

The U.S. Army Corps of Engineers (Corps) New England District Regulatory Division issues the following Regional Conditions (RCs) to ensure that activities authorized by the 2026 Nationwide Permits (NWP) in the New England states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont will not cause more than minimal adverse environmental impacts, both individually and cumulatively. Before the New England District will verify an activity under one or more NWP, the activity must be demonstrated to comply with the applicable NWP terms and all applicable NWP General Conditions (GCs) and RCs. Prior to commencement of a “non-notifying” activity (i.e., activities authorized by NWP which do not require submission of a pre-construction notification [PCN]), the proponent (i.e., the person and/or the entity performing the work) is responsible for ensuring the activity meets all applicable:

- Terms of the NWP
- GCs
- RCs
- State Water Quality Certification, if applicable
- State Coastal Zone Consistency, if applicable

*PCN Summary Table. The following activities may require a PCN regardless of the terms of the applicable NWP. Please read the applicable RCs to determine if a PCN is required.*

| <b>Applicable to All New England States</b>  |                          |
|--|--------------------------|
| Exceedance of loss thresholds within streams, tidal/non-tidal wetlands, tidal submerged aquatic vegetation, mudflats, and intertidal areas | See RC A                 |
| Located within, or within the vicinity of a Federal Project  | See RC B                 |
| Located within, or within the vicinity of a Wild and Scenic River  | See RC C                 |
| Involving discharges of temporary fill material  | See RC D                 |
| Involving slip lining  | See RC E                 |
| Involving stream crossings   | See RC F                 |
| Located within Essential Fish Habitat  | See RC J                 |
| <b>Applicable to Specific New England States</b>   |                          |
| Activities within Time-of-Year Restrictions  | See RCs N, O, S, U, V, W |
| Located within the Saint John and Saint Croix River basins (Maine)   | See RC P                 |
| Authorized by NWP 48, Commercial Shellfish Mariculture Activities and within the State of Maine > 5 acres                                  | See RC Q                 |
| Located within Important or Rare Resources within the State of Maine   | See RC R                 |
| Discharges of fill >10 cubic yards in Lake Champlain and Lake Memphremagog and/or their adjacent wetlands (Vermont)                        | See RC X                 |

### **Regional Conditions**

The following RCs apply to all applicable NWP's in **all New England States** (unless otherwise specified):

- A. **Additional PCN Requirement (Specific Resources)**: A PCN is required for any proposed activities that would result in the loss of waters of the U.S. that exceed the listed thresholds to the following aquatic resources if a PCN is not already required by the NWP.

| <b>Aquatic Resource</b>                  | <b>Threshold</b>                                  |
|--|---|
| Non-tidal Wetlands                       | 4,356 square feet (1/10-acre)                     |
| Tidal and Non-Tidal Stream               | 200 linear feet or 3/100-acre (whichever is less) |
| Tidal Wetland                            | 500 square feet                                   |
| Tidal Submerged Aquatic Vegetation (SAV) | 25 square feet                                    |
| Mudflat                                  | 1,000 square feet                                 |
| Intertidal                               | 1,000 square feet                                 |

- B. **Additional PCN Requirement (Federal Projects)**: A PCN is required for any proposed activities that would involve the temporary or permanent occupation of, or alteration of, a federal project (including, but not limited to, a levee, dike, floodwall, channel, anchorage, breakwater, seawall, bulkhead, jetty, wharf, pier, or other work built or maintained but not necessarily owned by the United States). This includes all structures and work in, over, or under a Corps' federal navigation project (FNP) or in the FNP's buffer zone. The buffer zone is an area that extends from the horizontal limits of the FNP to a distance three times the FNP's authorized depth.

