



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

PUBLIC NOTICE

Date: April 3, 2007
Comment Due Date: April 18, 2007
In Reply Refer To: Greg Penta
E-mail: gregory.r.penta@usace.army.mil

PROPOSED ISSUANCE AND PUBLIC MEETING FOR THE DEPARTMENT OF THE ARMY NEW HAMPSHIRE PROGRAMMATIC GENERAL PERMIT (PGP)

The New England District, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751 proposes to issue the statewide New Hampshire Programmatic General Permit (PGP), pursuant to 33 CFR 325.5(c)(3), for minimal-impact activities within the State of New Hampshire. The existing PGP expires on June 2, 2007 and we propose to reissue the PGP for another five years no later than this date. A public notice was previously issued on March 12, 2007. This public notice provides an updated version of the draft PGP and announces a public meeting.

We will hold the public meeting on Wednesday, April 11, 2007, from 1:00 to 4:00 p.m. at the Department of Environmental Services (DES) auditorium, 29 Hazen Drive - Health and Human Services Building (this is the DES building) Concord, NH. The meeting will provide an opportunity for the public to provide suggestions and discuss the proposed changes with the Corps and the NH DES, Wetlands Bureau.

Proposed Changes

We propose the changes and improvements listed on page 2. The proposed PGP that incorporates all of the proposed changes is attached to this document. The current PGP, the first public notice, this public notice and the draft PGP are located at www.nae.usace.army.mil/reg/index.htm. The current PGP is under "State Programmatic General Permits," while the public notices and the draft PGP are under "Public Notices." You may also call for a copy at (978) 318-8862.

Comments

We are seeking public comment in order to properly evaluate the proposed PGP. Anyone wishing to comment is encouraged to do so in writing within the comment period specified in this notice. Submit your comments to: Mr. Greg Penta, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742-2751. Please contact Mr. Penta at (978) 318-8862 if you have any questions.

We have already received several comments on the proposed changes and their effects on the forestry industry. Corps regulations 33 CFR 323.4, Discharges not requiring permits, states "(a) General. Except as specified in paragraphs (b) and (c) of this section, any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under section 404: (1)(i) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, as defined in paragraph (a)(1)(iii) of this section." This is unless the work is recaptured according to 33 CFR 323.4(c).


Christine Godfrey
Chief, Regulatory Division

PROPOSED CHANGES TO THE NH PGP

I. Pages 1 through 8

1. These pages were restructured and reworded for clarity.
2. The reference to the NH Wetland Rules was updated.
3. General Criteria. Added this section and provided language to reflect that the State and Corps similarly classify permits under review.
4. Activities Covered. It was noted that the discharge of dredged or fill material that may result from normal farming, silviculture and ranching activities is not prohibited by or otherwise subject to regulation under Section 404 unless otherwise recaptured by 33 CFR 323.4(c)..
5. The Procedures were updated to more clearly reflect the PGP process.
 - a. A. State Approvals. Included language for CZM consistency concurrence
 - b. B. Corps Authorizations, Eligibility
Minimum Projects (Non-Reporting): Added language regarding secondary impacts.
Minor and major Projects: This was written to detail the classification process for Minor and Major Projects.
6. Application Procedures. More specific application procedures are provided.
7. Information Required. This section was added.
8. Federal/State Screening procedures
 - a. These were rewritten to reflect the actual process.
 - b. Kickout language was added, noting the Corps may reinstate a project's eligibility under the PGP provided the Federal agencies' concerns are satisfied.
 - c. For fill impacts between 1 and 3 acres, it was noted that the Corps will require now require an alternatives analysis and mitigation.
 - d. "Widenings and expansions" was changed to "Widenings of transportation projects and expansion of existing projects." Removed, "Small pocket wetlands scattered over a site."
9. Emergency Situations. This section was modified for consistency with DES procedures.
10. Section IV Individual Permit. Added this section.

II. General Conditions (GC)

1. GC 2, Federal Jurisdictional Boundaries. This condition now provides more detail on jurisdictional boundaries and the resources used to perform delineations.
2. GC 3, Minimal Effects and Secondary Impacts:
 - a. This condition now includes secondary impacts.
 - b. The words "*no more than*" were added.
3. GC 4, Discretionary Authority. For a Cat 1 project, the Corps can now require a Cat 2 or an IP review.

4. GC 5, Single and Complete Projects. Wording regarding the Independent Utility test was added, along with, “Keep in mind that a linear project normally qualifying as a non-reporting Minimum Impact Project will trigger a Corps review if the impacts exceed this PGP’s general conditions.”
5. GC 6, Permit On-Site. This GC was added requiring the permittee to keep a PGP copy and the accompanying authorization letter at the work site (and the project office).
6. GC 7, Historic Properties. This was reworded for clarity and the wording pertaining to screening procedures was removed.
7. GC 8, National Lands. “National Marine Sanctuary” and “National Park” were added to the areas administered by the National Park Service. “Corps properties” was added. NOAA was added.
8. GC 9, Endangered Species.
 - a. The affected species were expanded to include critical species, habitat and proposed critical habitat.
 - b. This now states that state species are considered under the PGP.
9. GC 10, EFH. Procedural language was removed and EFH contact information was reworded and changed. It’s now noted that work in navigable/tidal waters is not allowed as a Minimum Project.
10. GC 11, Wild and Scenic Rivers.
 - a. This was rewritten for clarity.
 - b. It’s now noted that Wildcat Brook is controlled by the US Forest Service (USFS). The Corps will coordinate these projects with the USFS.
11. GC 15, Avoidance, Minimization and Mitigation.
 - a. This was changed to “Avoidance, Minimization and Mitigation.”
 - b. To avoid secondary impacts, the following were added: “and secondary impacts” and “Permittees may only fill those jurisdictional wetlands that the Corps authorizes to be filled and impact those wetlands that the Corps authorizes as secondary impacts. If not specifically authorized, any unauthorized fill or secondary impact to wetlands may be considered as a violation of the CWA.”
 - c. A requirement was added regarding avoiding wetland drainage, especially for pipeline projects.
12. CG 16, Heavy Equipment in Wetlands.
 - a. Heavy equipment shall not be stored, maintained or repaired in wetlands. Heavy equipment shall have low ground pressure (<3 psi), or not be located directly on wetland soils and vegetation; it shall be placed on swamp or timber mats, or other support structures that are less impacting with written Corps authorization. Swamp and timber mats and corduroy roads are defined.
 - b. Added language stating that swamp mats are to be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland. Dragging swamp mats into position using heavy equipment is prohibited.
13. GC 17, Temporary Fill.
 - a. This condition was changed to consider swamp or timber mats as temporary fill when removed immediately upon work completion, to specify that the fill area thresholds are calculated by adding the permanent and temporary fill areas, and to require area restoration in accordance with GC 18. Several requirements were added. Changed “should” to “shall” and added, “Swamp mats shall be properly installed and removed immediately upon the completion of work.”

- b. Changed “should” to “shall” as water quality protection isn’t discretionary.
14. GC 18, Work Site Restoration. This GC was added to provide specifics on wetland restoration. Added “Work Site” to the title, and the introduction or spread of invasive plant species in disturbed areas is now prohibited to match the NH program.
15. GC 20, Bank Stabilization.
- a. This GC was added. It requires projects involving construction or reconstruction/maintenance of bank stabilization structures to be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable.
 - b. Added new language requiring applicants to follow a sequential minimization process consisting of a) planting or establishing vegetation for erosion protection b) natural round stone placed on slope c) broken stone placed on slope d) vertical wall as last resort.
16. GC 21, Waterway Crossings. Changes were made that should benefit the movement of aquatic life.
- a. (b) - (g) are pending the final NH Stream Crossing Guidelines. We’ll include NH’s draft standards until they are finalized.
 - b. (c) Stated projects conforming with the NH Standards are non-reporting.
 - c. (d) Maintenance
 - i. Explained the difference between new and maintenance.
 - ii. Noted that the State of NH’s maintenance definition/requirements differ from the Corps and will likely require reporting and written authorization.
 - d. (h) Open trench excavation was rewritten.
 - e. (k) Added the requirement that no work impacting upstream or downstream flooding can be a non-reporting Minimum Project.
17. GC 23, Spawning Areas.
- a. This now requires avoidance of “Discharges of dredged or fill material, and/or suspended sediment-producing activities” in fish and shellfish spawning or nursery areas during spawning seasons.
 - b. Link for spawning habitat info provided.
 - c. Changed “waterfowl breeding areas” to “migratory bird breeding areas” to be consistent with NWP GC 4.
18. GC 24, Storage of Seasonal Structures. This previously prohibited storing structures seaward of MHW. This now allows the storage of seasonal structures on the fixed, pile-supported portion of the structure seaward of MHW. This should help prevent the storage of structures on the marsh substrate and the substrate seaward of MHW.
19. GC 25, Environmental Functions and Values. “Discourage” was replaced with “prohibit.”
20. GC 26, Protection of Special Aquatic Sites, Special Wetlands and Vernal Pools.
- a. This GC was added.
 - b. The DES and Corps are working to further define Special Wetlands. The definitions will be inserted into GC 26 and/or the endnotes.
21. GC 28, Maintenance. This condition was rewritten. It now includes language requiring permittees to contact the Corps if they want to modify the existing project design. Also, maintenance dredging includes only those areas and depths previously authorized by the Corps and actually dredged.
22. GC 36, Duration of Authorization. This was reworded for clarity. Activities authorized under this PGP that have commenced (i.e., are under construction) or are under contract to commence before this

PGP's expiration date have: For Minimum Projects, 12 months after this PGP's expiration date to complete the work. For Minor/Major Projects, until the project-specific date that the Corps provides to the permittee in the PGP authorization letter to complete the work.

