



**US Army Corps  
of Engineers** ®  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

## 45-DAY PUBLIC NOTICE

**Date: November 1, 2016**

**Comment Due Date: December 16, 2016**

**E-mail: [michael.j.elliott@usace.army.mil](mailto:michael.j.elliott@usace.army.mil)**

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### **PROPOSED REPLACEMENT AND REVISION OF THE DEPARTMENT OF THE ARMY RHODE ISLAND GENERAL PERMIT (GP)**

**The New England District, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751** hereby proposes to replace and revise the statewide Rhode Island General Permit (GP), pursuant to 33 CFR 325.5(c)(1), with a series of multiple GPs covering activity-specific categories. The revised GPs will continue to authorize activities in waters of the United States within the State of Rhode Island and lands located within the boundaries of the Narragansett Land Claims Settlement Area with minimal individual and cumulative adverse environmental impacts.

The existing GP expires on February 22, 2017, and we propose to reissue the GPs for another five years prior to that date. The revised GPs will continue the expedited review process for activities in Corps jurisdiction under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research and Sanctuaries Act.

General Permits are used 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 GPs throughout New England. This public notice is being issued in accordance with 33 CFR 325.3(b) to coordinate reissuance of the GPs with Federal resource agencies, state agencies, and the public.

The revised GP organizes eligible work into twenty-one (21) activity-specific categories. This was intended to satisfy the requirements of Section 404(e) of the Clean Water Act, which allows the Corps to issue general permits for activities that are similar in nature and will cause only minimal individual and cumulative adverse environmental effects. Identifying specific activities allows the Corps to adequately assess cumulative impacts of permitted activities, as well as fully assess impacts on threatened and endangered species. The proposed GPs retain the function and utility of the existing Rhode Island GP and are not expected to result in significant substantive changes to how activities in waters of the U.S. are regulated in the State of Rhode Island.

All GP authorizations would be subject to the applicability requirements, procedures, and conditions contained in the GP documentation. Individual GP authorizations are not valid until all other required Federal, state and local permits and/or certifications are obtained.

Projects with minimal individual and cumulative effects on the aquatic environment will be approved administratively under these GPs. Representatives of the Corps, state agencies and the Federal resource agencies (U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and National Marine Fisheries Service) will continue to review those activities requiring a Pre-Construction Notification to the Corps, as outlined within the GPs. Projects that do not meet the terms and conditions of the GPs, including those that have the potential for more than minimal effects, will require an Individual Permit. The Individual Permit review process is detailed at 33 CFR 325, Processing of Department of the Army Permits. Reissuance of the GPs will not alter the Individual Permit review procedures, or Federal exemptions, which are not necessarily the same as the State of Rhode Island's exemptions.

#### 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. Essential Fish Habitat is broadly defined as those waters and substrates necessary to fish for spawning, feeding, breeding, and growth to maturity. Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires that Federal agencies proposing to authorize, fund, or to undertake actions which may adversely affect EFH 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 may issue a statement of General Concurrence in accordance with the requirements of 50 CFR 600.920(f).

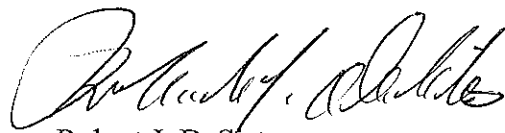
#### Water Quality Certification (WQC) and Coastal Zone Management (CZM) Consistency

The Corps is simultaneously requesting that the Rhode Island Department of Environmental Management (RIDEM) Office of Water Resources - Water Quality Certification Program and the Rhode Island Coastal Resources Management Council (RI-CRMC) determine whether to issue, deny or waive WQC and CZM Consistency, respectively.

#### Comments

We are seeking public comment in order to properly evaluate the proposed GPs in Rhode Island. Anyone wishing to comment is encouraged to do so in writing within the comment period specified in this notice. Comments should be submitted to: Mr. Michael J. Elliott, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742-2751. If you have any questions, please contact Mr. Elliott at (978) 318-8131 or [michael.j.elliott@usace.army.mil](mailto:michael.j.elliott@usace.army.mil).

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 that is the best means for understanding a wide variety of concerns from a diverse segment of the public.



Robert J. DeSista  
Chief, Permits & Enforcement Branch  
Regulatory Division

Applicant: General Public in the State of Rhode Island

Effective Date: February 23, 2017

Expiration Date: February 23, 2022

**DEPARTMENT OF THE ARMY  
GENERAL PERMITS FOR THE  
STATE OF RHODE ISLAND  
&  
LANDS LOCATED WITHIN THE  
BOUNDARIES OF THE NARRAGANSETT LAND  
CLAIM SETTLEMENT AREA**

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues twenty-one (21) General Permits (GPs), listed below, for activities subject to Corps jurisdiction in waters of the United States (U.S.), including navigable waters, within boundaries of the State of Rhode Island. These GPs are issued in accordance with Corps regulations at Title 33 of the Code of Federal Regulations, Parts 320–332 (*See* 33 CFR 325.5(c)(1)), and authorize activity-specific categories of work that are similar in nature and cause no more than minimal individual and cumulative adverse environmental impacts. These GPs will provide protection to the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

**GENERAL CRITERIA**

In order for activities to qualify for these GPs, they must meet the terms, eligibility criteria and stipulations listed in Appendix A – General Permits, as well as the General Conditions listed in Appendix B.

Projects may qualify for the following:

- Self-Verification (inland) - A Self-Verification Notification Form (SVNF) is NOT required. The Corps relies on the Rhode Island Department of Environmental Management (RIDEM) submittals.
- Self-Verification (coastal) - SVNF is NOT required. The Corps relies on Rhode Island Coastal Resources Management Council (RI-CRMC) submittals.
- Pre-Construction Notification (PCN) -
  - Inland - Written approval from RIDEM giving joint RIDEM/Corps approval is required.
  - Coastal - Notification to Corps provided by RI-CRMC through their Public Notices or by applicants as necessary. Written approval from the Corps is required.

If your project is ineligible for Self-Verification (SV), it may be screened under PCN or may require an Individual Permit. The thresholds for activities eligible for Self-Verification and PCN are defined in Appendix A. These GPs do not affect the Corps Individual Permit review process or activities exempt from Corps regulation.

## Rhode Island General Permits

An activity is authorized under GPs 1-21 below only if that activity and the permittee satisfy all of the GP's terms and conditions.

1. Aids to navigation & temporary recreational structures
2. Repair or maintenance of existing currently serviceable, authorized or grandfathered structures/fills, removal of structures
3. Moorings
4. Pile-supported structures & floats, including boat lifts/hoists and other miscellaneous Structures & work
5. Boat ramps and marine railways
6. Utility line activities
7. Dredging, transport & disposal of dredged material, beach nourishment, rock removal & rock relocation
8. Discharges of dredged or fill material incidental to the construction of bridges
9. Shoreline and bank stabilization projects
10. Aquatic habitat restoration, establishment and enhancement activities
11. Fish and wildlife harvesting activities
12. Oil spill and hazardous material cleanup
13. Cleanup of hazardous and toxic waste
14. Scientific measurement devices
15. Survey activities
16. Aquaculture projects and fisheries
17. New/expanded developments & recreational facilities
18. Linear transportation projects – wetland crossings only
19. Stream, river & brook crossings (not including wetland crossings)
20. Energy generation and renewable energy generation facilities and hydropower projects
21. Temporary fill not associated with any other GP activities

**SECTION 1**  
**REVIEW CATEGORIES AND APPLICATION PROCEDURES FOR PROJECTS WITHIN  
NON-TIDAL WATERS AND WETLANDS WITHIN THE STATE OF RHODE ISLAND &  
LANDS LOCATED WITHIN THE BOUNDARIES OF THE NARRAGANSETT LAND  
CLAIM SETTLEMENT AREA**

**I. ACTIVITIES COVERED:**

The discharge of dredged or fill material into Waters of the United States, which is regulated by the Corps under Section 404 of the Clean Water Act (CWA) (*see* 33 CFR 328).

**II. REVIEW PROCESS:**

**1. State and Local Approvals:**

In order for authorizations under these GPs to be valid and before commencing any work within Corps jurisdiction, applicants must apply for and obtain a Water Quality Certification (WQC) under Section 401 of the CWA (33 USC § 1341) or waiver thereof from the state water pollution control agency, the RIDEM Office of Water Resources, Water Quality Certification Program (RIDEM-OWR-WQC). Applicants may also need approval from RIDEM Office of Water Resources, Freshwater Wetlands Program (RIDEM-OWR-FWP), as well as any local approvals (*see* General Condition 1): The RIDEM-OWR-WQC has conditionally granted WQC for Self-Verification (SV) activities in inland wetlands and waterways, provided those activities meet the criteria contained in Appendix A – General Permits.

**2. Corps Authorizations:**

**a. Self-Verification** –An application to the Corps is NOT required. RIDEM will forward their finalized joint RIDEM/Corps (state/federal) authorization to the Corps.

**i. Eligibility Criteria**

Activities in Rhode Island, including the lands located within the boundaries of the Narragansett Land Claims Settlement Area, that meet the following criteria are eligible under Self-Verification of this General Permit:

- are subject to Corps jurisdiction (*See* General Condition 2),
- meet the criteria of Self-Verification in Appendix A - General Permits, and
- meet the General Conditions of the GPs.
- Regulated by the State and received one of the State approvals listed above,

Project proponents seeking Self-Verification authorizations must comply with the General Conditions and other federal laws such as the National Historic Preservation Act, the Endangered Species Act (ESA) and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts, such as the State Historic Preservation Office and any appropriate Indian tribes (*see* General Condition 9), is recommended when there is a high likelihood of the presence of resources of concern.