The activity may also require review and approval by the Corps pursuant to 33 USC 408 (Section 408 Permission). The applicant may reach out to the points of contact listed here: <https://www.nae.usace.army.mil/Missions/Section-408/> and <https://www.nan.usace.army.mil/Missions/Regulatory/Section-408/> (for activities located within the Lake Champlain watershed) and consult the National Channel Framework mapper: <https://experience.arcgis.com/experience/b413139f18c046009ebcf62abea941dd/page/Map/>. For activities which require a Section 408 permission, verification under an NWP will not be issued prior to the decision the Section 408 permission requires. Any structure or work constructed in an FNP, or its buffer zone shall be subject to removal at the owner's expense prior to any future Corps dredging or hydrographic surveys.

Applicants should contact the Corps Real Estate Division (<https://www.nae.usace.army.mil/Missions/Real-Estate-Division/>) at (978) 318-8585 for work that would occur on or would potentially affect a Corps property (or properties) and/or Corps-controlled easements. Work may not commence on Corps properties and/or Corps-controlled easements until they have received any required

Corps real estate documents demonstrating site-specific permission to perform work.

A PCN is not required if an applicant has previously obtained a Section 408 permission for their proposed activities, or a determination from the Corps that a Section 408 permission is not required for their proposed activities, and the proposed activities qualify for a non-notifying NWP.

- C. Additional PCN Requirement (Wild and Scenic Rivers): A PCN is required under NWP GC 16, Wild and Scenic Rivers, and for: 1) any proposed activities that would be located in and within 1/4-mile up- or downstream of a Wild and Scenic River (WSR) segment, or in tributaries within 1/4-mile of a WSR segment; 2) any proposed activities that would be located in wetlands within 1/4-mile of a WSR segment; and 3) any proposed activities that have the potential to alter free-flowing characteristics in a WSR segment. Applicants should utilize <http://www.rivers.gov/> for the most up-to-date WSR designations.

**Note:** Applicants may coordinate with the Federal agency that has direct management responsibility of the WSR segment or tributary their proposed activity would be within 1/4-mile of prior to submitting a PCN to the Corps. This regional condition does not require a PCN to be submitted if that Federal agency determines that the proposed activity would not adversely affect the subject WSR.

- D. Additional PCN Requirement (Temporary Fills): A PCN is required for any proposed activities that would involve the discharge of temporary fill (33 CFR 323.2(e) and (f)) greater than 1/10-acre to be left in place in non-tidal wetlands for more than one growing season. The growing season is generally defined as April 1 to September 30 (See the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* for more information about determining growing season. <https://www.nae.usace.army.mil/Missions/Regulatory/Jurisdiction-and-Wetlands/Wetland-Delineation-Manual/>).

**Note 1:** The Corps will determine on a case-by-case basis, after evaluating site-specific and activity-specific circumstances whether temporary construction mats proposed for use are considered as temporary fill.

**Note 2:** For linear projects, crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization (33 CFR 330.2(i)). Therefore, each crossing of a water of the U.S., including wetlands could have up to 1/10-acre of temporary fill without requiring the submittal of a PCN. \*Applicants should be aware that the definition of what constitutes a single and complete project per state regulations may differ from the Corps' definition. Applicants should consult with the state in order to determine state requirements. \*

- E. Additional PCN Requirement (Slip Lining): A PCN is required for any proposed activity that involves slip lining a stream crossing that is not currently meeting the stream crossing BMPs found in Regional Condition F (e.g., slip lining and invert-lining).
- F. Additional PCN Requirement (Stream Crossing Standards): A PCN is required for any proposed stream crossing activities that cannot comply with the below “Stream Crossing Best Management Practices (BMPs)” unless the district engineer provides the applicant written verification removing the below requirements.
1. The width of the crossing shall be greater than or equal to 1.2 times the bank full width.
  2. The crossing shall be embedded greater than or equal to 2 feet and/or at least 25 percent of the conveyance’s height.
  3. The crossing shall be constructed with a natural bottom substrate, as applicable.
  4. The crossing shall match the gradient (i.e., slope) of the natural stream channel profile.
  5. The crossing shall meet an openness ratio of greater than 0.82 feet.

