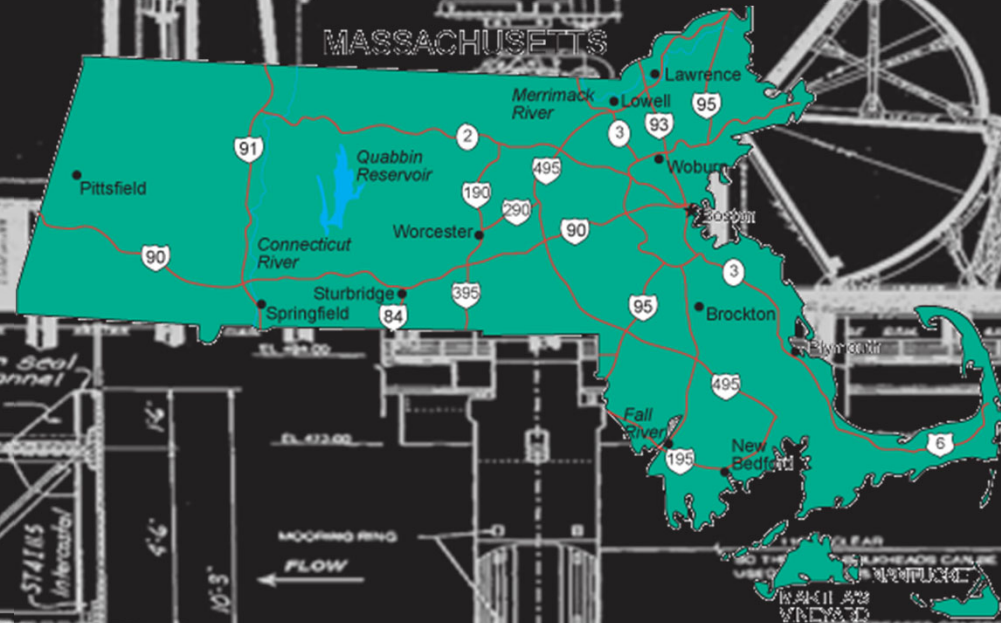


U.S. ARMY CORPS OF ENGINEERS NEW ENGLAND DISTRICT (CENAE) REGULATORY DIVISION

PAUL MANICCIA
CHIEF, MASSACHUSETTS SECTION

MA GPs OUTREACH EVENT

FEBRUARY 27, 2024



U.S. ARMY



US Army Corps
of Engineers®
New England District



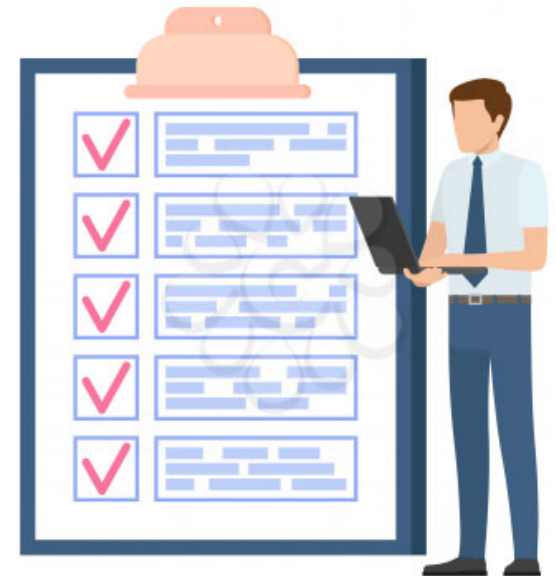
TOPICS WE WILL COVER IN TODAY'S MEETING

Paul Maniccia

2



- USACE program authorities/jurisdiction/related laws
- 2023 Massachusetts General Permits overview
- Compliance with other laws
- Changes from 2018 General Permits
- Incomplete applications
- Regulatory Request System





MEETING FORMAT AND GROUND RULES

Beth Gosselin



- 8 presentations today and time after each for questions
- Please keep cameras off and microphones on mute.
- We will do our best to address the questions asked today, but we may need to get back to you with additional information.
- Please state your name and business/agency (if you are an official representative) before making a comment or asking a question.
- You may use the chat function throughout the presentations to ask questions or make a comment.