III. Appendix A

1. Inland Fill

- a. Minimum Projects: A vernal pool buffer of 200' or less on the property is being considered.
- b. Minor/Major Projects, added:
 - i. Swamp mats filling any area >3,000 SF are screened as Minors (see GCs 16 & 17).
 - ii. Projects with proactive restoration with impacts of any area >3,000 SF.
 - iii. Specific activities with impacts >3,000 SF required to affect the removal of hazardous or toxic waste materials performed, ordered or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.
 - iv. Considering lowering the upper threshold from 3 acres to 1 acre.

2. Inland Bank Stabilization. Inland bank stabilization Minimum Project requirements were changed to <100 FT long and <1 CY of fill per linear foot below OHW.

3. Inland Maintenance.

- a. Minor deviations in fill design are now allowed.
- b. It's noted that "The State's maintenance provisions differ from the Corps and may require written authorization from the State, even though it's not required from the Corps."

4. Navigable Waters. We are considering categorizing the Federally designated navigable waters (the Merrimack River from the MA-NH State line to Concord, NH; Lake Umbagog within NH; and the Connecticut River to Pittsburg, NH) differently from the navigable tidal waters. For instance, we may allow <3 acres waterway fill and secondary waterway impacts for riprap projects on the Merrimack and Connecticut Rivers. Also, we are considering increasing the waterway fill and secondary waterway impacts allowance from 1 to 3 acres for all navigable water areas.

5. Navigable Fill. Proposed for Minor/Major Projects:

- a. We're considering this addition, "Permanent fill or excavation \leq 100 SF in SAS. A minimum 5:1 mitigation to impact ratio is required."
- b. We're considering this addition, "Temporary fill and/or excavation <1 acre in SAS."
- c. Added, "Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials performed, ordered or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place."
- d. Proactive Restoration: Added, "Fills with proactive restoration (SAS, anadromous fish runs, shellfish, etc.) as a primary purpose with any amount of impact."

6. Navigable Dredging. Added this section.

- a. Minimum Projects – Added, "Maintenance dredging in tidal waters for navigational purposes \leq 3,000 SF with upland disposal. Provided: Dredging and disposal operation limited to November 15 to March 15 in tidal waters (per Wetlands Bureau Rule Wt 304.11)."
- b. Minor/Major Projects:
 - i. Added, "Maintenance dredging in tidal waters >3,000 SF. New Dredging in tidal waters." There is no limit on new dredging for Minor/Major Projects, however this is being discussed.
 - ii. Included limiting dredging and disposal to 11/15 to 3/15 in tidal waters to match the State.
- c. Individual Permit – This will be limited to "Dredging affecting an SAS" and "sand mining."

7. Navigable Moorings. Added the requirement prohibiting Minimum Project moorings from having chains or other connections that rest on the bottom in vegetated shallows. Eco-friendly mooring technology is required.
8. Navigable Pile-Supported Structures and Floats
 - a. The Minimum Project category was modified to match state requirements.
 - b. The Minor/Major Project category contains design guidelines that the Corps will look for when reviewing projects.
9. Navigable (Misc.).
 - a. Added, "Temporary oil spill clean up structures and fill."
 - b. Added aquaculture projects to the Minimum and Minor/Major categories.
10. Endnotes.
 - a. A more concise definition of "Special Wetlands" is pending.
 - b. The maintenance dredging definition now requires proof of prior Corps authorization for consideration as a maintenance project.

VI. Appendix B

This text was moved from the PGP body and inserted as Appendix B.

DRAFT
Department of the Army
Programmatic General Permit
State of New Hampshire

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues this Programmatic General Permit (PGP) that expedites review of minimal impact work in coastal and inland waters and wetlands within the State of New Hampshire. This New Hampshire PGP minimizes duplication between New Hampshire's Regulatory Program governing work within coastal and inland waters and wetlands and the Corps Regulatory program. Subject to certain exclusions and conditions, the PGP eliminates the need to apply for separate approval from the Corps for most minor, non-controversial work in New Hampshire when that work is authorized by the New Hampshire Department of Environmental Services (DES) Wetlands Bureau.

The Corps will review projects according to the State of New Hampshire classification of Minimum, Minor and Major impact projects per the State of New Hampshire Wetland Rules Env-Wt 100 - 800. The Corps review thresholds (see Appendix A) are typically the same as the State's thresholds, but may differ. For example, the wetland fill thresholds for a Minimum are <3,000 SF (State and Corps), Minor [$\geq 3,000$ to <20,000 SF (State and Corps)] and Major [$\geq 20,000$ SF (State); $\geq 20,000$ SF to <3 acres Corps).

I. GENERAL CRITERIA:

Activities with minimal impacts, as specified by this PGP's terms (Pages 1 – 8), general conditions (Pages 9 – 17), and Appendix A - Definition of Categories, qualify for authorization under this PGP as either a Minimum Project (non-reporting), or Minor or Major Project (reporting).

Proponents should **first** review Appendix A - Definition of Categories to see if a project meets either:

- **Minimum Project: Non-reporting**
(Projects meeting Category 1 may be authorized under this PGP without notifying the Corps. An application to the State is required, unless exempt from State regulation.);
- **Minor or Major Project: Reporting.**
[Minor Impact Projects may proceed after 30 days from the date of the NH Wetland Bureau authorization unless the applicant receives written notification from the Corps (see Page 3). Major Projects require written authorization from the Corps. An application to and written authorization from the State is required.]

If you determine that your project is eligible as a non-reporting Minimum Project as defined in Appendix A, you must then ensure that your project is in full compliance with this PGP's terms and general conditions. If any of these terms or general conditions are not met, your project must be reviewed as a Minor or Major Project or in the Individual Permit category. The Individual Permit thresholds are defined in Appendix A and the procedures are briefly described on Page 8. This PGP does not affect the Corps Individual Permit review process or activities exempt from Corps regulation.

II. ACTIVITIES COVERED:

- Work and structures that are located in, or that affect, navigable waters of the United States (U.S.) [33 CFR 328.4(c)] (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. (regulated by the Corps under Section 404 of the Clean Water Act)¹; [33 CFR 323.4, Discharges not requiring permits, states any discharge of dredged or fill material that may result from normal farming, silviculture and ranching activities is not prohibited by or otherwise subject to regulation under Section 404 (except as specified in paragraphs (b) and (c) of that section).] and;
- The transportation of dredged material for the purpose of disposal in the ocean (regulated by the Corps under Section 103 of the Marine Protection, Research and Sanctuaries Act). The term “discharge of dredged or fill material” also includes certain discharges resulting from excavation. Pursuant to 33 CFR 323.2 (iii), revised January 17, 2001, the term “discharge of dredged material” means any addition of dredged material into, including any redeposit of dredged material within, waters of the U.S., except for discharges that meet the definition of “incidental fallback.”

III. PROCEDURES:

A. State Approvals

In order for PGP authorizations to be valid, when any of the following state approvals are also required, the approvals must be obtained prior to the commencement of work (see General Condition 1). Applicants are responsible for applying for and obtaining any of the required State approvals.

(a) Water Quality Certificate (WQC) under Section 401 of the Federal Clean Water Act (CWA) (33 USC 1341). The CWA requires applicants to obtain a WQC or waiver from the state water pollution control agency (DES, Watershed Management Bureau) if a project is planned that will require individual or general application for a federal permit or license, and may result in any discharge to surface waters of the state. See NH Code Admin. Rules Env- Ws 451-455 “Water Quality Certificate Regulations.” (<http://www.des.state.nh.uswmb/section401.pdf>).

(b) Coastal Zone Management Act (CZMA) Federal Consistency Concurrence pursuant to Section 307 of the CZMA of 1972, as amended. The NH DES administers the NH Coastal Program (NHCP). The NHCP has determined that any project in the NH Coastal Zone that is authorized under the Minimum, Minor or Major Impact Categories of this PGP is consistent with the NHCP and does not require additional CZMA Federal consistency review. The landward boundary of the state’s coastal zone encompasses the jurisdictional borders of the 17 coastal municipalities subject to tidal influence. The seaward boundary of the state’s coastal zone extends three nautical miles offshore.

(c) Dredge, fill or construction in and adjacent to wetlands or waters of the state requires a permit from NH DES pursuant to RSA 482-A. Alteration of sand dunes or its vegetation, the upland tidal buffer zone, or in areas adjacent to designated prime wetlands also requires a DES wetlands permit.

(d) Pursuant to RSA 482-A:17 and Env-Ws 415.03 an Alteration of Terrain is required from DES Alteration of Terrain program prior to commencing: projects involving dredging, excavation, filling, mining, transporting of forest products, construction, earth moving, or other significant alteration of the characteristics of the terrain as defined in Env-Ws 415.02 that will occur in or on the border of the surface waters of the state; or construction, earth moving, or other significant alteration of the characteristics of the terrain as defined Env-Ws 415.02 when a contiguous area of 50,000 square feet or more if within the protected shoreland as defined by RSA 483-B or 100,000 square feet or more in all other areas will be disturbed.

(e) Comprehensive Shoreland Protection Act: Excavation, filling and construction within the Protected Shoreland zone will require approval from DES in accordance with the Comprehensive Shoreland Protection Act pursuant to RSA 483-B. Minimum standards for the maintenance of a natural woodland buffer and lots sizing as well as impervious surface limits are also set by this statute.

(f) Rivers Management and Protection Act: DES and other state agencies are required to coordinate with the DES Rivers Coordinator prior to issuing permits affecting any river or segment designated rivers.

B. Corps Authorizations

The 3 PGP review categories are listed below. The Corps reserves the right to require a PGP or Individual Permit review for Category 1 projects or an Individual Permit review for Category 2 (Minor and Major Impact Projects), if the Corps determines the project will have more than minimal environmental impacts, or based on a concern for any other factor of the public interest.