Regardless of whether a proposed crossing can implement the above BMPs, the applicant should first coordinate with the appropriate state office to obtain required or recommended alternate stream crossing BMPs, prior to submitting a PCN to the Corps. If a stream crossing is designed to meet the standards required or recommended by the appropriate state agency for which the proposed activity is located within, those standards can serve in-lieu of these BMPs and submittal of a PCN is not required.

**Note:** Below are links to the stream crossing standards/guidelines for those New England states that have published such standards/guidelines. Applicants are highly encouraged to contact their state for additional information regarding those requirements and/or recommendations, as state requirements may be more stringent than the above listed BMPs.

Connecticut: CTDEEP Inland Fisheries Division Habitat Conservation and Enhancement Program’s Stream Crossing Guidelines (<https://portal.ct.gov/-/media/DEEP/fishing/restoration/StreamCrossingGuidelinespdf.pdf>)

Maine: Maine Interagency Stream Crossing Guidelines: (<https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit/>) and CoastWise ([https://www.maine.gov/dmr/sites/maine.gov.dmr/files/inline-files/CoastWiseManualJuly2023\\_updated.pdf](https://www.maine.gov/dmr/sites/maine.gov.dmr/files/inline-files/CoastWiseManualJuly2023_updated.pdf))

Massachusetts: Massachusetts River and Stream Crossing Standards as implemented through 314 CMR 9.06(2)(b).

<https://www.mass.gov/doc/massachusetts-river-and-stream-crossing-standards/download>)

New Hampshire: New Hampshire RSA 482-A (<https://www.gc.nh.gov/rsa/html/L/482-A/482-A-mrg.htm>)

Rhode Island: Regardless of whether a proposed crossing can meet the above BMP's, all wetland and watercourse crossings in Rhode Island are evaluated on a site-by-site basis that account for on-site environmental characteristics by the state. For freshwater crossings, please contact them using the following link: <https://dem.ri.gov/environmental-protection-bureau/customer-and-technical-assistance/pre-application-meetings>. If a proposed crossing is within the coastal zone and under the jurisdiction of CRMC, please contact them using the following link: <https://www.crmc.ri.gov/contact.html>.

Vermont: *Vermont Stream Alteration Rule and General Permit* available at <https://dec.vermont.gov/watershed/rivers/river-management#rules>.

G. Aquaculture: Applicants proposing new aquaculture operations or modifications of existing aquaculture operations are required to coordinate with the appropriate U.S. Coast Guard (USCG) Sector for siting review, Navigation Risk Assessment (NRA), and navigation risk mitigation needs.

1. Coordination with the USCG can be completed by contacting via email:

Sector Northern New England: (Maine, New Hampshire, Vermont, and Northeastern New York, Lake Champlain) [D01-SMB-SecNNE-Waterways@uscg.mil](mailto:D01-SMB-SecNNE-Waterways@uscg.mil)

Sector Boston: (New Hampshire border southward to Plymouth, Massachusetts) [D01-SMB-SECBOSWaterways@uscg.mil](mailto:D01-SMB-SECBOSWaterways@uscg.mil)

Sector Southeastern New England: (Rhode Island and Southeastern Massachusetts, Cape Cod, and Islands) [SENEWWM@uscg.mil](mailto:SENEWWM@uscg.mil)

Sector Long Island Sound: (New York to Connecticut border at Port Chester, Connecticut to Rhode Island border at Watch Hill) [SECLISSPVMarineEvent@uscg.mil](mailto:SECLISSPVMarineEvent@uscg.mil)

Sector New York: (Sandy Hook, New Jersey north through Port of New York/New Jersey, Hudson River to Whitehall, NY (south of Lake Champlain) [D01-SMB-SecNY-Waterways@uscg.mil](mailto:D01-SMB-SecNY-Waterways@uscg.mil)

The applicant shall provide the following information to facilitate completion of the NRA: applicant name/company affiliation, license/lease type (commercial, research, shellfish, kelp, new or modified), nautical chart, detailed drawing with

dimensions, time of year, potential lighting/markings, types/materials of structures in water, planned anchoring, cultivation techniques (number of weekly/monthly visits, vessel tending/type), and any other significant information.