USACE REGULATORY PROGRAM AUTHORITIES

Paul Maniccia



4

Section 404 - Clean Water Act of 1972 (CWA)
Regulates discharges of dredged & fill material in waters of the U.S.

Section 10 - Rivers and Harbors Act of 1899 (RHA)
Regulates work in, over or under navigable waters of the U.S. and structures affixed to the seabed on the outer Continental Shelf.

Section 14 - RHA (aka Section 408)
USACE must grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, federal navigation project, or other work built by the United States.

Section 103 - Marine Protection, Research & Sanctuaries Act (MPRSA)
Regulates transportation of dredged material for ocean disposal.



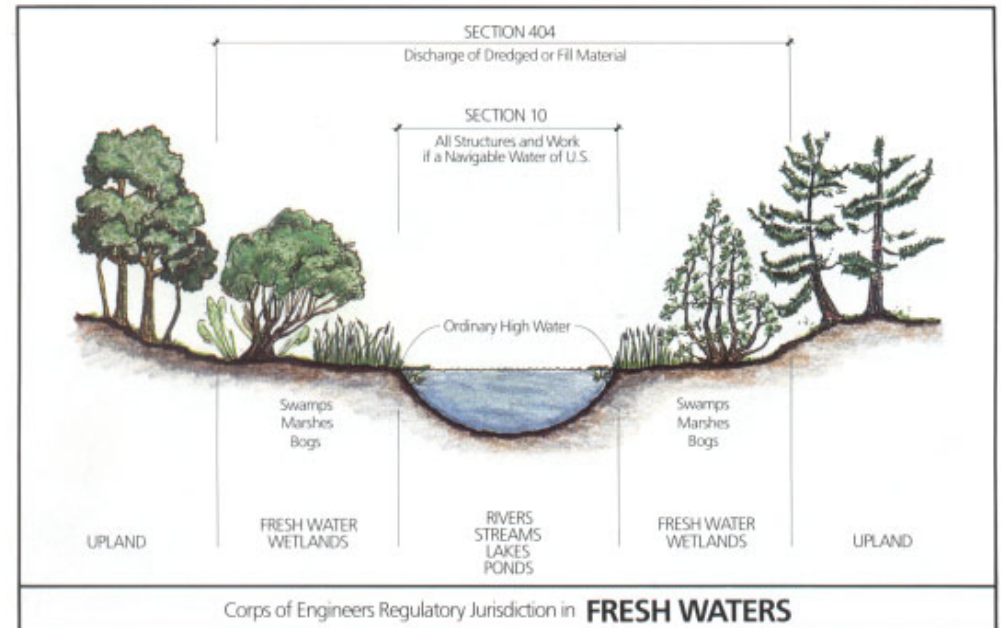
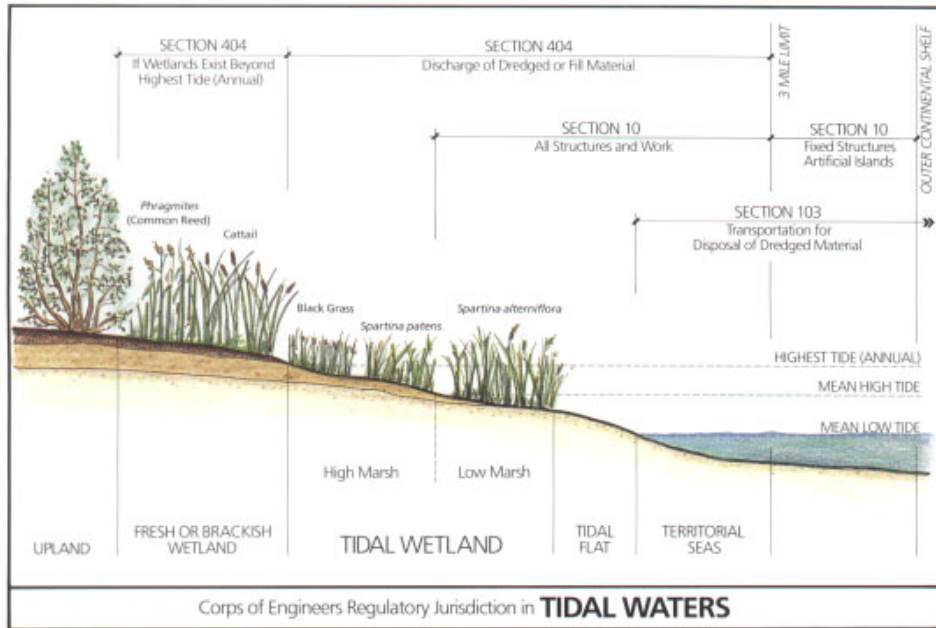