CATEGORY 1 – MINIMUM IMPACT PROJECTS (Non-Reporting)

Eligibility

Activities in NH that:

- Are subject to Corps jurisdiction (see General Condition 2, Page 9);
- Meet the general conditions of this PGP (Pages 9 through 17);
- Meet the definitions of a State of New Hampshire Minimum Impact Project;
- Meet the definition of Category 1 in Appendix A (e.g., inland wetland fill $\leq 3,000$ SF, in-stream work conducted during the Jul 15 - Oct 1 work window, maintenance dredging ≤ 1000 CY, etc.)
- Receive approval from the NH Wetlands Bureau and all other applicable State agencies; and
- Receive all other required Federal and State approvals (Page 2);

may proceed without application or notification to the Corps upon authorization from the NH Wetlands Bureau without waiting for Corps authorization.

Although Category 1 projects are non-reporting, the Corps reserves the right to require either a written PGP authorization or Individual Permit (See General Condition 4, Discretionary Authority, Page 9) if there are concerns for the aquatic environment or any other factor of the public interest.

Project proponents seeking Category 1 authorizations are not relieved of the obligation to comply with this PGP's general conditions (Pages 9 - 17) and other Federal laws such as the National Historic Preservation Act, the Endangered Species Act and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts such as the NH Historic Preservation Officer is recommended when there is a high likelihood of the presence of resources of concern. Secondary impacts must be included when determining if a project qualified for Category 1 (see GC 3). Fill area includes all temporary and permanent fill.

CATEGORY 2 – MINOR AND MAJOR IMPACT PROJECTS (Reporting)

Eligibility

Activities in NH that:

- Are subject to Corps jurisdiction (see General Condition 2, Page 9);
- Meet the general conditions of this PGP (Pages 9 through 17);
- Meet the definitions of a State of NH Minor or Major Project;
- Meet the definition of Minor/Major Projects in Appendix A (e.g., inland wetland fill ≥ 3000 SF to < 3 acres, in-stream work outside of the Jul 15-Oct 1 work window, work in vernal pools, fill in navigable waters, maintenance dredging > 3000 SF, new dredging, etc.);
- Receive approval from the NH Wetlands Bureau and all other applicable State agencies;
- Receive all other required Federal and State approvals (Page 2); and
- Have been reviewed by the Corps and the Federal resource agencies (Page 5);

for **Minor Impact Projects**, may proceed after 30 days from the NH Wetlands Bureau decision unless the applicant receives written notification from the Corps either requesting additional information or requiring modifications to the proposal, or requiring an Individual Permit for the project.

for **Major Impact Projects**, may proceed upon receipt of written authorization from the Corps. The Corps will notify the applicant within 30 days from their NH Wetlands Bureau decision if: their project is authorized under the PGP, additional information is needed or an Individual Permit review is required.

Env-Wt 303 Classification of Projects specifies the classifications for Major, Minor and Minimum Projects. The NH DES Wetlands Bureau will classify a project once it has been found to be technically complete and will provide that classification to the proponent along with their NH Wetlands Bureau decision. FYI, for inland wetland fill projects, $\geq 3,000$ to $< 20,000$ SF of fill is a Minor Project, while $\geq 20,000$ SF to < 3 acres is a Major Project.

C. Application Procedures (Minor and Major Impact Project)

For projects qualifying as Minor or Major Impact Projects, the town clerk will send a copy of the State application package to the NH DES Wetlands Bureau. After the Wetlands Bureau assigns a State file number, the applicant shall send an application with the file number to the Corps.

All applicants shall submit a copy of their application materials to the NH State Historic Preservation Officer (SHPO) (see page 18) to be reviewed for the presence of historic/archaeological resources in the permit area that may be affected by the proposed work. The SHPO will notify the Corps if there are State concerns that the proposed work will have an effect on historic resources. The applicant must submit with their application to the Wetlands Bureau, either a copy of their cover letter, or a statement of having sent their application materials to the SHPO.

Information required:

- NH DES, Wetlands Bureau application form;
- Applicable plans and information required in accordance with State of NH DES Wetland Rules, Env-Wt 501 APPLICATION PROCEDURES;
- Evaluation Criteria under State of NH DES Wetland Rules Env-Wt 302
- Demonstrated need/project purpose;
- 8½"x11" locus map, 8½"x11" plan views of the entire property and project limits with existing and proposed conditions;
- Legible, reproducible plans. On each plan show the NGVD 1929 equivalent for the project's vertical datum [mean high water (MHW), mean low water (MLW), mean low lower water (MLLW) or other tidal datum for tidal projects] with the vertical units. Do not use local datum;
- Color photographs of wetland/waterway to be impacted.

Information required when applicable:

See www.nae.usace.army.mil/reg/Application%20and%20Plan%20Guideline%20Checklist.doc for a more comprehensive checklist. Check with our office for project-specific requirements.

- Typical cross-section views of all wetland and waterway fill areas and wetland replication areas;
- Wetland/waterway delineation for site, Corps wetland delineation data sheets (see website) and calculations of waterway and wetland impact areas (see General Condition 2);
- Volume, type, and source of fill material to be discharged into waters and wetlands, including the area(s)

(in square feet or acres) of fill in wetlands, below the ordinary high water in inland waters and below the Highest Observable Tide Line (HOTL) in coastal waters;

- Delineation of special aquatic sites, special wetland and vernal pools (see General Condition 26).
- Identification of Exemplarily Natural Communities, Federal and State threatened and endangered species and habitat;
- For mitigation, information required under Env-Wt 800.
- Delineation of submerged aquatic vegetation (e.g., eelgrass beds) and salt marsh in tidal waters;
- Limits of any Federal Navigation Project (FNP) within 100' of the project area and State Plane Coordinates for the limits of the proposed work closest to the FNP;

Information typically required for dredging projects:

- sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing. For projects proposing open water disposal, applicants should contact the Corps as early as possible regarding sampling and testing protocols. Sediment sampling and testing without such contact would be at the applicant's risk;
- Any existing sediment grain size and bulk sediment chemistry data;
- Nature of material (e.g., silty sand);
- Any nearby projects;
- The area in square feet and volume of material to be dredged below HTL;
- Existing and proposed water depths;
- Type of dredging equipment to be used;
- Location of the disposal site (include locus sheet);
- Information on the location and nature of municipal or industrial discharges and occurrence of any contaminant spills in or near the project area;
- Shellfish survey;
- Identify and describe potential impacts to essential fish habitat (see General Condition 10);
- Delineation of submerged aquatic vegetation (e.g., eelgrass beds).

Information typically required for stream crossing projects:

- Rosgen classification for perennial streams
- PE stamp on all perennial stream projects
- Crossing impact analysis of Hydraulic capacity, hydrogeomorphic compatibility, watershed size above a crossing, upstream and downstream impacts from a proposed crossing
- Stream bank full, and bank dimensions, channel dimensions, extent of the floodplain prone area
- Crossing impact assessment to wildlife and fisheries and aquatic organisms (pre- and post design)
- Replacements: an analysis of current crossing compatibility, stability of upstream and downstream channel and bank, recent scour events, systems analysis on hydrology, ecological stability and sediment loading.

D. Federal/State Review Procedures (Minor and Major Impact Project)

The Corps, Federal resource agencies [U.S. Fish and Wildlife Service (US FWS), U.S. Environmental Protection Agency (EPA), and National Marine Fisheries Service (NMFS)] and the NH Wetlands Bureau will comprise the interagency review team. The Corps will review all applications for Minor and Major projects with the interagency review team at monthly interagency review meetings (“Joint Processing Meetings”) at the NH DES Wetlands Bureau. The Corps and the Federal resource agencies at the branch chief or equivalent level may agree on certain activities that do not require coordination at these meetings.

The Corps may determine on its own or in consultation with the interagency review team, if applications for Minor and Major projects work:

1. Are eligible under the PGP as proposed;
2. Require additional information;
3. Will require project modification, mitigation or other special conditions to avoid or minimize adverse environmental impacts and protect the aquatic environment to be eligible for authorization under this PGP; or
4. Are ineligible under the terms and/or conditions of this PGP;
5. Require Individual Permit review irrespective of whether the terms and general conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest (see General Condition 4).

If the Corps determines that a project qualifies for a Minor or Major Impact Project and there are no Federal agency concerns, no further contact with the Corps is necessary.

- **For Minor Impact Projects**, applicants may proceed after the 30 day waiting period.
- **For Major Impact Projects**, the applicant must wait for written authorization from the Corps. If an applicant for a Major Impact Project does not hear from the Corps within the 30 day waiting period, the applicant should call the Corps. To proceed with a Major Impact Project without written authorization is a violation of this permit and the applicant may be subjected to an enforcement action by the Corps.

The Corps, or the Federal resource agencies within ten business days of the review meeting, may 1) request additional information, 2) recommend modification, mitigation, or special conditions to avoid or minimize adverse environmental impacts associated with the aquatic environment and to ensure the terms and general conditions of the PGP are met, or 3) require Individual Permit review.

The Federal resource agencies may request additional information within their area of expertise within ten business days of the review meeting. This information shall be commensurate to the level of impact and agreed upon by the Corps. The agencies are allowed an additional ten business days after their receipt of additional information to provide special conditions or a written Individual Permit request to the Corps.

The Corps will contact the applicant either by phone or in writing if there are concerns. For additional information requests, the Corps will copy the DES Wetlands Bureau and the Federal resource agency making the request. If the applicant is unable to resolve the concerns or modify the project, the Corps may determine that a project is ineligible under this PGP, “kickout” the project to the Individual Permit review category, and begin its Individual Permit review procedures. The Corps will send a “Kickout Letter” to the applicant and copy the DES Wetlands Bureau and the commenting Federal resource agency on any written correspondence to the applicant. The Corps may reinstate a project’s eligibility under the PGP provided the Federal agencies’ concerns are satisfied.