If the applicant receives a medium or high-risk assessment, they shall coordinate with the Corps and apply safety risk mitigations. The USCG will refer the project to the Corps unless the Corps makes the determination that it may proceed.

Any safety lights and signals prescribed by the USCG, through regulations or otherwise, must be installed and maintained at the permittee's expense. For required permitting, the applicant shall contact USCG First District Private Aid Program Manager through [D01-SMB-D01PrivateAtoN@uscg.mil](mailto:D01-SMB-D01PrivateAtoN@uscg.mil). Only actual AtoNs are permitted; floats, balls, markers, mooring balls and 'highflier flags' are not considered Aids to Navigation (AtoN). See: <http://www.usharbormaster.com>.

Applicants shall notify NOAA's National Ocean Service (NOS) Nautical Data Branch Office of Coast Survey to initiate chart and Coast Pilot corrections. See: <https://nauticalcharts.noaa.gov/>. Applicants must also notify NOAA on removal. See Note 2.

2. For marine safety information during construction or other significant periods, applicants may use the First District's Marine Safety Information form and email to: [D01-SMB-LNM@uscg.mil](mailto:D01-SMB-LNM@uscg.mil).

**Note 1:** If a PCN is required, applicants shall include documentation of all required coordination with their PCN.

**Note 2:** For nautical chart and coast pilot updates, activities owners should use the status report form at <https://nauticalcharts.noaa.gov/charts/docs/charts-updates/USACE+Permit+Status+Report.pdf>. For aquaculture activities owners should use: <https://nauticalcharts.noaa.gov/charts/docs/charts-updates/Artificial+Reef+Aquaculture+Status+Report.pdf> to notify the Office of Coast Survey of the project completion. The form should be emailed to [ocs.ndb@noaa.gov](mailto:ocs.ndb@noaa.gov) and should include a copy of as-built drawings.

- H. Hydrology: Permanent wetland crossings shall be constructed in such a manner as to prevent excessive ponding or drying on either side of the authorized crossing after completion of the work. Measures shall be taken to maintain the existing hydrology. Such measures may include road cross drains such as culverts that are appropriately sized and placed at intervals to maintain the existing hydrology of the contiguous wetland.
- I. Compensatory Mitigation: In addition to the requirements of NWP GC 23, Mitigation, compensatory mitigation requirements for unavoidable impacts to waters of the U.S. will be evaluated in accordance with the latest version of the *New England District Compensatory Mitigation Standard Operating Procedures* (<https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>).

- J. Essential Fish Habitat: Essential Fish Habitat (EFH) is defined as those waters and substrates necessary to fish for spawning, breeding, feeding or growth to maturity (16 U.S.C. 1802).

The following NWP's have been determined to result in no more than minimal adverse effects, provided the permittee complies with all terms and conditions of the NWP as applicable to the activity, including all activity thresholds and activity-specific Conservation Recommendations (CRs) identified in the current EFH and Fish and Wildlife Coordination Act (FWCA) Programmatic Consultation (<https://www.nae.usace.army.mil/Missions/Regulatory/Essential-Fish-Habitat/>). The National Marine Fisheries Service (NMFS) has granted General Concurrence (50 CFR 600.920(g)) for the below listed NWP's, and these activities do not require activity-specific EFH consultation.

