stream’s natural dynamic tendencies.