The Corps will also “kickout” the project and begin its Individual Permit review procedures at the request of the Federal resource agencies if an agency within ten business days of either the review meeting date or receiving additional information expresses a concern within their area of expertise, states the resource or species that could be impacted by the project, and describes the impacts that, either individually or cumulatively, will be more than minimal. This ten-day notice may be verbal and is not required to be fully documented, but the Corps will require confirmation with a written response within an additional ten working days from the verbal comment date if the agency decides not to reinstate the project’s eligibility under the PGP and proceeds with their Individual Permit request. Written responses

must be signed by the Federal resource agency field supervisor or branch chief, as appropriate, and must identify the affected resource within their area of expertise. The intent of the verbal notification is to allow the Corps to give timely notification to the applicant that additional information is needed and/or an Individual Permit may be required.

In accordance with regional environmental concerns, most proposals for work which involve impacts >1 acre will require an Individual Permit application and review, an alternatives analysis and mitigation. Projects impacting >3 acres of wetlands will require an Individual Permit. Generally, the following types of impacts are viewed as minimal and are eligible for PGP authorization (subject to agency review and Corps approval) for projects impacting between 1 and 3 acres of wetlands:

- Widenings of transportation projects and expansions of existing projects.
- Edge effects and/or wetland crossings to access usable uplands
- Low or degraded wetlands

E. Emergency Procedures: Minor and Major Impact Projects

Any project proponent may request emergency authorization from the Corps. However, the Corps will determine if a project qualifies for these emergency situation procedures. Contact the Corps and the State in the event of an emergency situation (contact info on page 18.) The State's emergency procedures are listed at Env-Wt 503 Emergency Procedures.

Emergency work shall be authorized by the Corps when a threat to public safety or public health exists or significant damage to private property is imminent and the event causing the emergency occurred within 5 days of the request for emergency approval. Emergency authorization shall be limited to temporary stabilization of the site or mitigation of the immediate threat. During a government declared general or local disaster, work without a permit is allowed. All such work shall be reported to the Corps with a description of the work done.

The work proponent shall submit a description of all work performed during an emergency, except for those projects classified minimum impact, in lieu of a permit application. Applications as required under Env-Wt 501 shall be submitted for any permanent repairs, restoration, or other activities proposed to be conducted after the emergency has ended.

F. Construction of Solid Fill Structures and Fills Along the Coastline or Baseline From Which the Territorial Sea is Measured (Minor and Major Impact Projects)

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water), must be coordinated with MMS, Outer Continental Shelf (OCS) Survey group, pursuant to the Submerged Lands Act (43 USC 1301-1315, 33 CFR 320.4(f)). The Corps will forward project information to MMS for their review. The MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have 15 calendar days from the date MMS received the project information to determine if the baseline will be affected. If the Corps is not notified within the 15 day period it will assume a "no effect" determination. If the solicitor's notification to the Corps is verbal, it must be followed with a written confirmation within 10 business days of the date of the verbal notification. This procedure will be eliminated if the State of New Hampshire provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structures or fills authorized under this PGP.

IV. INDIVIDUAL PERMIT

Work that is in the Individual Permit category listed in Appendix A, or work that does not meet the terms and general conditions of this PGP, will require an application for an Individual Permit from the Corps (33 CFR 325.1). Applicants should submit the appropriate application materials directly to the Corps as early as possible to expedite the permit review process. General information and application forms can be obtained at our web site or by calling us (see Page 18). Individual 401 WQC and/or CZM Federal consistency concurrence from the appropriate NH agencies are required before the Corps issues an Individual Permit. Filing an Individual Permit application does not relieve the applicant from their obligation to obtain all required Federal and State approvals.

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V. GENERAL PERMIT CONDITIONS:

The following general conditions apply to all activities authorized under this PGP, including all Minimum, Minor and Major Impact Projects.

GENERAL REQUIREMENTS:

1. Other Permits. Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, State of New Hampshire, or local laws.

2. Federal Jurisdictional Boundaries. Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice and procedures to be used in determining the extent of jurisdiction of the Corps concerning “waters of the U.S.” and “navigable waters of the U.S.” Wetland boundaries shall be performed in accordance with the January 1987 Corps of Engineers Wetlands Delineation Manual, located at www.saj.usace.army.mil/permit/documents/87manual.pdf. The USFWS publishes the National List of Plant Species that Occur in Wetlands, located at www.nwi.fws.gov. The Natural Resources Conservation Service (NRCS) publishes the current hydric soil definition, criteria and lists, located at <http://soils.usda.gov/use/hydric/>. New England Corps wetlands scientists encourage the use of a regional guide entitled, Field Indicators for Identifying Hydric Soils in N.E. See www.neiwpsc.org/hydricsoils.asp.

3. Minimal Effects and Secondary Impacts. Projects authorized by this PGP shall have no more than minimal individual and cumulative adverse environmental impacts as determined by the Corps. Secondary impacts to waterway and/or wetland areas, (e.g., areas drained, flooded, cleared or excavated) shall be added to the total fill area when determining if project involving fill qualifies for Minor/Major or Individual Permit review. See Appendix A, Endnote 3 for a secondary impacts definition.

4. Discretionary Authority. Notwithstanding compliance with the terms and general conditions of this PGP, the Corps retains discretionary authority to require either a Minor/Major Project or an Individual Permit review for any project, including a non-reporting Minimum Project, 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 impacts of the proposal warrant either a Minor/Major Project or an Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP and that warrants greater review. Whenever the Corps notifies an applicant that either a Minor/Major Project or Individual Permit review is required, authorization under this PGP is void, and no work may be conducted until the Corps issues the required authorization or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.

5. Single and Complete Projects. This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project and/or all planned phases of a multi-phased project shall be treated together as constituting one single and complete project, unless the Corps determines that a component has independent utility. For linear projects, such as power lines or pipelines with multiple crossings, the “single and complete project” (i.e., single and complete crossing) will apply to each crossing of a separate water of the U.S. (i.e., single waterbody) at that location; except that for linear projects crossing a single waterbody several times at separate and distant locations, each

crossing is considered a single and complete project, and may qualify for Minimum Impact Project eligibility. (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.) If any crossing requires a Minor/Major Impact Project review, then the entire linear project shall be reviewed as one project under the Minor/Major Impact Project review procedures provided that the impact thresholds in Appendix A are met. Also, this PGP shall not be used for any activity that is part of an overall project for which an Individual Permit is required, unless the Corps determines the activity has independent utility. Note that modifications to State permits do not constitute a separate project. Modifications which involve Corps jurisdiction will be reviewed at the regular review meetings in order to ascertain compliance with the PGP. Keep in mind that a linear project normally qualifying as a non-reporting Minimum Impact Project will trigger a Corps review if the impacts exceed this PGP's general conditions.

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

General Conditions Related to National Concerns:

7. Historic Properties. Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the New Hampshire Historic Preservation Office (See page 18) and the National Register of Historic Places. Project proponents shall apply to the Corps for all projects that would otherwise qualify for a Minimum Impact Project if there is the potential for an effect on a historic property within the permit area or any known historic property that may occur outside the permit area. Historic properties include those that are eligible for inclusion, but not necessarily listed on the National Register. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the Corps and the New Hampshire Historic Preservation Office.

8. National and Corps Lands. Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Estuarine Research Preserves, National Marine Sanctuary, National Park or any other area administered by the U.S. FWS, U.S. Forest Service, National Oceanic and Atmospheric Administration, or National Park Service. No non-reporting Minimum Project work is allowed on Corps properties & Corps-controlled easements (see Appendix A, Endnote 8).

9. Endangered Species. No activity may be authorized under this PGP which:

- May affect a threatened or endangered species, a proposed species, designated critical habitat, or proposed critical habitat identified under the Federal Endangered Species Act (ESA);
- Would result in a “take” of any threatened or endangered species of fish or wildlife; or
- Would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants.

Applicants shall notify the Corps if any listed species or their critical habitat, or proposed species or their critical habitat, is in the vicinity of the project and shall not begin work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. FWS and NMFS (see page 18). If consultation with the FWS or NMFS results in project modifications or permit conditions which resolve the issue, the Corps may issue a PGP. State-listed species are also considered under this PGP.

10. Essential Fish Habitat (EFH). EFH rivers for Atlantic Salmon are listed at Appendix B. As stated in Appendix A, work in navigable/tidal waters is not allowed as a non-reporting Minimum Impact Project. As part of the PGP review process, the Corps will coordinate with NMFS in accordance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed “EFH” and is broadly defined to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” EFH is designated in most of New Hampshire’s coastal waters, estuaries, and rivers. For additional information on designations, descriptions, and/or locations, see www.nero.noaa.gov/hcd, 50 CFR 600 (see website), or contact NMFS (see Page 18).

11. Wild and Scenic Rivers. Any activity that occurs in a component of, or within 0.25 miles up or downstream of the main stem or tributaries of a river segment of, or that has the potential to alter flows within a river within the National Wild and Scenic River System, must be reviewed by the Corps under the review procedures of this PGP regardless of the size of impact. This condition applies to both designated Wild and Scenic Rivers and rivers officially designated by Congress as Study Rivers for possible inclusion while such rivers are in an official study status. If preapplication consultation between the applicant and the National Park Service (NPS) has occurred whereby NPS has made a determination that the proposed project is appropriate for authorization under this PGP (with respect to Wild and Scenic River issues), this determination should be furnished to the Corps with submission of the application. National Wild and Scenic Rivers System segments for New Hampshire as of February 2007, include: Wildcat Brook (administered by the U.S. Forest Service) from its headwaters to the confluence with the Ellis River, and the Lamprey River from the West Epping Dam to the confluence with the Piscassic River. The NH DES Rivers Management Program has similar state guidelines...

12. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project (FNP) than a distance of three times the FNP’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.

13. Navigation. (a) There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. (b) The permittee understands and agrees that if future operations by the U.S. 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.