| <b>Nationwide Permit</b>  | <b>Authorized Activities with General Concurrence</b>   |
|---|---|
| NWP's:<br>1, 4, 5, 6, 9, 10, 11,<br>15, 16, 19, 20, 27,<br>28, 32, 35, & 41 | All authorized activities   |
| NWP 3   | Parts (a) and (c) (i.e., non-notifying)   |
| NWP 12  | Section 404 only activities that do not result in the loss of greater than 1/10-acre and is not a new pipeline greater than 250 miles (i.e., non-notifying)   |
| NWP 13  | Activities less than 500 linear feet in length with a discharge of less than one (1) cubic yard per running foot below the ordinary high water mark or high tide line, and no discharges into special aquatic sites (i.e., non-notifying) |
| NWP 14  | Activities less than 1/10-acre with no discharges into special aquatic sites (i.e., non-notifying)  |
| NWP 18  | Activities that discharge less than ten (10) cubic yards of fill material below the plane of the ordinary high water mark or high tide line with no discharges into special aquatic sites (i.e., non-notifying)                           |
| NWP 22  | Activities associated with vessels that are not listed or eligible for listing on the National Register of Historic Places and not located within special aquatic sites (i.e., non-notifying)   |
| NWP 23  | Activities not identified as notifying within Regulatory Guidance Letter 05-07 (i.e., non-notifying)  |
| NWP 33  | Section 404 only activities (i.e., non-notifying)   |
| NWP 36  | Activities that discharge less than 50 cubic yards of fill material and are less than 20 feet wide (i.e., non-notifying)  |

|               |  |
|---------------|--|
| NWP 43        | Activities that do not involve the expansion or construction of a new stormwater management facility (i.e., non-notifying)   |
| NWP 48        | Activities that are not the installation of a new operation and do not directly affect greater than 1/2-acre of submerged aquatic vegetation (i.e., non-notifying) |
| NWPs: 51 & 60 | Activities that do not result in the loss of greater than 1/10-acre (i.e., non-notifying)  |
| NWP 54        | Maintenance activities (i.e., non-notifying)   |
| NWPs: 57 & 58 | Section 404 only activities that do not result in the loss of greater than 1/10-acre (i.e., non-notifying)   |

For non-federal applicants whose proposed activities would be located within EFH and that do not require a PCN per the language of the NWP or per any other general or regional condition (i.e., non-notifying), the applicant shall review the current EFH and FWCA Programmatic Consultation (<https://www.nae.usace.army.mil/Missions/Regulatory/Essential-Fish-Habitat/>) to ensure their proposed activity complies with all applicable CRs.

1. A PCN is required for any proposed project that would exceed the activity thresholds that are included within the current EFH and FWCA Programmatic Consultation. Any proposed project that exceeds an activity threshold requires preliminary coordination/project-specific consultation.
2. For all activities that do not exceed the activity-based thresholds included within the current EFH and FWCA Programmatic Consultation, the project proponent shall implement the activity-specific applicable CRs. If the applicable CRs cannot be implemented, a PCN must be submitted to the Corps, and work may not commence until the Corps verifies the project under the applicable NWP(s).

Federal applicants should follow their own procedures for compliance with the Magnuson-Stevens Fishery Conservation and Management Act and Fish and Wildlife Coordination Act.

**Note 1:** For activities proposed for authorization by an NWP that requires the submittal of a PCN, applicants are encouraged to review the current EFH and FWCA Programmatic Consultation and design their proposed activities with the activity-based thresholds and incorporate applicable CRs.

**Note 2:** Applicants can utilize the NMFS EFH mapper to determine if their proposed activities are located within EFH: <https://www.habitat.noaa.gov/apps/efhmapper/>. Applicants can also utilize the current EFH and FWCA Programmatic Consultation (<https://www.nae.usace.army.mil/Missions/Regulatory/Essential-Fish-Habitat/>) for guidance on non-tidal waterbodies with diadromous fish.

- K. Invasive Species: The introduction, spread, or the increased risk of invasion of invasive plant or animal species on the project site, into new or disturbed areas, or into areas adjacent to the project site caused by the site work shall be avoided. Native, non-invasive vegetation must be used unless otherwise authorized by the Corps, and shall not contain any species listed in Appendix K (“Invasive and Other Unacceptable Plant Species”) of the current *New England District Compensatory Mitigation Standard Operating Procedures* located at: <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>. Equipment shall be thoroughly cleaned before and after project construction to prevent the spread of invasive species. This includes, but is not limited to, tire treads and construction mats. Information about how to avoid the spread of invasive species can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/Invasive-Species>.
- L. NWP Documentation On-Site: The permittee shall ensure that a copy of their verification letter (for notifying NWP) and applicable NWP with all applicable GCs and RCs are at the worksite whenever work is being performed, and that all personnel performing work are fully aware of its terms and conditions.
- M. Abandonment: If the permittee decides to abandon the activity authorized by an NWP, unless such abandonment is merely the transfer of property to another party, the permittee may be required to restore the area to the satisfaction of the Corps.