**b. Pre-Construction Notification (PCN)** – Projects not eligible under Self-Verification of the GPs may be screened under PCN, provided they meet the criteria as defined in Appendix A – General Permits for PCN activities.

**i. Eligibility Criteria**

Activities in Rhode Island, including the lands located within the boundaries of the Narragansett Land Claims Settlement Area, that meet the following criteria are eligible under PCN of this General Permit:

- are subject to Corps jurisdiction (*See* General Condition 2),
- meet the criteria of PCN in the attached Appendix A – General Permits, and
- meet the General Conditions of the GPs.

**ii. Application Procedures**

The Corps will coordinate review of all PCN activities with federal and state agencies to ensure that the proposed activity results in no more than a minimal impact to the aquatic environment. An activity that meets the eligibility criteria above may be authorized if it will result in no more than minimal impacts to the aquatic environment as determined by the Corps in conjunction with the interagency review team, which consists of federal and state resource agencies. This may require project modifications involving avoidance, minimization, and/or compensatory mitigation for unavoidable impacts to ensure the net effects of a project are minimal. When the federal agencies' project concerns are met, the Corps will write a memo to RIDEM stating it has determined the project is eligible as a PCN RI GP. If RIDEM issues a permit for the proposed work, RIDEM will insert the appropriate language in their authorization to notify the applicant that it received both state and federal (Corps) authorization, contingent upon compliance with the GP conditions.

**Written approval from RIDEM giving joint state/federal authorization for PCN activities is required before work can commence.**

**Emergency Situation Procedures:** Authorization under Self-Verification or PCN of the GPs is not required if the project qualifies as an emergency situation under 33 CFR 325.2(e)(4). 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.” 33 CFR 352.2(e)(4). Notification to the Corps and RIDEM is required. The Corps will determine if a project qualifies as an emergency and will work with all applicable agencies to expedite authorization in emergency situations.

**Individual Permit Procedures:** Work that is **NOT** eligible for authorization under the GPs, as defined in Appendix A – General Permits, or that does not meet the terms and conditions of the GPs, will require review under the Corps Individual Permit procedures (*see* 33 CFR 325.1). The applicant shall submit the appropriate application materials (including the Corps ENG 4345 application form) to the Corps of Engineers. General information and application forms can be obtained at the Corps web site. An individual Water Quality Certification is required from the RIDEM-OWR-WQC. **The application form and instructions for Section 401 Water Quality Certification are available on the RIDEM web site at:**

**<http://www.dem.ri.gov/programs/benviron/water/permits/wqc/pdfs/wqapp.pdf>**

**SECTION 2:**  
**REVIEW CATEGORIES & APPLICATION PROCEDURES FOR PROJECTS WITHIN  
TIDAL, COASTAL AND NAVIGABLE WATERS WITHIN THE STATE OF RHODE  
ISLAND & LANDS LOCATED WITHIN THE BOUNDARIES OF THE  
NARRAGANSETT LAND CLAIM SETTLEMENT AREA**

**Navigable Waters:** Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. *See* 33 CFR 329.

**I. ACTIVITIES COVERED:**

- Work and structures that are located in, under or over any navigable water of the U.S. (defined at 33 CFR 329) that affect the course, location, condition, or capacity of such waters; or the excavating from or depositing of material in navigable waters. (Regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899);
- The discharge of dredged or fill material into waters of the U.S. (defined at 33 CFR 328.3), which is regulated by the Corps under Section 404 of the Clean Water Act (CWA);
- The transportation of dredged material for the purpose of disposal in the ocean. The Corps regulates these activities under Section 103 of the Marine Protection, Research and Sanctuaries Act (*see* 33 CFR 324).

**II. REVIEW PROCESS:**

**1. State and Local Approvals:**

In order for authorizations under these GPs to be valid and before commencing any work within Corps jurisdiction, applicants are responsible for applying for and obtaining any of the following required State or local approvals (*see* General Condition 1):

**Water Quality Certification (WQC)** Issuance or waiver under Section 401 of the Federal CWA (33 USC Section 1341). Section 401(a)(1) of the Clean Water Act requires that applicants obtain a WQC or waiver from the state water pollution control agency (RIDEM-OWR-WQC) to discharge dredged or fill material into waters of the U.S.

**Coastal Zone Management Consistency (CZM):** Section 307(c) of the Coastal Zone Management Consistency Act (CZMA) of 1972, as amended, requires applicants to obtain a certification or waiver from RI-CRMC that the activity complies with the state's CZM program for activities affecting the state's coastal area.

**2. Corps Authorizations:**

**a. Self-Verification (SV)** – Applicants are not required to submit an Application. Instead, the Corps will review RI-CRMC Public Notices and determine jurisdiction and the type of authorization needed.

**i. Eligibility Criteria**

Activities may proceed without application or notification to the Corps if they:

- are subject to Corps jurisdiction
- meet the criteria of Self-Verification in Appendix A - General Permits, and
- meet the General Conditions of the GPs

**Note:** Activities subject to Corps jurisdiction that are NOT regulated by RI-CRMC will be subject to the screening requirements of the GPs as noted below.

Project proponents seeking eligibility under the SV category must comply with the General Conditions of the GPs and other federal laws such as the National Historic Preservation Act, the Endangered Species Act (ESA) and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts, such as the State Historic Preservation Office and any appropriate Indian tribes (*see* General Condition 9), is recommended when there is a likelihood of the presence of resources of concern.

**b. Pre-Construction Notification (PCN)** – Applicants must submit notification and application to RI-CRMC, and receive written authorization from the Corps.

Projects not eligible under the SV category of the GPs may be screened under PCN category, provided they meet the criteria.

**i. Eligibility Criteria**

Activities that meet the following criteria require written approval from the Corps:

- are subject to Corps jurisdiction,
- meet the criteria of PCN in this Section, and
- meet the General Conditions of the GPs

**ii. Application and Review Procedures:**

The Corps will review RI-CRMC Public Notices and determine which projects need PCN approval. The applicant or applicant’s consultant will be contacted if further information is required for our review. The Corps will coordinate review of all PCN activities with federal and state agencies (interagency review team), as necessary. An activity that meets the eligibility criteria listed above may be authorized if it will result in no more than minimal impacts to the aquatic environment as determined by the Corps. This may require project modifications involving avoidance, minimization, and/or compensatory mitigation for unavoidable impacts to ensure the net effects of a project are minimal. Applicants are responsible for applying for the appropriate state and local approvals. Authorizations under these GPs are not valid until all required RI-CRMC authorizations are also granted.

**Emergency Situation Procedures:** Authorization under Self-Verification or PCN of the GPs is not required if the project qualifies as an emergency situation under 33 CFR 325.2(e)(4). 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.” 33 CFR 325.2(e)(4). Notification to the Corps is required. The Corps will determine if a project qualifies as an emergency and will work with all applicable agencies to expedite authorization in emergency situations.

**Individual/Standard Permit Procedures:** Work that is not eligible authorization under the GPs, as defined in Appendix A – General Permits, or that does not meet the terms and general conditions of the GPs, will require the submission of an application to the Corps for an Individual Permit (*see* 33 CFR 325.1). The applicant should submit the appropriate application form and materials at the earliest possible date. General information and application forms can be obtained at our website at **<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx>** or by calling us. Individual WQC and CZM consistency concurrence are required, when applicable, from the State of Rhode Island before the Corps issues an individual permit. The Corps encourages applicants to concurrently apply for a Corps Individual Permit and state permits.

**APPENDIX A – GENERAL PERMITS**

**GP 1. AIDS TO NAVIGATION & TEMPORARY RECREATIONAL STRUCTURES (Section 10; navigable waters of the United States)**

The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (*see* 33 CFR 66, Chapter I, Subchapter C).

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>Aids to navigation and regulatory markers that are not located within Corps Federal Navigation Projects (FNPs*).</p> <p>Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are not located within Corps FNPs <b>and</b> are removed within 30 days after use is discontinued.</p> <p>No structures in Submerged Aquatic Vegetation.</p> <p><b>*FNPs are comprised of Federal Channels, anchorages and turning basins. Please click on the link below for more information:</b></p> <p><b><u><a href="http://www.nae.usace.army.mil/Missions/Navigation/Rhode-Island-Projects">http://www.nae.usace.army.mil/Missions/Navigation/Rhode-Island-Projects</a></u></b></p>	<p>Work not eligible for SV.</p> <p>Aids to navigation or temporary markers, floats, etc. that are within a Corps FNP.</p> <p>Temporary markers, floats, etc. that are not to be removed within 30 days.</p>

**GP 2. REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED\* STRUCTURES & FILLS; REMOVAL OF STRUCTURES (Section 10 & 404; tidal and non-tidal waters of the U.S.)**

Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Includes removal of structures and fill. **Not authorized under GP 2:** (a) Permanent loss >1/2 acre in tidal and non-tidal waters and/or wetlands, >1000 SF in tidal Special Aquatic Site (SAS) other than vegetated shallows, or >100 SF in tidal vegetated shallows.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>≤5,000 s.f. of loss in non-tidal waters &amp; wetlands.</p> <p>No fill in tidal waters &amp; wetlands.</p> <p>Bulkhead replacement via installation of new bulkhead within 18" of existing bulkhead &amp; backfill.</p> <p>Drawdown of impoundment for dam/levee repair, provided it does not exceed 18 months and one growing season (April through September)</p> <p>Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill.</p> <p>Any bank stabilization measures not directly associated with the structure requires a separate authorization under <b>GP 9</b>.</p> <p>Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary discharges, such as sandbag cofferdams, access fills, etc. are necessary for construction activities or dewatering of construction sites.</p> <p>Temporary fills must consist of materials and be placed in a manner that will not be eroded by expected high flows. They must be removed in their entirety and the affected areas returned to pre-construction elevations and must be re-vegetated as appropriate.</p> <p>Work to previously approved tide gates with a Corps-approved operation and maintenance plan and tide gates not affecting the hydraulic regime.</p> <p>No loss in Special Aquatic Sites (SAS) (<i>see</i> Appendix D – Definitions).</p> <p>No slip lining or culvert relining that changes invert elevation.</p> <p><b>NOTES:</b></p> <ol style="list-style-type: none"> <li>1. Removal of bridge structures in navigable waters are covered under <b>GP 8</b> if the Coast Guard issues a bridge permit.</li> <li>2. Stream, river, brook or other watercourse crossings are not eligible under <b>GP 2</b> (<i>See GP 19</i>).</li> </ol>	<p>Work not eligible for SV.</p> <p>Removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap, minimum necessary to protect the structure.</p> <p>The removal of accumulated sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. Excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer.</p> <p>Drawdown of impoundment for dam/levee repair provided it does not exceed 18 months and one growing season (April through September).</p> <p>*Grandfather dates include work performed &amp; structures installed before 1968 &amp; fill placed before 1975 for Corps purposes only.</p>

**GP 3. MOORINGS (Section 10; navigable waters of the U.S.)**

New private, non-commercial, non-rental, single-boat moorings & temporary moorings, including moorings to facilitate construction or dredging; minor relocation of previously authorized moorings and mooring field expansions, boundary reconfigurations or modifications of previously authorized mooring fields and maintenance and replacement of moorings.

**Not authorized under GP 3:** Moorings within Federal Navigation channels.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>1. Private, non-commercial, non-rental, single-boat moorings and temporary moorings including moorings that facilitate construction or dredging provided:</p> <p>No new moorings located in Federal anchorages;</p> <p>No new moorings located in Special Aquatic Sites (SAS);</p> <p>No new moorings located in shellfish beds;</p> <p>Authorized by local harbormaster/town;</p> <p>When existing, authorized moorings in SAS are going to be replaced, they shall be replaced with low impact mooring technology that prevents mooring chains from resting or dragging on the bottom substrate at all tides and helical anchors, or equivalent SAS protection systems.</p> <p>2. Minor relocation of previously authorized moorings, provided:</p> <p>Authorized by the local harbormaster/town;</p> <p>Not located in SAS;</p> <p>Not located in Federal anchorages.</p>	<p>Work not eligible for SV.</p> <p>Moorings associated with an existing boating facility*.</p> <p>Private moorings without harbormaster or local approval.</p> <p>Moorings located such that they, and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits of a Federal Anchorage. The buffer zone is equal to 3 times the authorized depth of that channel.</p> <p><i>*Boating Facility: Facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockminiums, etc.</i></p> <p><i>Locating new individual moorings in SAS, including eelgrass, should be avoided to the maximum extent practicable. If SAS cannot be avoided, plans should show elastic mooring systems that prevent mooring chains from resting or dragging on the bottom substrate at all tides and helical anchors, or equivalent SAS protection systems, where practicable. For moorings that appear to impact SAS, the Corps may require an eelgrass survey.</i></p>

**GP 4. PILE-SUPPORTED STRUCTURES & FLOATS, INCLUDING BOAT LIFTS/HOISTS & OTHER MISCELLANEOUS STRUCTURES & WORK (Section 10; navigable waters of the U.S.)** New, expansions, reconfigurations or modifications of structures for navigation access including floats, stairs, and boat/float lifts.

**Not authorized under GP 4:** (a) fill or excavation; (b) structures within Federal Navigation channels; or (c) structures associated with a NEW boating facility\*.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>Private residential structures with a length limit not to exceed 75' beyond mean high and limited to 4' in width. The fixed pier component of the dock located in tidal wetlands shall be constructed such that the lowest horizontal member of the fixed pier is no lower than five (5) feet off the surface of any underlying wetland area.</p> <p>Floats must be supported at least 18" above the intertidal and shallow sub-tidal substrate during all tidal cycles.</p> <p>No structures located within Submerged Aquatic Vegetation.</p> <p>No structures or floats can be located within the buffer zone (3x the authorized depth of the Federal Navigation Project [FNP]) of the horizontal limits of FNPs.</p> <p>No structures or floats can extend across &gt;25% of the waterway width at mean low water.</p> <p>No new structures within 25' of riparian property line extensions.</p> <p>No new structures or floats associated with boating facilities.</p> <p>Reconfiguration of existing authorized structures, private or commercial, provided those structures do not extend beyond the existing perimeter of the facility or encroach into Special Aquatic Sites.</p>	<p>Work not eligible for SV.</p> <p>New structures within an existing boating facility, provided those structures do not extend beyond the existing perimeter of the facility.</p> <p>Structures or work in or affecting tidal or navigable waters that are not defined under any other GP activity.</p> <p>Structures that are located within 25 feet of riparian property line extensions, unless the properties are owned by the same owner. If so, the Corps may require a letter of no objection from the abutter(s).</p> <p><b><i>*Boating Facility: Facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockminiums, etc.</i></b></p>

**GP 5. BOAT RAMPS & MARINE RAILWAYS (Sections 10 and 404; tidal and non-tidal waters of the U.S.)** Activities required for the construction of boat ramps and marine railways, including excavation and fill.

**Not authorized under GP 5:** (a) Permanent and temporary fill >1/2 acre of non-tidal waters and/or wetlands of the U.S., (b) permanent and temporary loss >1/2 acre in tidal waters; >1000 SF in tidal SAS other than vegetated shallows, or >100 SF in tidal vegetated shallows; or (c) dredging in navigable waters of the U.S. (see GP 7)

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

No work in tidal waters and wetlands of the United States.

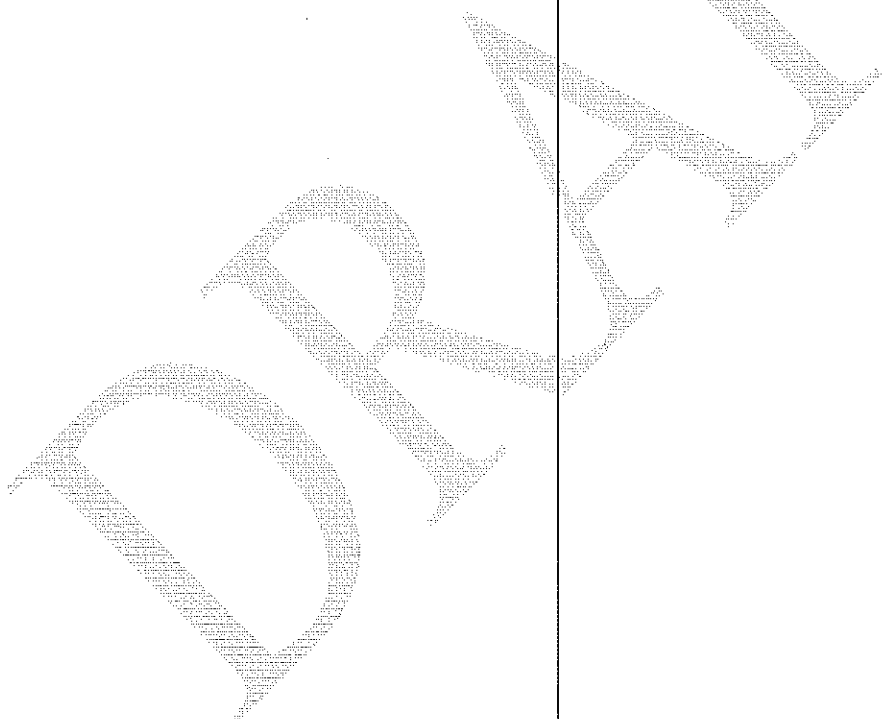
≤5,000 SF of non-tidal waters and/or wetland fill (permanent and temporary).

No work April 1 through June 30 in non-tidal waters that support diadromous fish species.

Work not eligible for SV.

Work occurs in tidal waters and wetlands of the United States.

Boat ramps are located within 25 feet of riparian property line extensions unless the properties are owned by the same owner. If so, the Corps may require a letter of no objection from the abutter(s).



**GP 6. UTILITY LINE ACTIVITIES (Sections 10 & 404; tidal & non-tidal waters of the U.S.)**

Activities required for (a) the construction, maintenance, relocation, repair, & removal of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for utility lines; (b) the construction, maintenance or expansion of utility line substation facilities associated with a power/utility line in non-tidal waters of the U.S.; and (c) the construction and maintenance of foundations for overhead utility line towers, poles, and anchors, provided the foundations are the minimum size necessary, and separate footings for each tower leg (rather than a larger single pad) are used where feasible. This GP authorizes the construction of access roads to facilitate construction of the above activities, provided the activity, in combination with all other activities included in one single and complete project, does not cause the permanent loss of greater than 1 acre of non-tidal waters of the U.S. Losses resulting from mechanized pushing, dragging or other similar activities that redeposit excavated soil material shall be figured into the area limit determination.