14. Federal Liability. In issuing this PGP, 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 the PGP; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension or revocation of this permit.

General Conditions Related to Minimizing Environmental Impacts:

15. Avoidance, Minimization and Mitigation. Discharges of dredged or fill material into waters of the U.S. and any secondary impacts shall be avoided and minimized to the maximum extent practicable. Permittees may only fill those jurisdictional wetlands that the Corps authorizes to be filled and impact those wetlands that the Corps authorizes as secondary impacts. If not specifically authorized, any unauthorized fill or secondary impact to wetlands may be considered as a violation of the CWA. Mitigation will likely be required for fills >10,000 SF, stream work >200 FT, and other circumstances (see Env-Wt 302 and 800).

- Unless specifically authorized, no work shall drain a water of the U.S. by providing a conduit for water on or below the surface.

16. Heavy Equipment in Wetlands. Heavy equipment other than fixed equipment (drill rigs, fixed cranes, etc.) working in wetlands shall not be stored, maintained or repaired in wetlands, unless it is less environmentally damaging otherwise, and as much as possible shall not be operated there. Where construction requires heavy equipment operation in wetlands, the equipment shall either have low ground pressure (<3 psi), or shall not be located directly on wetland soils and vegetation; it shall be placed on swamp mats¹ that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation. Swamp mats are to be placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland. Dragging swamp mats into position using heavy equipment is prohibited. Other support structures that are less impacting and are capable of safely supporting equipment may be used with written Corps authorization. Similarly, not using mats during frozen, dry or other conditions may be allowed with written Corps authorization. (See GC 17 below.) An adequate supply of spill containment equipment shall be maintained on site. Corduroy roads and swamp/construction mats are considered as fill whether they're installed temporarily or permanently.

¹ "Swamp mats" is a generic term 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 type of swamp mat is a timber mat, which consists of large timbers bolted or cabled together. Corduroy roads, which are not considered to be swamp mats, are cut trees and/or saplings with the crowns and branches removed, and the trunks lined up next to one another. Corduroy roads are typically installed as permanent structures. Like swamp mats, they are considered as fill whether they're installed temporarily or permanently.

17. Temporary Fill. If a project's combined temporary and permanent fill totals $\leq 3,000$ SF, the project may be authorized under Category 1 if the project meets the Category 1 definition in Appendix A and it is in compliance with this PGP's terms and general conditions. If a project's combined temporary and permanent fill is $> 3,000$ SF, no temporary fill (e.g., access roads, cofferdams) shall be placed in waters of the U.S. (including wetlands) unless the Corps specifically authorizes it in writing through the Category 2 review process. Swamp/construction mats and corduroy roads (see 16 above) are considered as temporary fill when they are removed immediately upon work completion.

- All temporary fill shall be stabilized to prevent its eroding into portions of waters of the U.S. where it is not authorized.
- Unconfined temporary fill authorized for discharge into waters of the U.S. shall consist of material that minimizes impacts to water quality (e.g. sandbags or clean, gravel and/or stone).
- Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric laid on the pre-construction wetland grade. (Swamp and timber mats are excluded from this requirement.)
- Temporary fill shall be removed as soon as it is no longer needed, and it shall be disposed of at an upland site and suitably contained to prevent its subsequent erosion into waters of the U.S.
- Waters of the U.S. where temporary fill was discharged shall be restored (see General Condition 18).
- If temporary fill is staged and then returned to its original location, e.g., sewer projects through wetlands, the original location shall be restored.
- Temporary fills shall be disposed of at an upland site and suitably contained to prevent erosion and/or transport to a waterway or wetland.
- Swamp mats shall be properly installed and removed immediately upon the completion of work.

18. Work Site Restoration.

- Upon completion of construction, all disturbed wetland areas shall be properly stabilized. Any seed mix shall contain only plant species native to New England.
- The introduction or spread of invasive plant species in disturbed areas is prohibited.
- In areas of authorized temporary disturbance, if trees are cut they shall be cut at ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.
- 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.

19. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

20. 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. Applicants must use

the least intrusive method to stabilize the bank, follow the details at Env-Wt 404 Criteria for Shoreline Stabilization and the following sequential minimization process: diversion of water, vegetative stabilization, rip-rap, and walls. 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, see the Corps Coastal Engineering Manual at <http://chl.erdc.usace.army.mil>. Select "Products/Services" and then "Publications." Part 5, Chapter 7-8, a(2)c is particularly relevant.

21. Waterway/Wetland Work and Crossings

- (a) All temporary and permanent crossings of waterbodies and wetlands shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and to not obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction.
- (b) Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.
- (c) All new temporary and permanent crossings of rivers, streams and intermittent streams (from here on referred to as "streams") shall conform to the draft "New Hampshire Stream Crossing Standards," dated "**PENDING**," and provided at "**PENDING**" to qualify as a non-reporting Minimum Impact Project. Project proponents shall consult with the Corps under the Minor, Major, or IP review processes, as appropriate, if conforming to the NH Stream Crossing Standards is impractical. The Standards typically require bridge spans, open bottom arches or embedded culverts. Bridge spans are generally preferred.
- (d) Only maintenance or replacement of serviceable crossings with an exact replica crossing (size, material, elevation, etc.) in the same footprint with no expansion or change in use/circumstances is considered as a maintenance project, and therefore qualifies as a non-reporting Minimum Impact Project. Any deviation deems the crossing as "new." Note: The State of NH's maintenance provisions differ from the Corps and will likely require reporting and written authorization from the State.
- (e) Culverts shall be installed with their inverts embedded below existing streambed grade to avoid "hanging" and associated impediments to fish passage.
- (f) Culverts at wetland and waterbody crossings shall be installed in such a manner as to preserve hydraulic connectivity, at its present level, between the wetlands on either side of the road. The permittee shall take necessary measures to correct wetland damage due to lack of hydraulic connectivity.
- (g) Projects using slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), non-corrugated plastic pipes, High Density Polyethylene Pipes (HDPP) or retrofit methods increasing flow velocity, are not allowed as non-reporting Minimum Project, either as new or maintenance work.
- (h) No projects involving open trench excavation in flowing waters are allowed as a non-reporting Minimum Project. Open trench excavation projects may qualify for the PGP if they are reviewed pursuant to the Minor or Major Impact Project procedures and conditioned to protect the aquatic environment [work should not occur in flowing waters (requires using management techniques such as temporary flume pipes, culverts, cofferdams, etc.) and normal flows are maintained within the stream boundary's confines (see Appendix A, Endnote 4)]. Projects utilizing these management techniques must meet the other Minimum Project requirements (see Appendix A, Page 1) and all of this PGP's terms and general conditions. If not, they will require review under the Minor/Major Project review procedures. Projects proposing no management techniques to avoid open trench excavation will require an Individual Permit.

- (i) Construction equipment shall not cross or access streams without the use of temporary bridges, culverts, or cofferdams. (Note: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this PGP).
- (j) For projects that otherwise meet the definition of a non-reporting Minimum Project, in-stream (e.g., rivers, streams, brooks, etc.) construction work shall be conducted only during the low flow period of July 15 - October 1 in any year. Projects that are conducted outside of that time period are ineligible for Category 1 - Minimum Impact Project and shall be reviewed pursuant to Minor Impact Project procedures, regardless of the waterway and wetland fill and/or impact area.
- (k) Any work that impacts upstream or downstream flooding or wetlands must be reviewed under the Minor/Major Project procedures.

22. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the U.S. authorized under this PGP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 USC 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within six months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the Corps in consultation with the EPA. Unless otherwise notified by the NH DES, applicants may presume that state water quality standards are met with the issuance of the Section 401 WQC for this PGP (applicable only to Section 404 activity), provided terms and conditions of this PGP are met.

23. Spawning Areas. Discharges of dredged or fill material, and/or suspended sediment producing activities in fish and shellfish spawning or nursery areas, or amphibian and migratory bird breeding areas, during spawning or breeding seasons shall be avoided. Impacts to these areas shall be minimized to the maximum extent practicable during all times of the year. Information on spawning habitat for species managed under the Magnuson-Stevens Fishery Conservation and Management Act (i.e., EFH for spawning adults) can be obtained from the NMFS website at: www.nero.noaa.gov/hcd.

24. Storage of Seasonal Structures. Coastal structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year (often referred to as seasonal structures) shall be stored in an upland location, located above mean high water (MHW) and not in tidal wetlands. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is seaward of MHW. This is intended to prevent structures from being stored on the marsh substrate and the substrate seaward of MHW.

25. 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 so as to maintain as much as is practicable; to minimize any adverse impacts on existing fish, and wildlife, and natural environmental values; and to prohibit the establishment or spread of plant species identified as non-native invasive species by any Federal or State agency.

26. Protection of Special Aquatic Sites, Special Wetlands and Vernal Pools.

These are defined at Appendix A, Endnotes/Definitions.

Special Aquatic Sites (SAS): Projects with any temporary or permanent fill in SAS, other than inland wetlands, do not qualify for this PGP and require an Individual Permit. Some waters (e.g., rifle and pool complexes) and wetlands are more valuable and sensitive to fragmentation, non-point source runoff, and other secondary impacts. Upland buffers are especially essential to protect their functions. Projects that could adversely affect these special wetland resources, whether directly or indirectly, do not qualify as a

non-reporting Minimum Impact Project. For Major and Minor projects, all SAS within the project area shall be delineated.

Special Wetlands: Projects in or that could adversely affect special wetlands, whether directly or indirectly, do not qualify as a non-reporting Minimum Project and must be reviewed. For Major and Minor projects, all special wetlands within the project area shall be delineated.