USACE REGULATORY PROGRAM JURISDICTION

Paul Maniccia



These are the limits of USACE jurisdiction in tidal and non-tidal waters





USACE REGULATORY PROGRAM RELATED LAWS & REGULATIONS

Paul Maniccia

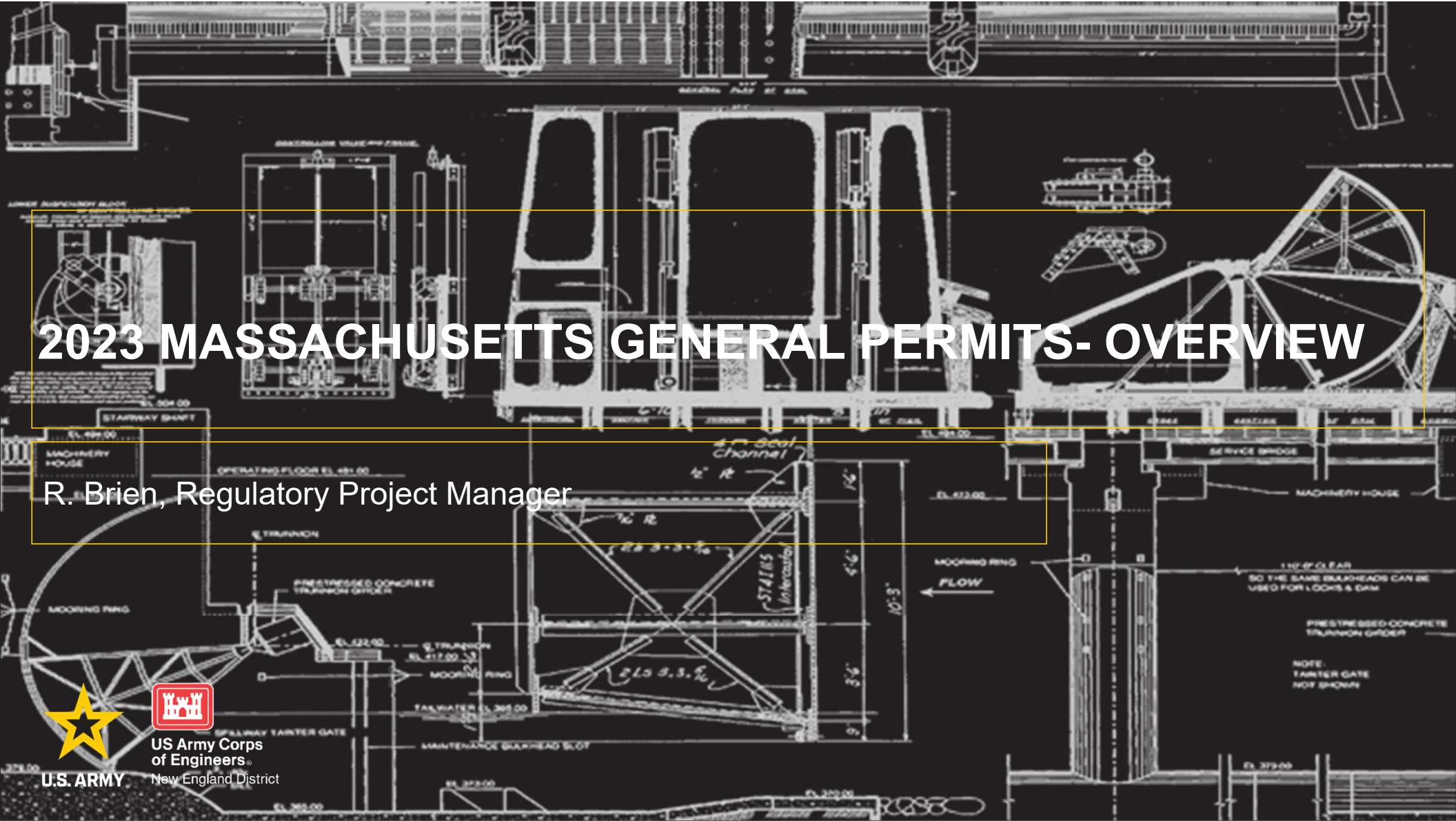


- National Environmental Policy Act (NEPA)
- Wild and Scenic Rivers Act
- National Historic Preservation Act (NHPA)
- Endangered Species Act (ESA)
- Magnuson-Stevens Fishery Conservation & Management Act (EFH)



2023 MASSACHUSETTS GENERAL PERMITS- OVERVIEW

R. Brien, Regulatory Project Manager





U.S. ARMY

MA GENERAL PERMITS (GPs)

R. Brien



<https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>

General Permit No.: NAE-2022-02649
Applicant: General Public, Commonwealth of Massachusetts

Final Effective Date: June 2, 2023
Expiration Date: June 1, 2028

Department of the Army
General Permits for the Commonwealth of Massachusetts

The New England District of the U.S. Army Corps of Engineers (USACE) hereby issues twenty-five (25) regional general permits (GPs) for activities subject to USACE jurisdiction in waters of the U.S., including wetlands, navigable waters within the Commonwealth of Massachusetts and adjacent ocean waters to the seaward limit of the outer continental shelf. The Massachusetts GPs (hereafter referred to as the MA GP or GP) are issued in accordance with USACE regulations at 33 CFR 320 – 332 [see 33 CFR 325.5(c)(1)]. These GPs establish criteria and contain permit conditions to ensure that the authorized activities have no more than minimal individual and cumulative adverse impacts to the environment.



U.S. ARMY

MA GENERAL PERMITS (GPs)

R. Brien



25 Activity-Based General Permits

Proposed work can involve more than one general permit.

If so, must look at terms for each GP activity.

Proposal must be a single and complete project.

General Permits