**Not authorized under GP 6:** (a) Permanent and temporary fill >1 acre of non-tidal waters and/or wetlands of the U.S, (b) permanent and temporary impacts >1/2 acre in tidal waters; >1000 SF in tidal Special Aquatic Sites other than vegetated shallows, or >100 SF in tidal vegetated shallows; or (c) blasting or storage of equipment in wetlands.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>No work in, over or under tidal waters of the U.S.</p> <p>No outfalls.</p> <p>≤5,000 SF of non-tidal waters and/or wetland fill (permanent and temporary).</p> <p>Intake structures that are dry hydrants used exclusively for firefighting activities with no stream impoundments.</p> <p>No silt-producing activities from April 1 through June 30 in non-tidal waters of the U.S. that support diadromous fish species.</p> <p><b>NOTE:</b> Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.</p>	<p>Work not eligible for SV.</p> <p>Overhead utility lines constructed over Section 10 waters and submarine utility lines that are routed in or under such waters.</p> <p><b>NOTE:</b> Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.</p>
<p><b>NOTE:</b> Temporary fills necessary to conduct the utility line activity are also allowed, provided the utility line activity is <b>within</b> Corps jurisdiction. Material resulting from trench excavation may be temporarily sidecasted into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. If the utility line activity is not within Corps jurisdiction but temporary fill will be placed in Corps jurisdiction, then see <b>GP 21</b> for temporary fills, etc.</p>	

**GP 7. DREDGING (Section 10; navigable waters of the U.S.), TRANSPORT & DISPOSAL OF DREDGED MATERIAL (Sections 10, 404 & 103; tidal waters of the U.S.); BEACH NOURISHMENT (Sections 10 & 404; tidal waters of the U.S.); ROCK REMOVAL (Section 10, navigable waters of the U.S.) & ROCK RELOCATION (Sections 10 & 404; tidal waters of the U.S.)**

New, improvement\* and maintenance\*\* dredging, including: (a) Disposal of dredged material at a confined aquatic disposal, beach nourishment, near shore, designated open water or ocean water disposal site, provided the Corps finds the dredged material to be suitable for such disposal; (b) Beach nourishment not associated with dredging; (c) Rock removal and relocation for navigation.

**Not authorized under GP 7:** (a) New dredging with >1000 SF of impacts to intertidal areas; (b) All dredging and/or disposal with >1000 SF of impacts to tidal Special Aquatic Sites (SAS), other than vegetated shallows or >100 SF of impacts to vegetated shallows; (c) new dredging where the primary purpose is sand mining for beach nourishment; (d) Beach scraping; (e) Rock removal and relocation for navigation >1/2 acre; or (f) blasting.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

No work in non-tidal waters or wetlands of the U.S.

Work not eligible for SV.

Maintenance dredging (with any amount of yardage) provided:

Maintenance dredging not eligible for SV; improvement dredging and new dredging.

Contained upland disposal;

Disposal options include upland disposal, open water disposal, confined aquatic disposal cells (CAD cells), near-shore disposal or beach nourishment.

Proper siltation controls used & maintained to prevent runback into waterway/wetland;

No impacts to SAS, intertidal areas or shellfish beds;

*\*Improvement is dredging to deeper depths in areas previously dredged or authorized.*

Not located within 100' of vegetated shallows or shellfish areas;

*\*\*Maintenance dredging includes areas and depths previously authorized by the Corps and dredged.*

Work occurs from October 15 through January 31.

Rock/boulder relocation with <200 SF of impacts and no impacts to SAS.

No rock removal.



**GP 8. DISCHARGES OF DREDGED OR FILL MATERIAL INCIDENTAL TO THE CONSTRUCTION OF BRIDGES (Sections 10 & 404; navigable waters of the U.S.)**

Discharges of dredged or fill material incidental to the construction and modification of bridges across navigable waters of the U.S., including cofferdams abutments, foundation seals, piers, approach fills, and temporary construction and access fills, provided that the **United States Coast Guard (USCG) authorizes the construction of the bridge structure under Section 9 of the Rivers and Harbors Act of 1899 or other applicable laws.** A USCG Authorization Act Exemption or a STURRA (144h) exemption do not constitute USCG authorization.

**Not authorized under GP 8 are causeways.**

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>Discharges of dredged or fill material incidental to the construction and modification of bridges.</p> <p>No fill in Special Aquatic Sites.</p>	<p>Work not eligible for SV.</p>

**GP 9. SHORELINE & BANK STABILIZATION PROJECTS (Sections 10 & 404; tidal and non-tidal**

**waters of the U.S.)** Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes bulkheads, seawalls, riprap, revetments or slope protection & similar structures as well as vegetative planting, soil bioengineering or alternative techniques that are a combination of the two (e.g. living shorelines), specifically for the purpose of shoreline protection. **Not authorized under GP 9:** (a) Bank stabilization >500 LF in total length including both stream banks; (b) Permanent and temporary loss >1/2 acre in tidal waters, >1000 SF in tidal Special Aquatic Sites (SAS) other than vegetated shallows, or >100 SF in tidal vegetated shallows. (c) Stream channelization or relocation activities; or (d) breakwaters, groins and jetties.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Coastal shoreline & bank stabilization projects  $\leq 200$  linear feet; and other stream, river, or brook bank stabilization projects  $\leq 200$  linear feet (includes total for more than one stream bank) provided:

$\leq 1$  cubic yard of fill per linear foot placed between the high tide line (HTL) and mean low water (MLW) or  $\leq 1$  cubic yard of fill per linear foot placed waterward of ordinary high water (OHW).

No discharge of fill material within SAS, including mudflats, tidal wetlands, Submerged Aquatic Vegetation and/or shellfish beds.

Soft stabilization measures such as bioengineered fiber roll revetments or equivalent shall be used wherever practicable.

No vertical stone structures or embankments angled steeper than 1V: 1H. No new bulkheads.

No fill within the streambed.

Unconfined work, not including installation and removal of cofferdams, is limited to June 30 through September 30 in non-tidal waters supporting diadromous fish.

Unconfined work, not including installation and removal of cofferdams, in other non-tidal waters of the U.S. is limited to the low-flow period June 1 through September 30.

Work occurring behind a cofferdam may occur at any time.

Work not eligible for SV.

The slope of the structure is steeper than 1V:3H in lakes/ponds; and 1V:1H in non-tidal streams and tidal waters and streams.

Fill waterward of the HTL in coastal waters of the U.S., including alternative stabilization techniques that are a combination of soft and hard shoreline stabilization techniques that will affect SAS, change the natural shoreline configuration or alter natural or ecological processes.

**GP 10. AQUATIC HABITAT RESTORATION, ESTABLISHMENT & ENHANCEMENT**

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

**Not authorized under GP 10:** (a) Conversions of jurisdictional wetlands to open water, except for the excavation of new salt pannes and (b) Artificial reefs.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Special Aquatic Site (SAS) planting and transplanting  
≤100 SF in tidal waters.

No new ditching to eliminate mosquito breeding habitat.

No thin layer deposition.

No fill for purposes of converting marsh to upland.

Placement of seed shellfish, spatted-shell or cultch in tidal waters for the restoration or enhancement of existing, publicly-managed, recreational shellfish beds provided there is no placement in or impacts to SAS and does not result in degradation of habitat for other aquatic resources.

≤5,000 SF of non-tidal waterway and/or non-tidal wetland fill, provided the activity is supported in writing by a state or non-Corps Federal environmental resource management agency.

No stream channelization.

Work not eligible for SV.

Proactive salt marsh restoration work that includes draining of ponded dieback areas through excavation of runnels with handheld tools or low-impact ground equipment; blocking or unclogging of historic mosquito ditches to restore tidal flushing; excavation of new salt pannes to increase shorebird and waterfowl foraging habitat and placing excavated materials on the marsh surface for establishing suitable vegetative beds.

Pond or lake reestablishment or restoration.

Water impoundments.

Dam removals.

Integrated Marsh Management in tidal wetlands for combined wetland enhancement and mosquito control and reduction.

**GP 11. FISH & WILDLIFE HARVESTING ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.)** Activities in waters of the United States associated with fish and wildlife harvesting devices including pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open water fish concentrators (sea kites, etc.).

**Not authorized by GP 11:** (a) Artificial reefs, impoundment(s) or semi-impoundment(s) of water; (b) Permanent and temporary loss >1/2 acre in tidal waters, >1000 SF in tidal Special Aquatic Sites (SAS) other than vegetated shallows, or >100 SF in tidal vegetated shallows; and (c) Shellfish dredging, either mechanical or hydraulic in SAS.

Self-Verification (SV) Eligible	Pre-Construction Notification (PCN) Required
<p>Activities associated with fish and wildlife harvesting devices including pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, small fish aggregating and attraction devices such as open water fish concentrators (sea kites, etc.).</p> <p>No permanent impacts to SAS, including salt marshes and Submerged Aquatic Vegetation (SAV).</p> <p>No structures, cages or traps located in SAS.</p>	<p>Work not eligible for SV</p> <p>Devices located in tidal SAS, including salt marsh and SAV.</p>

**GP 12. OIL SPILL & HAZARDOUS MATERIAL CLEANUP (Sections 10 and 404; tidal and non-tidal waters of the U.S.):** a. Activities conducted in response to a discharge or release of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) including containment, cleanup, and mitigation efforts, provided activities are done under either (i) the Spill Prevent, Control & Countermeasure Plan required by 40 CFR 112.3; (ii) the direction or oversight of the Federal on-site coordinator designated by 40 CFR 300; or (iii) any approved existing State, regional or local contingency plan, provided that the Regional Response Team concurs with the proposed response efforts or does not object to the response effort. b. Activities required for the cleanup of oil releases in waters of the U.S. from electrical equipment that are governed by EPA's polychlorinated biphenyl (PCB) spill response regulations at 40 CFR 761. c. Booms placed in tidal waters. d. Use of structures & fills for spill response training exercises. Special Aquatic Sites (SAS) must be restored in place to pre-impact elevations.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>1. Activities that are conducted in accordance with a. or b. above.</p> <p>2. Booms placed in navigable waters for hazardous and toxic waste containment, absorption and prevention, provided they are removed upon completion of the cleanup.</p> <p>3. Temporary impacts for spill response training exercises are <math>\leq 5,000</math> SF in non-tidal waters and <math>\leq 1,000</math> SF in tidal waters, and temporary structures in tidal waters with no loss to SAS and in place for <math>\leq 30</math> days.</p> <p><b>Note:</b> For activities in non-tidal waters of the U.S., permittees have up to two weeks following commencement of these activities to submit the SV form (Appendix E).</p>	<p>Work not eligible for SV.</p> <p>1. The activity is planned or scheduled, not an emergency response, and will cause turbidity or sediment resuspension in tidal waters or streams.</p> <p>2. Permanent structures or impacts for spill response training exercises.</p>

**GP 13. CLEANUP OF HAZARDOUS & TOXIC WASTE (Sections 10 and 404; tidal and non-tidal waters of the U.S.)** Specific activities to effect the containment, stabilization or removal of hazardous or toxic waste materials, including court-ordered remedial action plans or related settlements which are performed, ordered, or sponsored by a government agency with established legal or regulatory authority\*. Special Aquatic Sites must be restored in place to pre-impact elevations.