Vernal Pools (VP): These are a type of Special Wetland. Minimum Projects must minimize impacts to the upland adjacent to vernal pools to the extent practical. For Major and Minor Projects, the applicant shall delineate all VPs on the property in accordance with Federal boundaries (see GC 2) when upland or wetland/ waterway work will occur within 750' of the VP. For all pools, the applicant must minimize impacts to the greatest extent practicable using the document *Best Development Practices: Conserving pool-breeding amphibians in residential and commercial development in the northeastern U.S.*, 2002; Calhoun and Klemens. E.g., wetland fill and/or secondary impacts (e.g., site clearing, grading and construction activities) should be limited to <25% of the VP habitat, and roads and driveways should be excluded from the VP envelope.

PROCEDURAL CONDITIONS:

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. The Corps may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

28. Maintenance. The permittee shall maintain the work authorized herein in good condition and in conformance with the terms and general conditions of this permit. Permittees must contact the Corps if maintenance will not take place or if they want to modify the existing project design. The requirement to maintain the authorized work does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in Appendix A and/or any special conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized by the Corps and dredged.

29. Property Rights. This PGP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

30. Modification, Suspension, and Revocation. This PGP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7. Any such action shall not be the basis for any claim for damages against the U.S.

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

32. Special Conditions. The Corps may impose other special conditions on a project authorized pursuant to this PGP that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all general conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

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

34. Abandonment. If the permittee decides to abandon the activity authorized under this PGP, 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. The PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with a Corps or EPA enforcement action until such time as the enforcement action is resolved or the Corps or EPA as appropriate determines that the activity may proceed independently without compromising the enforcement action.

DURATION OF AUTHORIZATION/GRANDFATHERING:

36. Duration of Authorization. Activities authorized under this PGP that have commenced (i.e., are under construction) or are under contract to commence before this PGP's expiration date have 12 months after this PGP's expiration date to complete the work in Corps jurisdiction.

Activities authorized and completed under this PGP will continue to remain authorized after this PGP's expiration date. The permittee must be able to document that the project was under construction or contract by the appropriate date. Activities authorized under this PGP (or by an Individual Permit) for the transport of dredged or fill material for the purpose of disposing of it in ocean waters will specify a completion date for the disposal not to exceed three years from the date of authorization.

PGP activities will remain authorized as specified above unless:

- The PGP is either modified or is revoked, or
- 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).

37. Previously Authorized Activities.

(a) Projects that the Corps authorized under the Nationwide permits or under the previous NH PGPs prior to issuance of this PGP shall remain authorized as specified in each authorization.

(b) Activities authorized pursuant to 33 CFR 330.3 (activities occurring before certain dates) are not affected by this PGP.

DISTRICT ENGINEER

DATE

VI. NH PGP CONTACTS:

1. FEDERAL

U.S. Army Corps of Engineers
New England District, Regulatory Branch
696 Virginia Road
Concord, MA 01742-2751
(800) 343-4789, (978) 318-8335
(978) 318-8303 (fax)

U.S. Fish and Wildlife Service
70 Commercial Street
Suite 300
Concord, NH 02813
(603) 223-2541

National Park Service
National Park Service
North Atlantic Region
15 State Street
Boston, MA 02109
(617) 223-5191

U.S. Environmental Protection Agency
Region 1
1 Congress Street, Suite 1100
Boston, MA 02114-2023
(617) 918-1589

Federal Endangered Species & EFH
National Marine Fisheries Service
Northeast Region
One Blackburn Drive
Gloucester, MA 01930
(978) 281-9102

Natural Resources Conservation Service
Federal Building
2 Madbury Road
Durham, NH 03824-2043
(603) 868-7581

2. STATE

Dept. of Environmental Services
New Hampshire Wetlands Bureau
29 Hazen Drive
Concord, NH 03302
(603) 271-2147
(603) 271-6588(fax)

New Hampshire Coastal Program
Suite 200
50 International Drive
Portsmouth, NH 03801
(603) 559-1500, (603) 559-1510 (fax).

(State Endangered Species)
NH Fish and Game Department.
Non-Game Endangered Wildlife Program
2 Hazen Drive
Concord, NH 03302-0095
(603) 271-3623

3. HISTORIC RESOURCES

NH State Historic Preservation Officer
Department of Cultural Affairs
Division of Historical Resources
P.O. Box 2043
19 Pillsbury Street
Concord, NH 03301
(603) 271-3483

Dept. of Resources & Economic Development
Natural Heritage Bureau
172 Pembroke Rd.
P.O. Box 1856
Concord, NH 03302
(603) 271-3623

4. ORGANIZATIONAL WEBSITES:

Army Corps of Engineers	www.nae.usace.army.mil/reg/index.htm
Army Corps of Engineers Headquarters	www.usace.army.mil (click "Obtain a Permit?")
Environmental Protection Agency	www.epa.gov/owow/wetlands
National Marine Fisheries Service	www.nero.noaa.gov/hcd (northeast region) www.nmfs.noaa.gov/habitat (national headquarters)
U.S. Fish and Wildlife Service	www.fws.gov
National Park Service	www.nps.gov/rivers/index.html
NH DES Wetland Bureau	www.des.state.nh.us/wetlands
NH wetland rules (Adopted Rule 97-010)	www.des.state.nh.us/wetlands/pdf/100-800.pdf
NH Fish and Game Department	www.wildlife.state.nh.us
New Hampshire Coastal Program	www.des.nh.gov/Coastal
NH Division of Historical Resources	www.nh.gov/nhdhr
NH GIS	www.granit.sr.unh.edu

APPENDIX A: DEFINITION OF CATEGORIES

<p>I. INLAND WATERS & WETLANDS</p>	<p>Inland Waters and Wetlands: Waters that are regulated under Section 404 of the CWA, including rivers, streams, lakes, ponds and wetlands [33 CFR 328.4)(c)], excluding Section 10 Navigable Waters of the U.S. The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands¹ to tidal waters are reviewed in II. Navigable Waters (Page 4 below).</p>		
	<p>Projects not meeting Category 1 must apply/report to the Corps as either a Category 2 or Individual Permit project. All Category 1 and 2 projects must comply with all of this PGP's applicable terms (Pages 1 – 8) and General Conditions (Pages 9 – 15).</p>		
	<p>MINIMUM PROJECTS²</p>	<p>MINOR & MAJOR PROJECTS</p>	<p>INDIVIDUAL PERMIT</p>
<p>(a) NEW FILL/ EXCAVATION DISCHARGES</p>	<p><3,000 SF of waterway and/or wetland fill and secondary³ impacts, (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback⁴). Swamp mats and corduroy roads are considered as fill (see General Condition (GC) 17).</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Projects comply w/all GCs, including: GC 5 - Single and Complete Projects. GC15 – Avoidance and Mitigation <p><u>This category excludes:</u></p> <ul style="list-style-type: none"> • Dams, dikes, or activities involving water diversions⁵. • Work in special aquatic sites (SAS)⁶ other than wetlands, and work in Special Wetlands⁷, including vernal pools⁷. See GC 26. • Work on Corps properties and Corps-controlled easements⁸ 	<p>3,000 SF to ≤3 acres waterway and/or wetland fill and secondary³ impacts, (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback⁴). Swamp mats and corduroy roads are considered as fill (see GC 17).</p> <p>Swamp mats filling any area ≥3,000 SF are reviewed as Minor Impact Projects (see GCs 16 & 17).</p> <p>Projects with proactive restoration⁹ as a primary purpose with impacts of any size ≥3,000 SF.</p> <p>Specific activities with impacts ≥3,000 SF required to affect the containment, stabilization, or removal of hazardous or toxic waste materials performed, ordered or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.</p> <p>The applicant shall delineate all VP⁷s on the property in accordance with Federal boundaries (see GC 2) when upland or wetland/waterway work will occur w/in 750' of the VP (see GC 26).</p>	<p>>3 acres waterway and/or wetland fill and secondary³ impacts, (e.g., area drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback⁴).</p>

<p>(b) RIVER/STREAM /BROOK WORK & CROSSINGS.</p> <p>WATERWAY/ WETLAND CROSSINGS</p>	<p>Stream crossings conform with the NH Stream Crossing Standards (see GC 21).</p> <p>In-stream (e.g., rivers, streams, brooks, etc.) work limited to Jul 15-Oct 1.</p> <p>Culverts installed with inverts embedded below existing streambed grade to avoid “hanging” and associated impediments to fish passage.</p> <p>Culverts at waterbody crossings preserve hydraulic connectivity, at its present level, between the wetlands on either side of the road.</p> <p><u>Excludes:</u></p> <ul style="list-style-type: none"> • Slip lining, plastic pipes, HDPP and increases in flow velocity. • In-stream work limited to Jul 15-Oct 1. • No work in VPs⁶ • No work in SAS⁷ • No open trench excavation in flowing waters. (See GC 21.) • No work on Corps properties & Corps-controlled easements⁸. 	<p>Stream crossings not conforming with the NH Stream Crossing Standards.</p>	
<p>(c) BANK STABILIZATION PROJECTS</p>	<p>Inland bank stabilization <100 FT long and <1 CY of fill per linear foot below ordinary high water (OHW)</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • In-stream work limited to Jul 15-Oct 1. • No work in VPs⁶ • No work in SAS⁷ • No open trench excavation in flowing waters. (See GC 21.) • No structures angled steeper than 3H:1V allowed. Only rough-faced stone or fiber roll revetments allowed. • No work on Corps properties & Corps-controlled easements⁸. 	<p>Inland bank stabilization projects ≥100 FT long or ≥1 CY per linear foot below OHW.</p>	
<p>(d) REPAIR AND MAINTENANCE OF AUTHORIZED FILLS</p>	<p>Repair/maintenance of existing, currently-serviceable, authorized fills, including maintenance of existing flood control facilities, with no expansion or change in use.</p> <ul style="list-style-type: none"> • Conditions of the original authorization apply • Minor deviations in fill design allowed¹⁰. <p>Note: The State’s maintenance provisions differ from the Corps and may require written authorization from the State, even though it’s not required from the Corps.</p>	<p>Repair/maintenance of existing, currently-serviceable, authorized fills; or replacement of non-serviceable authorized fills, <3 acres, including expansion or a change in use.</p>	<p>Repair/maintenance of currently serviceable authorized fills, or replacement of non-serviceable authorized fills, ≥3 acre, including expansion or a change in use.</p>