1. Aids to Navigation and Temporary Recreational Structures
2. Maintenance
3. Moorings
4. Structures in Navigable Waters of the U.S.
5. Boat Ramps and Marine Railways
6. Utility Lines, Oil or Natural Gas Pipelines, Outfall Or Intake Structures, and Appurtenant Features
7. Dredging, Disposal of Dredged Material, Beach Nourishment, Rock Removal and Rock Relocation
8. U.S. Coast Guard Approved Bridges
9. Bank and Shoreline Stabilization
10. Aquatic Habitat Restoration, Enhancement, and Establishment Activities
11. Fish and Wildlife Harvesting and Attraction Devices and Activities
12. Response Operations, Oil and Hazardous Substances
13. Cleanup of Hazardous and Toxic Waste
14. Scientific Measurement Devices
15. Survey Activities
16. Land and Water-Based Renewable Energy Generation Facilities and Hydropower Projects
17. Residential, Commercial and Institutional Developments, and Recreational Facilities
18. Aquaculture
19. Mining Activities
20. Living Shorelines
21. Agricultural Activities
22. Reshaping Existing Drainage Ditches, Construction of New Ditches, and Mosquito Management
23. Linear Transportation Projects and Wetland/Stream Crossings
24. Temporary Construction, Access, and Dewatering
25. Emergency Situations



MA GENERAL PERMITS (GPs)

R. Brien

10



Three Levels of Permits

- **Self-Verifications (SV):**
 - **Least impacts**
 - **GP**
 - **Applicant/agent certifies & submits documentation**
- **Pre-Construction Notifications (PCN):**
 - **Low impacts**
 - **GP**
 - **Applicant/agent submits documentation**
 - **USACE must issue written verification**
- **Standard Permits (SP) - Letter of Permission (LOP) or Individual Permit (IP):**
 - **Higher impacts.**
 - **Not GP.**
 - **Applicant/agent submits application.**
 - **USACE public notice and public interest review**
 - **USACE must issue permit.**