**Not authorized under GP 13:** (a) the establishment of new disposal sites; or (b) the expansion of existing sites used for the disposal of hazardous or toxic waste.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Permanent and temporary fills are  $\leq 5,000$  SF in non-tidal waters and wetlands.

Work not eligible for SV.

Booms placed in navigable waters for oil and hazardous substance containment, absorption and prevention, provided they are removed upon completion of the cleanup.

Permanent and temporary impacts are  $> 5,000$  SF in non-tidal waters and wetlands of the U.S.

Work in navigable waters of the U.S. other than booms placed for hazardous and toxic waste containment, absorption and prevention.

**Notes:** For activities in non-tidal waters of the U.S., permittees have up to two weeks following commencement of these activities to submit the SV form (Appendix E).

*\*Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.*

**GP 14. SCIENTIFIC MEASUREMENT DEVICES (Sections 10 and 404; tidal and non-tidal waters of the U.S.)** Scientific devices for measuring and recording scientific data, such as staff gauges, tide and current gauges, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Also eligible are small temporary weirs and flumes constructed primarily to record water quantity and velocity provided the discharge is less than 25 cubic yards.

**Not authorized under GP 14:** (a) Permanent and temporary loss >1 acre in non-tidal waters and wetlands of the U.S.; and (b) Permanent and temporary loss >1/2 acre in tidal waters, >1000 SF in tidal Special Aquatic Sites (SAS) other than vegetated shallows, or >100 SF in tidal vegetated shallows.

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>Permanent and temporary loss are <math>\leq 1,000</math> SF in non-tidal waters and wetlands of the U.S.</p> <p>No loss in non-tidal SAS, other than non-tidal wetlands.</p> <p>No loss in tidal waters and/or wetlands.</p> <p>No loss in tidal Submerged Aquatic Vegetation.</p> <p>Devices in tidal waters that do not restrict movement of aquatic organisms and will not adversely affect the course, condition or capacity of a jurisdictional waterway.</p>	<p>Work not eligible for SV.</p>
<p><b>NOTE:</b> Upon completion of the use of the device to measure and record scientific data, the measuring device, and any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.), must be removed to the maximum extent practicable.</p>	

**GP 15. SURVEY ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching\* and historic resources surveys.

**Not authorized under GP 15 are:** (a) Permanent and temporary loss >1 acre of non-tidal waters and/or wetlands of the U.S., and (b) permanent and temporary loss >1/2 acre in tidal waters; >1000 SF in tidal Special Aquatic Sites other than vegetated shallows or >100 SF in tidal vegetated shallows.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Permanent and temporary loss ≤5,000 SF in non-tidal waters and wetlands of the U.S.

No impacts, other than soil borings or core sampling, in tidal waters.

No permanent structures or drilling and discharge of excavated material from test wells for oil and gas exploration allowed.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.

*\* For the purposes of this GP, the term "exploratory trenching" means mechanical land clearing of the upper soil profile to expose bedrock or substrate, for the purpose of mapping or sampling the exposed material.*

Work not eligible for SV.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

**NOTE:** The area in which the exploratory trench is dug must be restored to its preconstruction elevation upon completion of the work and must not drain a water of the United States. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench.



**GP 16. AQUACULTURE PROJECTS & FISHERIES (Sections 10 and 404; navigable waters of the U.S.)** The installation of buoys, floats, racks, trays, nets, lines or other structures in navigable waters for the containment and cultivation of indigenous species of shellfish and seaweed/kelp. Also authorized are anchored upweller floats, small-scale shellfish hatchery seawater intake/discharge structures, and discharges of dredged or fill material associated with cultivation such as the placement of cultch or spatting-shell on bottom.

Depth of cultch or spatting-shell must not result in visible degradation of habitat for other aquatic resources.

**Not authorized under GP 16 are impacts to Special Aquatic Sites, including Submerged Aquatic Vegetation.**

<b>Self-Verification (SV) Eligible</b>	<b>Pre-Construction Notification (PCN) Required</b>
<p>Placement of seed shellfish, spatting-shell or cultch for commercial shellfish aquaculture on Rhode Island state leased grounds.</p> <p>The installation of temporary structures for research, educational or experimental aquaculture gear impacting <math>\leq 1,000</math> SF for indigenous species under the supervision of the Coastal Resources Management Council Aquaculture Coordinator, provided there is no adverse effect to navigation.</p> <p>Suspended cages or bags located wholly below and within the footprint of an existing <u>authorized</u> fixed or floating structure in water depths <math>\leq 10</math> feet MLW; provided no loose lines and there is a vertical clearance of at least 2 feet between the bottom of the gear and the sea floor at mean low water.</p> <p>Shellfish upweller floats not to exceed 160 SF (anchored/berthed only, no piling installation), with a vertical clearance of at least 2 feet between the bottom of the gear and the sea floor at mean low water; cannot be located within the buffer of a Federal Navigation Project.</p>	<p>Work not eligible for SV.</p> <p>Vertical-drop longlines and suspended gear for the culture of shellfish or other marine organisms, such as kelp and seaweed.</p> <p>Cages, trays, racks, netting or other structures on the ocean bottom or floating on the water surface used to contain, cultivate or depurate shellfish.</p> <p>Intake and discharge structure with a diameter <math>\leq 3</math> inches, for the withdrawal and discharge of water to support small-scale shellfish land-based hatchery with negative impact on source or discharge waters.</p> <p>Activities that involve a change from authorized gear for bottom culture to floating or suspended gear.</p> <p>Boundaries of Submerged Aquatic Vegetation may be required to be located/surveyed in the field. See Corps website for guidance: <a href="http://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/SubmergedAquaticVegetationSurveyGuidance(Updated7-12-2016).pdf">http://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/Submerged Aquatic Vegetation Survey Guidance(Updated 7-12-2016).pdf</a></p>

**GP 17. NEW/EXPANDED DEVELOPMENTS & RECREATIONAL FACILITIES (Section**

**404; non-tidal waters of the U.S.)** Discharges of dredged or fill material for the construction or expansion of developments and/or recreational facilities. This GP authorizes attendant features that are necessary for their use such as parking lots, garages, and yards. Fill area includes all temporary and permanent fill, and regulated discharges associated with excavation.

**Not authorized under GP 17:** (a) Permanent losses that are >1 acre in non-tidal waters and wetlands of the U.S.; (b) Stormwater treatment or detention systems, or subsurface sewerage disposal systems in waters of the U.S.; and (c) New roadway and driveway crossings in non-tidal waters and/or wetlands of the U.S.. (See GPs 18 & 19)

**Self-Verification (SV) Eligible**

Permanent and temporary loss  $\leq$ 5,000 SF of non-tidal waters and/or wetlands of the U.S., provided no impacts to Special Aquatic Sites other than wetlands (e.g. riffle and pool stream habitat, shellfish beds).

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.

**Pre-Construction Notification (PCN) Required**

Work not eligible for SV.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

**GP 18. LINEAR TRANSPORTATION PROJECTS – WETLAND CROSSINGS ONLY**

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

**Not authorized under GP 18:** (a) Permanent and temporary loss for any single and complete project that are >1 acre or (b) Stream, river, or brook crossing projects (*see GP 19*).

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Permanent and temporary loss  $\leq$ 5,000 SF of non-tidal wetland fill provided:

No work in non-tidal Special Aquatic Sites other than wetlands.

No slip lining or culvert relining that changes invert elevation.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 5,000-SF threshold and should be removed as soon as work is completed.

Work not eligible for SV.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

**GP 19. STREAM, RIVER & BROOK CROSSINGS (NOT INCLUDING WETLAND**

**CROSSINGS) (Sections 10 and 404; tidal and non-tidal waters of the U.S.)** Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, railways, trails, airport runways, and taxiways) and attendant features, provided that work is performed in accordance with Best Management Practices to the extent practicable.

**Not authorized under GP 19:** (a) Permanent loss for any single and complete projects that are >1 acre in non-tidal waters and wetlands of the U.S. >1/2 acre in tidal waters of the U.S., >1000 SF in tidal Special Aquatic Sites (SAS) other than vegetated shallows or >100 SF in tidal vegetated shallows; (b) Temporary loss >1 acre in tidal waters of the U.S., >5000 SF in tidal SAS other than vegetated shallows, or >1000 SF in vegetated shallows; or (c) Wetland Crossings (*see GP 18*).