### **State-Specific Regional Conditions**

The following RCs apply to all applicable NWP in the **State of Connecticut**:

- N. Regional Condition N is reserved for the State of Connecticut.

The following RCs apply to all applicable NWP in the **State of Maine**:

- O. Additional PCN Requirement and Time-of-Year Windows and Restrictions: In-water work (including physical alterations) within non-tidal and tidal waters, shall be conducted during the following time-of-year (TOY) work windows (see below table). Approval to work outside the TOY work windows must be obtained from the Maine Department of Inland Fisheries and Wildlife (IFW) using the form located at: <https://www.maine.gov/dep/land/permits/pbr/index.html> for work in non-tidal waters or from the Maine Department of Marine Resources (DMR): <https://www.maine.gov/dep/land/permits/pbr/index.html> for work in tidal waters. If in-water work cannot be completed during the TOY work window or approval to work outside the TOY work window from IFW or DMR is not obtained, then the project requires a PCN and written verification removing the below requirements. If a PCN is required, due to NWP thresholds and/or other general and/or regional conditions, then the state’s approval for working outside the TOY restriction shall be submitted with the PCN.

|                  | <b>TOY Work Restriction</b> | <b>TOY Work Window</b>  |
|------------------|-----------------------------|-------------------------|
| Non-Tidal Waters | October 2 to July 14        | July 15 to October 1    |
| Tidal Waters     | April 16 to November 14     | November 15 to April 15 |

Any proposed activity located in waters of the U.S. (excluding wetlands) shall be completed entirely “in-the-dry” or be isolated from active flows/the water column using temporary measures (i.e., cofferdams, sandbags, flume pipes, etc.) to the maximum extent practicable. The term “in-the-dry” means work that is done under dry conditions, e.g., work behind cofferdams or when the stream or tide is waterward of the work.

- P. Additional PCN Requirement (Saint John and Saint Croix River basins): A PCN is required for any proposed work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission. In addition, a PCN is required if any temporary or permanent use, obstruction, or diversion of international boundary waters could affect the natural flow or levels of waters on the Canadian side of the boundary; or if any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters could raise the natural level of water on the Canadian side of the boundary.
- Q. Additional PCN Requirement (NWP 48, Commercial Shellfish Mariculture Activities): A PCN is required for any activities proposed under NWP 48 that would install gear for a commercial shellfish operation within a site greater than 5 acres in size.
- R. Additional PCN Requirement (Important or Rare Resources): A PCN is required for any proposed discharges of dredged or fill material within any of the following aquatic resources or resource types identified as specifically important or rare within the State of Maine which warrant additional protections:
1. Lakes and tributaries that support arctic char and lake whitefish; or
  2. Bogs and fens

The following RCs apply to all applicable NWPs in the **Commonwealth of Massachusetts**:

- S. Regional Condition S is reserved for the Commonwealth of Massachusetts.  
T. Regional Condition T is reserved for the Commonwealth of Massachusetts.

The following RCs apply to all applicable NWPs in the **State of New Hampshire**:

- U. Regional Condition U is reserved for the State of New Hampshire.

The following Regional Conditions apply to all applicable NWP's in the **State of Rhode Island**:

V. Regional Condition V is reserved for the State of Rhode Island.

The following Regional Conditions apply to all applicable NWP's in the **State of Vermont**:

W. Regional Condition W is reserved for the State of Vermont.

X. Regional Condition X is reserved for the State of Vermont.