MA GENERAL PERMITS (GPs)

R. Brien

11



MA GP Procedure Changes

- Why have procedures changed - especially for SV process?
- USACE developed tools to help public **self-regulate while ensuring compliance with GPs & other related laws.**
- **Advantage (SVNs) - Applicant submits evidence of compliance with other required laws so more likely to be accurate.**
- **Advantage (SVNs) - Applicant not required to submit SVN forms before commencing work.**
- **Caution - Make sure SVN submittal accurate. Avoids work stoppage for a PCN if incorrect.**
- **Advantage - More complete PCN submittal helps with processing time.**

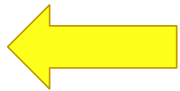


Determining Level of Permit Required - Step 1

- Look at GP for each activity.
- Check criteria for SV/PCN/IP.



<p>GP 4. STRUCTURES IN NAVIGABLE WATERS OF THE U.S. (Authority: §10 & §404)</p> <p>New, expansions, reconfigurations or modifications of structures for navigational access in waters of the U.S. including but not limited to temporary/seasonal or permanent pile and pole-supported piers, floats, stairs, shore outhauls, and boat and float lifts.</p> <p>Not authorized under GP 4 (IP required): (a) Structures associated with a new boating facility; (b) Structures in a USACE Federal anchorage or channel; or (c) Artificial reefs.</p>	
<p>Self-Verification Eligible</p> <ol style="list-style-type: none"> Private, non-commercial piers, floats and lifts that meet all the following terms: <ol style="list-style-type: none"> Piers and floats in: (i) Tidal waters total ≤600 SF combined; and (ii) Non-tidal navigable waters of the U.S. total ≤600 SF combined; and Piers are ≤4 feet wide and ≥6 feet above the marsh substrate (the height is measured from the marsh substrate to the bottom of the lowest longitudinal support); and Floats and lifts in tidal waters and non-tidal navigable waters of the U.S. are ≥24 inches above the substrate during all tidal cycles. Float stops are preferred when site conditions warrant them (i.e., low tide exposes substrate), and skids can only be used in areas where piles are not feasible and on sandy or hard bottom substrates; and Piers, floats and lifts: (i) Are ≥25 feet from previously mapped or existing vegetated shallows, or riparian property line extensions; (ii) Extend ≤25% of the waterway width in non-tidal navigable waters of the U.S. or MHW in tidal navigable waters of the U.S. Installation of ≤12-inch diameter timber piles. Installation of ≥12-inch diameter piles of any material type when installed in the dry. Fenders and similar structures. 	<p>Pre-Construction Notification Required</p> <ol style="list-style-type: none"> Shore outhauls. Expansions, modifications, or new reconfiguration zones at any authorized boating facility. New, expansions, reconfigurations, reconfiguration zones, or modifications of structures that provide public, community or government recreational uses such as boating, fishing, swimming, access, etc. Installation of steel piles, including steel sheet piles, that cannot be done in the dry and where NOAA-ESA listed species are mapped as present. Located within the buffer zone of the horizontal limits of an FNP (GC 15). Miscellaneous structures. Impacts in tidal vegetated shallows. Structures that are not SV eligible and do not require an IP.





U.S. ARMY

MA GENERAL PERMITS (GPs)

R. Brien

13



Determining Level of Permit Required - Step 2 46 General Conditions (GCs)

Project must comply with ALL applicable GCs

Some GCs determine SVN vs. PCN

1. Other Permits
2. Federal Jurisdictional Boundaries
3. Single and Complete Projects
4. Use of Multiple GPs
5. Suitable Material
6. Tribal Rights
7. Avoid, Minimize, Compensate
8. Water Quality
9. Coastal Zone Management
10. Endangered Species
11. Essential Fish Habitat
12. National Lands
13. Wild & Scenic Rivers
14. Historic Properties
15. USACE Property
16. Navigation
17. Permit On-Site
18. Seasonal Structures
19. Pile Driving & Removal
20. Time of Year Restrictions
21. Heavy Equipment
22. Temp Fill /Construction Mats
23. Restoration of Wetland Areas
24. Bank Stabilization
25. Soil Erosion Controls
26. Aquatic Life Movements
27. Spawning, Breeding Areas
28. Vernal Pools
29. Invasive Species
30. Fill in 100 Year Floodplain
31. Stream Crossings
32. Utility Line Install and Remove
33. Water Supply Intakes
34. Coral Reefs
35. Blasting
36. Inspections
37. Maintenance
38. Property Rights
39. Transfer of GPs
40. Modification, Suspension
41. Special Conditions
42. False or Incomplete Information
43. Abandonment
44. Enforcement Cases
45. Previously Authorized Activities
46. Duration of Authorization