**Self-Verification (SV) Eligible**

No loss to tidal waters and/or wetlands.

Permanent and temporary loss ≤5,000 SF of non-tidal jurisdictional waters and wetlands provided for stream, river, brook crossings by means of a Bridge or Open-Bottom Structure that meets the following standards: 1. Spans at least 1.2 times the watercourse bank full width, 2. Allows for the continuous, uninterrupted flow of the 50-year frequency storm flows, and 3. No riprap is placed within or across the bed of the brook, and appurtenant stream bank stabilization does not exceed 50 feet along any upstream or downstream bank.

Permanent and temporary loss ≤5,000 SF of non-tidal jurisdictional waters and wetlands provided for stream, river, brook crossings by means of a culvert provided the tributary watershed to the culvert does not exceed 1 sq. mile (640 acres).

No open trench excavation in flowing waters.

Unconfined, in-stream work, not including installation and removal of cofferdams, is limited to the low-flow period, June 1 through September 30 unless Rhode Island Department of Environmental Management (RIDEM) requires a different resource-driven time-of-year restriction.

Work behind a cofferdam may occur at any time.

No stream relocations; no dams or dikes; no new culvert crossings of perennial streams. No slip lining or culvert relining that changes invert elevation.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.

**Pre-Construction Notification (PCN) Required**

Work not eligible for SV.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

**GP 20. ENERGY GENERATION & RENEWABLE ENERGY GENERATION FACILITIES (Sections 10 and 404; tidal waters of the U.S.) & HYDROPOWER PROJECTS (Sections 10 and 404; tidal waters of the U.S.)**

Structures and work in navigable waters of the U.S. and discharges of dredged or fill material into tidal waters of the U.S. for the construction, expansion, modification or removal of: (a) Land-based renewable energy production facilities, including attendant features; (b) Water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects.

Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Not allowed under SV.

**For land-based facilities, impacts are:**

Permanent loss  $\leq 1/2$  acre in tidal waters of the U.S.; or  $\leq 100$  SF in tidal vegetated shallows or  $\leq 1,000$  SF in other tidal Special Aquatic Sites (SAS).

Temporary loss  $\leq 1$  acre in tidal waters;  $\leq 1,000$  SF in vegetated shallows and  $\leq 5,000$  SF in other tidal SAS.

**For water-based wind or hydrokinetic renewable energy generation pilot projects, and hydropower projects permanent and temporary impacts are:**

$\leq 1/2$  acre in tidal waters.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

**GP 21. TEMPORARY FILL NOT ASSOCIATED WITH ANY OTHER GP ACTIVITES**

**(Section 404; non-tidal waters of the U.S.)** Temporary discharges, such as sandbag/earth cofferdams, access fills, etc., necessary for construction activities or dewatering of construction sites.

**Not authorized under GP 21:** Temporary impacts >1 acre in non-tidal waters and wetlands of the U.S.

**Self-Verification (SV) Eligible**

**Pre-Construction Notification (PCN) Required**

Temporary fill  $\leq 5,000$  SF of non-tidal waters and/or non-tidal wetlands of the U.S.

Work not eligible for SV.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 5,000 SF threshold and should be removed as soon as work is completed.

**NOTE:** Construction mats of any area necessary to conduct activities do not count towards the 1 acre threshold and should be removed as soon as work is completed.

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## APPENDIX B - GENERAL CONDITIONS

**1. Other Permits.** Permittees must obtain other Federal, State, or local authorizations required by law. Applicants are responsible for applying for and obtaining all required State or local approvals. Work that is not regulated by the State, but is subject to Corps jurisdiction, may be eligible for these General Permits (GPs).

### **2. Federal Jurisdiction.**

a. Applicability of the GPs shall be evaluated with reference to Federal jurisdictional limits. Applicants are responsible for ensuring that the limits depicted satisfy the Federal criteria defined at 33 CFR 328 "Waters of the United States." and 33 CFR 329 "Navigable Waters of the United States"

**NOTE:** Waters of the U.S. include the subcategories "navigable waters of the United States" and "wetlands."

b. Pre-Construction Notification (PCN) eligible projects require an application to the Corps, which must include a delineation of wetlands, other special aquatic sites, and other waters such as lakes and ponds and perennial, intermittent, and ephemeral streams that are on the project site. Wetland delineations must be prepared in accordance with the current federal method required by the Corps. For the Corps Wetland Delineation Manual, regional supplements and data sheets, and the National List of Plant Species that Occur in Wetlands, visit our website at <http://www.nae.usace.army.mil/Missions/Regulatory.aspx>, and then click on "Jurisdiction and Wetlands". The Natural Resources Conservation Service (NRCS) publishes the current hydric soil definition, criteria, and lists, which can be found at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/use/hydric/>. For the Field Indicators for Identifying Hydric Soils in New England, visit: [www.neiwpec.org/hydricsoils.asp](http://www.neiwpec.org/hydricsoils.asp).

### **3. Mitigation (Avoidance, Minimization, and Compensatory Mitigation)**

a. Activities must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States (U.S.) to the maximum extent practicable at the project site (i.e., on site). Consideration of mitigation (avoiding, minimizing, rectifying, reducing, or compensating) is required to the extent necessary to ensure that the adverse effects to the aquatic environment are no more than minimal.

b. Applicants should consider riparian/forested buffers for stormwater management and low impact development (LID) and/or best management practices (BMPs) – see General Condition 14; to reduce impervious cover and manage stormwater to minimize impacts to the maximum extent practicable.

c. Compensatory mitigation<sup>1</sup> for effects to waters of the U.S., including direct, secondary and temporal<sup>2</sup>, will generally be required for projects with permanent impacts that exceed the SV area limits, and may be required for temporary impacts that exceed the SV area limits, to offset unavoidable impacts which remain after all appropriate and practicable avoidance and minimization has been achieved and to ensure that the adverse effects to the aquatic environment are no more than minimal. Proactive restoration projects or temporary impact work with no secondary effects may generally be excluded from this requirement.

**4. Discretionary Authority.** Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require an 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 adverse environmental effects that are more than minimal, or if there is a special resource or concern associated with a particular project. Whenever the Corps notifies an applicant that an Individual Permit may be required, authorization under these GPs is voided, and no work may be conducted until a Corps Individual Permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under these GPs.

<sup>1</sup> Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR 332. See also the New England District Compensatory Mitigation Guidance at <http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

<sup>2</sup> Temporal loss: The time lag between the losses of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site(s) (33 CFR 332.2).

**5. Single and Complete Projects.** The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. The GPs shall not be used for piecemeal work and shall be applied to single and complete projects.

a. For non-linear projects, a single and complete project must have independent utility. 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.

b. Unless the Corps determines the activity has independent utility, 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.

c. For linear projects such as power lines or pipelines with multiple crossings, a “single and complete project” 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 PCN review or an individual permit review, then the entire linear project shall be reviewed as one project under PCN or the individual permit procedures.

**6. Use of Multiple General Permits:** The use of more than one GP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the GPs does not exceed the acreage limit of the GP as specified. For example, if a road crossing over inland waters is constructed under GP 18, with an associated utility line crossing authorized by GP 6, the maximum acreage loss of waters of the United States for the total project cannot exceed 1 acre.

**7. Corps Property and Federal Projects.**

a. In addition to any authorization under these GPs, proponents must contact the Corps Real Estate Division at (978) 318-8585 for work occurring on or potentially affecting Corps properties and/or Corps-controlled easements to initiate reviews and determine what real estate instruments are necessary to perform work. Permittees may not commence work on Corps properties and/or Corps-controlled easements until they have received all required Corps real estate documents evidencing site-specific permission to work.

b. Any proposed temporary or permanent modification or use of a Federal project (including, but not limited to a levee, dike, floodwall, channel, anchorage, seawall, bulkhead, jetty, wharf, pier or other work built, but not necessarily owned by the United States), or any use 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, is not eligible for SV and will also require review and approval by the Corps pursuant to 33 USC §408. Where Section 408 is applicable, a decision on a Department of the Army general permit application will not be rendered prior to the decision on a Section 408 request.

**8. National Lands.** Activities that impinge upon the value of any National Wildlife Refuge, National Forest, National Marine Sanctuary, or any area administered by the National Park Service, U.S. Fish and Wildlife Service (USFWS), or U.S. Forest Service are not eligible for SV.

**9. Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g. National Park Service, U.S. Forest Service, Bureau of Land Management, USFWS).