(e) MISC.	Oil spill clean-up discharges. Fish and wildlife harvesting such as duck blinds. Scientific measurement devices and survey activities, e.g., exploratory drilling, surveying, sampling. Doesn't include oil/gas exploration and fills for roads or construction pads. Includes monitoring wells.		
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II. NAVIGABLE WATERS	Navigable Waters of the U.S.: Waters that are subject to the ebb and flow of the tide and Federally designated navigable waters (the Merrimack River from the MA-NH State line to Concord, NH); Lake Umbagog within NH; and the Connecticut River to Pittsburg, NH. (Section 10 Rivers and Harbors Act of 1899) (33 CFR 329). The jurisdictional limits are the mean high water (MHW) line in tidal waters and the OHW mark in non-tidal portions of the Federally designated navigable waters. For the purposes of this PGP, fill placed in the area between MHW and the high tide line (HTL), and in the bordering and contiguous wetlands ¹ to tidal waters are also reviewed in this Navigable Waters section.		
	Projects not meeting Category 1 must apply/report to the Corps as either a Category 2 or Individual Permit project. All Category 1 and 2 projects must comply with all of this PGP's applicable terms (Pages 1 – 8) and General Conditions (Pages 9 – 17).		
	MINIMUM PROJECTS ²	MINOR & MAJOR PROJECTS	INDIVIDUAL PERMIT
(a) FILL	<p>No provisions for new or previously unauthorized fills in Category 1, other than:</p> <ul style="list-style-type: none"> Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the U.S., including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit. Causeways and approach fills are not included in this category and require Category 2 or Individual Permit authorization. 	<p>≤1 acre waterway fill and secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill area includes all temporary and permanent waterway fills. Excludes riprap projects on the</p> <p>Temporary fill and/or excavation <1 acre in special aquatic sites (SAS)⁷.</p> <p>Permanent fill or excavation ≤100 SF in SAS⁷. A minimum 5:1 mitigation to impact ratio is required.</p> <p>Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials performed, ordered or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.</p> <p>Projects with proactive restoration⁹ (SAS, anadromous fish runs, shellfish, etc.) as a primary purpose with impacts of any size.</p>	<p>>1 acre waterway fill and secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill area includes all temporary and permanent waterway fills.</p> <p>Temporary fill and/or excavation >1 acre in SAS⁷.</p> <p>Permanent fill or excavation >100 SF in SAS⁷.</p> <p>EIS required by the Corps.</p>
(b) REPAIR AND MAINT. WORK	<p>Repair or maintenance of existing, currently serviceable, authorized structures and fills.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> No expansion or change in use. Must be rebuilt in same footprint, however minor deviations in structure design allowed.¹⁰ 	<p>Repair/maintenance of currently serviceable authorized fills with expansion or a change in use <1 acre.</p> <p>Replacement of non-serviceable authorized fills, including expansion or a change in use <1 ac.</p> <p>Repair/maintenance of currently serviceable authorized structures w/expansion where the structure (existing + expansion) qualifies for Cat 2 [see (e) below].</p>	<p>Repair/maintenance of currently serviceable authorized fills with expansion or a change in use ≥1 acre. Replacement of non-serviceable authorized fills, including expansion or a change in use, totaling ≥1 acre.</p> <p>Repair/maintenance of currently serviceable, authorized structures w/expansion where the structure (existing + expansion) qualifies for an</p>

		Replacement of non-serviceable authorized structures w/expansion where the structure (existing + expansion) qualifies for Cat 2 [see (e) below].	Individual Permit [see (e) below]. Replacement of non-serviceable, authorized structures where the structure (existing + expansion, if any) qualifies for an Individual Permit [see (e) below].
(c) DREDGING	<p>Maintenance dredging¹² for navigational purposes ≤3,000 SF with upland disposal. Includes return water from upland contained disposal area.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Dredging & disposal operation limited to Nov 15 – Mar 15. • No impact to SAS⁶. • No dredging in intertidal areas. • Proper siltation controls are used. 	<p>Maintenance dredging¹² >3,000 SF.</p> <p>New dredging¹²</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Dredging & disposal operation limited to Nov 15-Mar 15. • No impacts to SAS⁶. • Disposal includes: 1.upland; 2.beach nourishment of any area provided the primary purpose of the dredging is navigation; or 3.open water & confined aquatic disposal, if Corps, in consultation with Federal and State agencies, finds the material suitable. <p>Projects with proactive restoration⁹ (SAS, anadromous fish run, etc.) as a primary purpose with impacts of any size.</p> <p>Specific activities with impacts of any area or cubic yardage required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority may be reviewed as a Cat. 2 project. Wetlands must be restored in place.</p>	<p>Dredging affecting an SAS⁶.</p> <p>Dredging for non-navigational purposes (sand mining). E.g., the primary purpose of obtaining the sand is for beach nourishment or upland use.</p>
(d) MOORINGS	<p>Outhauls permitted by a CRMC-approved municipal harbor management plan (HMP). See CRMC 300.4.B.7.</p> <p>Private, non-commercial, non-rental, single-boat moorings.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Chains or other connections may not rest on the bottom in vegetated shallows¹⁴. Eco-friendly moorings are required. • Authorized by the State. • Within a CRMC-approved HMP area. • Not associated with a boating facility¹³. 	<p>Moorings not meeting the terms of Cat. 1.</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 Channel¹¹.</p>	<p>Moorings and/or their moored vessels within the horizontal limits of a Federal Channel¹¹.</p>

	<ul style="list-style-type: none"> • Moorings in Federal Anchorage¹¹ not associated with a boating facility¹⁴. • Not located within the buffer zone of the horizontal limits of a Federal Channel¹¹. • No interference with navigation. 		
(e) PILE-SUPPORTED STRUCTURES AND FLOATS	No allowances for non-reporting pile-supported structures and floats.	<p>Recommendations for private structures and floats:</p> <ul style="list-style-type: none"> • Private bottom-anchored floats ≤ 400 SF • Private pile-supported structures for navigational access to the waterway ≤ 400 SF with attached floats ≤ 150 SF. • Private pile-supported structures are $\leq 6'$ wide and have at least a 1:1 height:width ratio¹⁵. • Float stops, chains, or other devices must be used to provide ≥ 2.5-foot clearance between the bottom of the float and the substrate during all tides • Pile-supported structures & floats are not located within 25' of vegetated shallows¹⁴ and moored vessels are not positioned over SAS⁷. • Structures extend ≤ 75 FT waterward from MHW. • No structure extends across $>25\%$ of the waterway width at MLW. • Not located within the buffer zone of the horizontal limits of an FNP¹¹. 	<p>Structures or floats located such that they and/or vessels docked at them are within the horizontal limits of an FNP¹¹.</p> <p>Structures or floats associated with a new or previously unauthorized boating facility.¹³</p>

(f) MISC.	<p>Temporary buoys, markers, floats, etc. for recreational use during specific events, provided that they are removed within 30 days after use is discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually.</p> <p>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).</p> <p>Temporary oil spill clean up structures and fill.</p> <p>Research, educational, experimental or publicly funded aquaculture projects that don't exceed 1,000 SF in area, aren't located in SAS or intertidal areas, culture only indigenous species, use only "transient gear" type cages or bottom culture with predator netting, are marked to inform mariners of the location of the gear, have a</p>	<p>Aquaculture projects that do not meet the terms of Category 1 and aren't located in SAS or intertidal areas.</p> <p>Structures/work in or affecting tidal or navigable waters that are not defined under any other headings. Includes but is not limited to utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, bridges, tunnels and horizontal directional drilling activities seaward of the MHW line.</p>	EIS required by the Corps.
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<p>minimum clearance of 4 FT between the top of the gear and the elevation of MLW in areas where the elevation of the sea floor is above – 15 FT MLW, have a minimum clearance of 10 FT between the top of the gear and the elevation of MLW in areas where the elevation of the sea floor is equal to or below –15 FT MLW, and have been reviewed and approved in writing by the NH DES.</p> <p>Activities not regulated by the Wetlands Bureau, formerly authorized under the Nationwide Permit Program and listed in Appendix A of this document are designated non-reporting activities.</p> <p>Structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard.</p> <p>Scientific measurement devices, and small weirs and flumes constructed primarily to record water quantity and velocity provided the discharge of fill is limited to 10 cubic yards. No work may restrict movement of aquatic species or potentially threaten to impact or entangle sea turtles or marine mammals in near-coastal waters.</p> <p>Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, shellfish seeding, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). Provided: no hazard to navigation; activity is not in wetlands or sites that support submerged vegetation (including sites where submerged aquatic vegetation is determined to exist, but may not be present in a given year). This does not authorize artificial reefs or impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks.</p> <p>Survey activities including core sampling, seismic exploratory operations, plugging of seismic shot holes, other exploratory-type bore holes and oil and gas test wells, soil survey and sampling, and historic resources surveys. Discharges and structures associated with the recovery of historic resources are not authorized. Drilling and the discharge of excavated material from test wells for oil and gas exploration are not authorized. Fill placed for roads, pads and other similar activities is not authorized, nor is any permanent structure.</p>		
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End Notes/Definitions

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

² **Regulation:** Either DES or NHCP must regulate an activity for it to be eligible for authorization as a non-reporting Minimum Impact Project of this NH PGP. The Minimum Impact Category doesn't apply to activities exempt from State regulation. These activities must report to the Corps.

³ **Secondary (Indirect) Impacts:** Secondary and/or indirect impacts 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. (40 CFR 230.11 (h)). Secondary impacts are those impacts outside the footprint of the fill (e.g., beyond the bounds of the disposal site) that arise from and are associated with the direct discharge of dredged or fill material. For example, placing a road through the center of a forested wetland may directly fill only a few acres, but may fragment the once intact system into smaller systems less valuable to forest interior species. Some examples are listed below: A) Habitat Fragmentation occurs when a relatively undisturbed habitat block is interrupted or broken apart by roads, ditches, disturbance of vegetation, or development of structures. Common species typically proliferate at the expense of the more unusual wetland wildlife species in fragmented areas. Fragmentation of wetland forests will impact the majority of the neotropical migrant species, such as the warblers, vireos, tanagers, and some of the flycatchers and thrushes. B) Interruption of Travel Corridors: Many species need to travel to find food, mates, shelter, and cover. Many aquatic species follow stream channels and wetlands, and follow established routes season after season. These routes are referred to as travel corridors. Turtles, for example, need safe travel corridors linking aquatic and nesting habitat are essential for turtle populations to survive. C) Vernal Pools Although relatively small in size, vernal pools are critically important breeding habitats for amphibians. Many amphibians disperse several hundred feet from their breeding ponds into the adjacent upland habitat after the breeding season has ended. Thus, amphibians and reptiles also depend on undeveloped upland habitat adjacent to the pools.

⁴ **Incidental Fallback:** The term “discharge of dredged or fill material” also includes certain discharges resulting from excavation. Pursuant to 33 CFR 323.2(iii), as revised January 17, 2001, the term “discharge of dredged material” means any addition of dredged material into, including any redeposit of dredged material within, waters of the U.S., except for discharges that meet the definition of “incidental fallback.”

⁵ **Water Diversions:** Water diversions are activities such as bypass pumping or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary's confines aren't water diversions. “Normal flows” are defined as no change in flow from pre-project conditions. See GC 21.

⁶ **Special Aquatic Sites:** These include both inland and saltmarsh wetlands, mud flats, vegetated shallows (see 13 below), coral reefs, and riffle and pool complexes. (40 CFR 230).

⁷ **Special Wetlands:** Include municipally designated prime wetlands pursuant to RSA 482-A, vernal pools, bogs, fens, floodplain silver maple swamps, cedar swamps, coastal dunes and marshes, alpine seeps, spruce swamps, calcareous seepage swamps and wetlands or surface waters which provide habitat for threatened or endangered species or species of special concern or exemplary natural communities as designated by Department of Resources and Economic Development, Natural Heritage Bureau. Exemplary natural communities are defined based on a combination of size, condition, and landscape context. The following definitions for bogs, calcareous seepage wetlands, cedar swamps, fens, spruce swamps, and vernal pools apply for the purposes of this PGP:

Bog: A peat accumulating wetland dominated by sphagnum moss. Typical plant species include sphagnum moss, leatherleaf, black spruce, pitcher plant & sundew.

Calcareous Seepage Swamp: A forested wetland characterized by the discharge of groundwater with a chemistry influenced by the underlying limestone geology.

Cedar Swamp: A forested wetland characterized by the presence of Northern White Cedar or Atlantic White Cedar.

Fen: A peat accumulating wetland dominated by sedges and/or ericaceous shrubs. Typical plant species include low sedges, ericaceous shrubs, sphagnum and other mosses.

Spruce Swamp: a forested wetland characterized by the presence of Red or Black Spruce.

Vernal Pool (VP) and Habitat: VPs are confined basin depressions with water for two or more continuous months in the spring and/or summer, for which evidence of one or more of the following indicator vernal pools species: wood frogs (*Rana sylvatica*), mole salamanders (*Ambystoma* spp), and fairy shrimp (*Eubranchipus* spp) has been documented **OR** for which evidence of two or more of the following facultative organisms: caddisfly (*Trichoptera*) larvae casings, fingernail clams (*Sphaeriidae*), or amphibious snails (*Basammatophora*) and evidence that the pool does not contain an established reproducing fish population has been documented. Vernal pool habitat is the seasonal pool depression, seasonal pool envelope (100 FT radius from the VP edge) and seasonal pool terrestrial habitat (750 FT radius from the VP edge). (Note: The Corps will determine on a case-by-case basis which vernal pools are within their jurisdiction.)

⁸ **Corps Properties & Easements:** Contact the Corps, Real Estate Division (978) 318-8580 to initiate reviews about both Corps holdings and permit requirements.

⁹ **Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former wetland (called re-establishment) or a degraded wetland (called rehabilitation). Restoration means the result of actions which, in the opinion of the Federal and State resource agencies, reinstates, or will reinstate, insofar as possible, the functions and values of a wetland which has been altered. Restoration is the re-creation or rehabilitation of wetland ecosystems whose natural functions have been destroyed or impaired. The Corps will decide if a project qualifies as proactive restoration and must determine in consultation with Federal and State agencies that the net effects are beneficial.

¹⁰ **Minor deviations** in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

¹¹ **Federal Navigation Projects (FNPs):** FNPs are comprised of Federal channels and Federal anchorages. Contact the Corps for their location and information.

Horizontal Limits: The outer edge of an FNP. **Buffer zone:** Equal to three times the authorized depth of that channel.

¹² **Maintenance Dredging.** Includes areas and depths previously dredged and authorized by the Corps. Proof of authorization is required. **New Dredging:** Includes dredging proposed in previously un-dredged areas and/or in areas exceeding previously authorized dimensions (deeper or wider than previously authorized) excluding normal overdredge.

¹³ **Boating Facilities:** Facilities that provide, rent or sell mooring space, e.g., marinas, yacht clubs, boat yards, dockominiums.

¹⁴ **Vegetated Shallows:** Subtidal areas that support rooted aquatic vegetation such as eelgrass and widgeon grass (*Rupiamaritima*). (Doesn't include salt marsh.)

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

APPENDIX B - EFH RIVERS FOR ATLANTIC SALMON (See General Condition 10)

CONNECTICUT RIVER AND TRIBUTARIES

Ashuelot River

Sprague Brook
Liscomb Brook
Ash Swamp Brook
The Gulf
Hubbard Brook
Governors Brook
Ox Brook
Partridge Brook
Mill Brook
Great Brook
Cobb Brook
Cold River
Hackett Brook
Benware Brook
Beaver Brook

Little Sugar River

Smith Brook
Gully Brook
Sugar River
Walker Brook
Beaver Brook
Bloods Brook
Mascoma River
Mink Brook
Coleman Brook
Slade Brook
Petes Brook
Hewes Brook
Grant Brook
Eastman Brook
Oliverian Brook

Clark Brook

Ammonoosuc River

Burton Brook
Bendell Brook
Hunt Mountain Brook
Roaring Brook
Scarritt Brook
Carter Brook
Bill Little Brook
Conmary Brook
Smarts Mill Brook
Roaring Brook
Kimball Brook
Lyman Brook
Sweatt Brook
Cone Brook

Cow Brook

Carpenters Brook

Johns River

Isreal River
Roaring Brook
Moore Brook
Ames Brook
Potter Brook
Upper Ammonoosuc River
Simms Stream
Mohawk River
Beaver Brook
Dyer Brook
Arlin Brook

MERRIMACK RIVER AND TRIBUTARIES

Second Brook

Nashua River

Chase Brook
Nesenkeag Brook
Horseshoe Pond -
Naticook Brook
Souhegan River
Riddle Brook
Sawmill Brook
Watts Brook
Pointer Club Brook
Little Cohas Brook
Cohas Brook
Chandler Brook

Bowman Brook

Baker Brook

Ray Brook

Piscataquog River

South Branch River

Penacook Lake

Hayward Brook

Contocook River

Cold Brook
Tannery Brook
Burnham Brook
Messer Brook
Millstone Brook
Dalton Brook

Brickyard Brook

Browns Brook

Suncook River

Bow Bog Brook

Bow Brook

Soucook River

Bryant Brook
Glines Brook
Stirrup Iron Brook
Allen Brook
Cross Brook
Punch Brook
Shaw Brook

Winnepesaukee River

Cate Brook

Giles Pond - Salmon Brook

Weeks Brook

Bennett Brook

Knox Brook

Needle Shop Brook

Pemigewasset River

Turkey River
Bradleys Island
Horseshoe Island
Woods Brook

ANDROSCOGGIN RIVER AND TRIBUTARIES

Conner Brook

Austin Mill Brook

Gates Brook

Clement Brook

East Brook

Peabody Brook

Leadmine Brook

Rattle River

Josh Brook

Kidder Brook

Pea Brook

Stony Brook

Moose Brook

Perkins Brook

Moose River

Tinker Brook

Cascade Alpine Brook

Dead River

Bean Brook

Horne Brook

Stearns Brook

Leavitt Stream

Chickwolnepy Stream

Island Brook

Goose Pond

Sessions Brook

Bog Brook

Bear Brook

Moose Pond

Munn Pond

Smoky Camp Brook

Mollidgewock Brook

Clear Stream

Umbagog Lake

SACO RIVER AND TRIBUTARIES

Swift River

Mason Brook
Artist Brook
Kearsage Brook
Lucy Brook
Conway Lake
Echo Lake

E.Branch Saco River

Ellis River

Rocky Branch
Mountain Brook
Meadow Brook
Barlett Brook
Razor Brook

Albany Brook

Sawyer River

Nancy Brook

Sleeper Brook

Davis Brook

Benis Brook

Avalanche Brook

Kendron Brook

Willey Brook

Flume Cascade

Ossipee River

Beech River

Bearcamp River

COCHECO RIVER

LAMPREY RIVER

Note: Rivers and Tributaries that are bolded are specifically included as rivers that are contained in various State and Federal anadromous fish restoration programs and should be the primary focus for Atlantic salmon protections.