There are no designated Wild and Scenic rivers in Rhode Island, though the Pawcatuck River is a study river and may be designated in the future. Additional information can be found at: <https://www.rivers.gov/rhode-island.php>



## 10. Historic Properties.

a. No undertaking shall cause effects (defined at 33 CFR 325 Appendix C and 36 CFR 800) on properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places<sup>3</sup>, including previously unknown historic properties within the permit area, unless the Corps or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA). The State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and the National Register of Historic Places can assist with locating information on: i) previously identified historic properties; and ii) areas with potential for the presence of historic resources, which may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with the Corps and the SHPO and/or THPO(s).

b. For activities eligible for SV projects), proponents must ensure and document that the activity will not cause effects, as stated in 9(a).

c. Proponents must submit a PCN to the Corps as soon as possible if the authorized activity may cause effects, as stated in 9(a), to ensure that the Corps is aware of any potential effects of the permitted activity on any historic property and that the consultation requirements of Section 106 of NHPA are satisfied.

d. For all PCN (inland projects) activities, proponents must: i) show evidence of notification to the SHPO and THPO of their identification of historic properties, ii) state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties, and iii) include any available documentation from the SHPO or THPO indicating that there are or are not historic properties affected. Starting consultation early in project planning can save proponents time and money.

e. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the District Engineer of what you have found and, to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

## 11. Federal Threatened and Endangered Species.

a. No activity is authorized which: a) is likely to directly or indirectly jeopardize the continued existence of any listed or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat, as identified under the Federal Endangered Species Act (ESA); b) result in take of a listed species or adversely modifies designated critical habitat; or c) violates the ESA.

b. A PCN is required when a proposed project may affect a USFWS listed species or designated critical habitat. To ensure compliance with the ESA, project proponents must request an "Official Species List" from the USFWS Information for Planning and Conservation (IPaC) website: <http://ecos.fws.gov/ipac/>. This USFWS IPaC website will record the request and immediately email the list to you. Include the list with all applications. An activity is SV eligible, for example, if the Official Species List states the northern long-eared bat (NLEB) (*Myotis septentrionalis*) is present BUT the activity: i) will not remove trees  $\geq 3$  inches dbh; ii) is not within the "buffer" of a NLEB hibernacula or maternity roost tree; and iii) does not involve work on an existing dam, riprap or bridges.

c. For listed species or habitat under National Marine Fisheries Service (NMFS) jurisdiction, the Corps will coordinate with NMFS as appropriate for all work eligible for SV that may have an effect on listed species or habitat; therefore SV eligible project proponents are not required to check for listed species or habitat for their projects.

d. Federal applicants should follow their own procedures for complying with the requirements of the ESA. Work may be eligible for SV if another Federal agency has satisfied the requirements of Section 7 of the ESA. Upon request, permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements.

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<sup>3</sup> The majority of historic properties are not listed on the National Register of Historic Places and may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with the Corps and the SHPO and/or THPO.

## 12. Pile Removal and Related Time of Year Restrictions

Derelict, degraded or abandoned piles and sheet piles in navigable waters, except for those inside of existing work footprints for piers, must be completely removed or cut and/or driven to 3 feet below the substrate to prevent interference with navigation and, in some cases, to remove polluting materials. Existing creosote piles in the project area that are affected by project activities should be completely removed. In areas of fine-grained substrates, piles must be removed by the direct, vibratory or clamshell pull method<sup>4</sup> to minimize turbidity and sedimentation impacts. Removed piles shall be disposed of in an upland location landward of mean high water (MHW) or ordinary high water (OHW) and not in wetlands, tidal wetlands, their substrate or mudflats.

## 13. Navigation.

a. No activity may cause more than a minimal adverse effect on navigation.

b. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.

c. Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project 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. This is applicable to SV and PCN.

d. 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.

e. 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.

f. An application to the Corps is required for all work in, over or under an FNP or its buffer zone unless otherwise indicated in Appendix A.

**14. 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.

**15. 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 (herein referred to as "construction mats") 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

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<sup>4</sup> **Direct Pull:** Each piling is wrapped with a choker cable or chain that is attached at the top to a crane. The crane then pulls the piling directly upward, removing the piling from the sediment. **Vibratory Pull:** The vibratory hammer is a large mechanical device (5-16 tons) that is suspended from a crane by a cable. The vibrating hammer loosens the piling while the crane pulls up. **Clamshell Pull:** This can remove intact, broken or damaged pilings. The clamshell bucket is a hinged steel apparatus that operates like a set of steel jaws. The bucket is lowered from a crane and the jaws grasp the piling stub as the crane pulls up. The size of the clamshell bucket is minimized to reduce turbidity during piling removal.

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. Similarly, the permittee may request written authorization from the Corps to waive use of mats during frozen or dry conditions. An adequate supply of spill containment equipment shall be maintained on site. Construction mats should be managed in accordance with the following construction mat best management practices:

- Mats should be in good condition to ensure proper installation, use and removal.
- Where feasible, mats should be carried and not dragged unless they are being used as a grading implement.
- Where feasible, place mats in a location that would minimize the amount needed for the wetlands crossing.
- Minimize impacts to wetland areas during installation, use, and removal.
- Install adequate erosion & sediment controls at approaches to mats to promote a smooth transition to, and minimize sediment tracking onto, swamp mats.
- In most cases, construction mats should be placed along the travel area so that the individual boards are resting perpendicular to the direction of traffic. No gaps should exist between mats. Place mats far enough on either side of the resource area to rest on firm ground.
- Provide standard construction mat BMP details to work crews.

#### **16. Temporary Fill.**

a. Temporary fill, construction mats and corduroy roads shall be **entirely** removed as soon as they are no longer needed to construct the authorized work. Temporary fill shall be placed in its original location or disposed of at an upland site and be suitably contained to prevent its subsequent erosion into waters of the U.S.

b. All temporary fill and disturbed soils shall be stabilized to prevent its eroding into waters of the U.S. where it is not authorized. Work shall include phased or staged development to ensure only areas under active development are exposed and to allow for stabilization practices as soon as practicable. Temporary fill must be placed in a manner that will prevent it from being eroded by expected high flows.

c. Unconfined temporary fill authorized for discharge into waters of the U.S. shall consist of material that minimizes impacts to water quality (e.g. washed stone, stone, etc.).

d. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Materials shall be placed in a location and manner that does not adversely impact surface or subsurface water flow into or out of the wetland. Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric or other appropriate material laid on the pre-construction wetland grade where practicable to minimize impacts and to facilitate restoration to the original grade. Construction mats are excluded from this requirement.

e. Construction debris and/or deteriorated materials shall not be located in waters of the U.S.

#### **17. Restoration of Inland Wetland Areas.**

a. Upon completion of construction, all disturbed wetland areas of the U.S. (the disturbance of these areas must be authorized) shall be stabilized with a wetland seed mix containing only plant species native to New England and shall not contain any species listed in the "Invasive and Other Unacceptable Plant Species" Appendix D in the "New England District Compensatory Mitigation Guidance" found at <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/CompensatoryMitigationGuidance.pdf>

b. The introduction or spread of invasive plant species in disturbed areas shall be controlled. If swamp or timber mats are to be used, they shall be thoroughly cleaned before reuse.

c. In areas of authorized temporary disturbance, if trees are cut, they shall be cut at or above 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.

d. 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.

**18. Coastal Bank Stabilization.** 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. For example, vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. 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. For more information on this topic, go to the Corps Coastal Engineering Manual (supersedes the Shore Protection Manual), located at <http://chl.erdc.usace.army.mil>. Select "Products/ Services," "Publications." Part 5, Chapter 7-8, a (2) c.

**19. Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the U.S. during periods of low-flow or no-flow, or during low tides.

**20. Aquatic Life Movements & Management of Water Flows.**

a. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the jurisdictional waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Unless otherwise stated, activities impounding water in a stream require a PCN to ensure impacts to aquatic life species are avoided and minimized. All permanent and temporary crossings of jurisdictional waterbodies (e.g., streams, wetlands) shall be:

- i. Suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species; and
- ii. Properly aligned and constructed to prevent bank erosion or streambed scour both adjacent to and inside the culvert. Permanent and temporary crossings of wetlands shall be suitably culverted, spanned or bridged in such a manner as to preserve hydraulic and ecological connectivity between the wetlands on either side of the road.

b. To avoid adverse impacts on aquatic organisms, the low flow channel/thalweg shall remain unobstructed during periods of low flow, except when it is necessary to perform the authorized work.

c. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

**21. Discharge of Pollutants.** All activities involving any discharge of pollutants into waters of the U.S. authorized under these GPs shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and best management practices established pursuant to the CWA (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the EPA. Applicants may presume that state water quality standards are met with issuance of the Section 401 WQC (Applicable only to the Section 404 activity).

**22. Spawning, Breeding, and Migratory Areas**

a. Jurisdictional activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities in jurisdictional waters that provide value as 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.

b. Jurisdictional activities in waters of the U.S. that provide value as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

**23. 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 of the U.S. 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.

**24. 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 minimizes any adverse impacts on existing fish, wildlife, and the environmental functions to the extent practicable. The permittee will discourage the establishment or spread of plant species identified as non-native invasive species by any federal or state agency.

**25. Invasive Species.** 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 shall be avoided. Hence, swamp and timber mats shall be thoroughly cleaned before reuse.

**26. Permit/Authorization Letter On-Site.** For PCN projects, the permittee shall ensure that a copy of these GPs and the accompanying authorization letter are at the work site (and the project office) whenever work is being performed, and that all personnel with operational 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 these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means these GPs, including General Conditions, the authorization letter (including its drawings, plans, appendices and other attachments), and any 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 as a change order. 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 authorization letter, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

**27. Inspections.** The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is being or has been performed in accordance with the terms and conditions of this permit and any written authorization from the Corps. The Corps may also require post-construction engineering drawings for completed work or post-dredging survey drawings for any dredging work.

**28. Maintenance.** The permittee shall maintain the activity authorized by these GPs in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in Appendix A – General Permit #7, as well as any conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2).

**29. Property Rights.** These GPs do 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.

**30. Transfer of GP Verifications.** If the structures or work authorized by these GPs are still in existence at the time the property is transferred, the terms and conditions, including any special conditions, will continue to be binding on the entity or individual who received the authorization, as well as the new owner(s) of the property. If the permittee sells or otherwise transfers the property associated with a GP authorization, the permittee may transfer the GP authorization to the new owner by submitting a letter to the Corps to validate the transfer. A copy of the GP authorization letter must be attached to the letter, and the letter must include the following statement: "The terms and conditions of these General Permits, including any special conditions, will continue to be binding on the new owner(s) of the property". This letter should be signed by both the transferor and new property owner(s).

**31. Modification, Suspension, and Revocation.** This permit and any individual authorizations issued thereof may be modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7, and any such action shall not be the basis for any claim for damages against the United States.

**32. Special Conditions.** The Corps may impose other special conditions on a project authorized pursuant to this GP that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. These may be based on concerns from the Rhode Island Department of Environmental Management, the Rhode Island Coastal Resources Management Council, or a Federal resource agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties and/or restoration.

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

**34. 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.

**35. Enforcement cases.** These GPs do not apply to any existing or proposed activity in Corps jurisdiction associated with an ongoing Corps or EPA enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

**36. Duration of Authorization.** These GPs expire five years from the date issued, as listed at the top of the cover sheet. Activities authorized by these GPs that have either commenced (i.e., are under construction) or are under contract to commence in reliance upon this authorization will have an additional year from the expiration date to complete the work. The permittee must be able to document to the Corps' satisfaction that the project was under construction or under contract by the expiration date of these GPs. If work is not completed within the one year extended timeframe, the permittee must contact the Corps. The Corps may issue a new authorization, provided the project meets the terms and conditions of the Rhode Island GPs in effect at the time.

Activities authorized under these GPs will remain authorized until the GP expires, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2(e)(2). Activities completed under the SV or PCN authorizations of these GPs will continue to be authorized after its expiration date.

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Robert J. DeSista  
Chief, Permits & Enforcement Branch  
Regulatory Division

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Date

## APPENDIX C

### CONTACTS FOR RHODE ISLAND GENERAL PERMIT:

#### **1. FEDERAL**

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

New England District, Regulatory Division  
696 Virginia Road  
Concord, Massachusetts 01742-2751  
(800) 343-4789 or (978) 318-8335  
(978) 318-8303 - fax

##### ***National Park Service***

North Atlantic Region  
15 State Street  
Boston, Massachusetts 02109  
(617) 223-5203  
*(Wild & Scenic Rivers)*

##### ***Federal Endangered Species (F&WS):***

U.S. Fish and Wildlife Service  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301-5087  
(603) 223-2541

##### ***Federal Endangered Species & EFH (NMFS)***

National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930  
Phone: (978) 281-9102  
(978) 281-9301 - fax

##### ***U.S. Environmental Protection Agency, Region I***

5 Post Office Square, Suite 100  
Boston, Massachusetts 02109  
(617) 918-2000

#### **2. STATE OF RHODE ISLAND**

##### ***RI Department of Environmental Management***

Office of Water Resources  
235 Promenade Street  
Providence, Rhode Island 02908  
(401) 222-6820  
(401) 222-3564 (fax)

##### ***RI Coastal Resources Management Council***

Oliver Stedman Government Center  
4808 Tower Hill Road  
Wakefield, Rhode Island 02879-1900  
(401) 783-3370  
(401) 783-3767 (fax)

### **3. HISTORIC RESOURCES**

#### *Archaeological Information*

Rhode Island Historical Preservation & Heritage Commission  
150 Benefit Street  
Providence, Rhode Island 02908  
(401) 222-2678  
(401) 222-2968 (fax)

#### *Tribal Historic Preservation Officer*

Tribal Historic Preservation Office  
Narragansett Tribe  
P.O. Box 700  
Wyoming, Rhode Island 02898  
(401) 539-1190  
(401) 742-5048 (cell)  
(401) 539-4217 (fax)

### **4. ORGANIZATIONAL WEBSITES**

U. S. Army Corps of Engineers – New England District  
[www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx)

U. S. Army Corps of Engineers Headquarters [www.usace.army.mil](http://www.usace.army.mil) (click “Services for the Public”)

U.S. Environmental Protection Agency [www.epa.gov/owow/wetlands/](http://www.epa.gov/owow/wetlands/)

National Marine Fisheries Service [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)

U.S. Fish and Wildlife Service [www.fws.gov](http://www.fws.gov)

National Park Service [www.nps.gov/rivers/index.html/](http://www.nps.gov/rivers/index.html/)

Federal Emergency Management Agency [www.fema.gov](http://www.fema.gov)

RI-CRMC [www.crmc.ri.gov/](http://www.crmc.ri.gov/)

RIDEM [www.dem.ri.gov/programs/water](http://www.dem.ri.gov/programs/water)

U.S. Environmental Protection Agency, Region 1 – Low Impact Development-practices and state-specific resources, including CT DEP Stormwater Quality Manual [www.epa.gov/ne/topics/water/lid.html](http://www.epa.gov/ne/topics/water/lid.html)

U.S. Environmental Protection Agency – Green Infrastructure website [www.epa.gov/greeninfrastructure](http://www.epa.gov/greeninfrastructure)



## APPENDIX D - DEFINITIONS

**Artificial Reef:** A structure which is constructed or placed in waters for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

**Boating facilities:** These provide, rent or sell mooring space, such as marinas, boat/yacht clubs, boat yards, dockminiums, town facilities, etc. Not classified as boating facilities are piers shared between two abutting properties or town mooring fields that charge an equitable user fee based on the actual costs incurred.

**Construction mats:** Construction, 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.

**Compensatory mitigation:** The restoration (reestablishment or rehabilitation), establishment (creation), enhancement, and/or, in certain circumstances, preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

**Currently serviceable:** Useable as is or with some minor maintenance, but not so degraded as to essentially require reconstruction.

**Direct effects:** Effects that are caused by the activity and occur at the same time and place.

**Dredged material & discharge of dredged material:** These are defined at 33 CFR 323.2(c) and (d). The term "dredged material" means material that is excavated or dredged from waters of the United States.

**Discharge:** The term "discharge" means any discharge of dredged or fill material into waters of the United States.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Ephemeral stream:** An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**Establishment (creation):** The manipulation of the physical, chemical or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

**Expansions:** Work that increases the footprint of fill, depth of basin or drainage feature, structures or floats, or slip capacity.

**Fill material & discharge of fill material:** These are defined at 33 CFR 323.2(e) and (f). The term fill material is defined as material placed in waters of the U.S. where the material has the effect of either replacing any portion of a water of the U.S. with dry land or changing the bottom elevation of any portion of a water of the U.S.

**Federal navigation projects (FNPs):** These areas are maintained by the Corps, authorized, constructed and maintained on the premise that they will be accessible and available to all on equal terms. They are comprised of Corps Federal anchorages, Federal channels and Federal turning basins. Information, including the limits, is provided at <http://www.nae.usace.army.mil/Missions/Navigation.aspx>

**FNP Buffer Zone:** The buffer zone of a Corps FNP is equal to three times the authorized depth of the FNP. For additional information see <http://www.nae.usace.army.mil/Missions/Navigation/Connecticut-Projects/>

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR 60).

**Intermittent stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**Indirect effects:** Effects that are caused by the activity, occur later in time or are farther removed in distance, but are still reasonably foreseeable.

**Individual Permit:** A Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of 33 CFR 322, or a specific project involving the proposed discharge(s) in accordance with the procedures of 33 CFR 323, and in accordance with the procedures of 33 CFR 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR 320.

**Living Shoreline:** A term used to describe a combination of mostly naturally derived materials including plants, shell and rock or manufactured rock-like surfaces that are used along a shoreline exhibiting erosion to dissipate wave energy and to collect naturally deposited sediment.

**Loss of Waters of the United States:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for a GP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that is filled or excavated as a result of the regulated activity. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from unregulated activities or activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

**Maintenance:** Maintenance does not include any modification that changes the character, scope, or size of the original fill design.

**Navigable waters of the United States:** Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. *See* 33 CFR 329.

**Ordinary High Water Mark (OHW):** A line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas. *See* 33 CFR 328.3(e).

**Perennial stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in an aquatic resource area, restoration is divided into two categories: reestablishment and rehabilitation.

**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) aquatic areas drained, flooded, fragmented, or mechanically cleared, b) fluctuating water levels in an impoundment and downstream associated with the operation of a dam, c) septic tank leaching and surface runoff from residential or commercial developments on fill, and d) leachate and runoff from a sanitary landfill located in waters of the U.S. See 40 CFR 230.11(h).

**Shellfish dredging:** Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

**Special aquatic sites (SAS):** These include inland and saltmarsh wetlands, mud flats, vegetated shallows (submerged aquatic vegetation), sanctuaries and refuges, coral reefs, and riffle and pool complexes. These are defined at 40 CFR 230.3 and listed in 40 CFR 230 Subpart E.

**Stream bed:** The substrate of the stream channel between the OHW marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the streambed, but outside of the OHW marks, are not considered part of the streambed.

**Stream channelization:** The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Temporary impacts:** Temporary impacts include waters of the U.S. that are temporarily filled, flooded, excavated, drained, or mechanically cleared because of the regulated activity.

**Tide gates:** Structures such as duckbills, flap gates, manual and self-regulating tide gates, etc. that regulate or prevent upstream tidal flows.

**Utility Line:** Any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, data, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.

**Vegetated shallows:** Permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation, such as eelgrass and widgeon grass (*Ruppia maritima*) in marine systems (does not include salt marsh), as well as a number of freshwater species in rivers and lakes. These areas are also commonly referred to as submerged aquatic vegetation (SAV).

**Weir:** A barrier across a river designed to alter the flow characteristics. In most cases, weirs take the form of a barrier, smaller than most conventional dams, across a river that causes water to pool behind the

structure (not unlike a dam) and allows water to flow over the top. Weirs are commonly used to alter the flow regime of the river, prevent flooding, measure discharge and help render a river navigable.

**Waters of the United States:** Waters of the United States are defined in 33 CFR 328.3. These waters include more than navigable waters of the U.S. and are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act. Waters of the U.S. include jurisdictional wetlands.

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