MA GENERAL PERMITS (GPs)

R. Brien

14



SVN PROCEDURES

If applicant/agent determines project eligible for SV:

- SVN must be completed **PRIOR** to commencing work
- Must submit **within 30 days of starting work**
- Must be kept on-site during construction
- Along with SVN form, need to submit plans and other documentation
- Digital submittals preferred. Send to cenae-r-ma-sv@usace.army.mil
- USACE can receive emails up to 25 MB. Try to keep to 10 MB (flatten plans, etc.)
- USACE cannot use commercial file transfer sites. If too big request transfer link.
- **If incomplete/inaccurate, USACE may require PCN. Don't want this!**



MA GENERAL PERMITS (GPs) SVN FORMS

R. Brien

15



FINDING SVN FORM

<https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>

Need to find link to SVN form.

If just download 2023 MA GPs document, SVN form is not fillable.

Need fillable form because drop-down choices on page 2 that must be filled out



Self-Verification submittals shall be sent to the following: cenae-r-ma-sv@usace.army.mil

Additional information regarding submission procedures may be found here.

General questions and inquiries about the Regulatory Program?

Call: (978) 318-8338

Email: cenae-r-ma@usace.army.mil

Massachusetts General Permit

- Massachusetts General Permits (MA GPs) – June 2023
- Pre-Construction Notification (PCN) (Appendix B)
- Self-Verification Notification (SVN) (Appendix C)
- Pre-Construction Notification Application Checklist (Appendix D)
- ENG 4345 (needed for IP applications)
- Certificate of Compliance (6-9-2023)



MA GENERAL PERMITS (GPs) SVN FORMS

R. Brien



SVN FORM

Need to fill out ALL fields (except Block 20 - only for aquaculture)

Email addresses- do everything digitally now

GP activity numbers changed from 2018

Project impact square footages

Duration- temporary or permanent

Block 19 and Block 21b- **drop-down boxes**

Block 22 – If another federal agency funding and/or permitting project then “yes”

COMPLIANCE WITH FEDERAL REGULATIONS & SUPPLEMENTAL INFORMATION			
19. DUE DILIGENCE <i>(see instructions)</i>			
Complete the entries below to document compliance with the following Federal requirements. Construction may NOT begin if a PCN is/may be required, and you must contact USACE to determine permitting requirements. Documentation that demonstrates how the activity complies with each field below shall be submitted to the USACE as noted in the instructions block. See each General Condition (GC) in the GP for how to comply with each requirement.			
a. State Historic Preservation Officer	Select Option		▼
b. Massachusetts BUAR	Select Option		▼
c. Tribal Historic Preservation Officers	Select Option		▼
d. Endangered Species Act - NOAA	Select Option		▼
e. Endangered Species Act - USFWS	Select Option		▼
f. Northern Long Eared Bat (ESA)	Select Option		▼
g. Essential Fish Habitat	Select Option		▼
h. Wild & Scenic Rivers	Select Option		▼
i. 401 Water Quality Certification 401	Select Option		▼
	401 WQC/OOC File Number:	OOC issued:	401 issued:
j. Section 408 Permission	Select Option		▼
k. Coastal Zone	Select Option		▼
l. Construction Mats	Select Option		▼
m. Time of Year Restrictions	Select Option		▼
n. Vernal Pools	Select Option		▼
o. Sediment & Erosion Controls	Select Option		▼
p. Stream/Wetland Crossings	Select Option		▼



MA GENERAL PERMITS (GPs) SVN FORMS

R. Brien



SVN FORM (continued)

Block 23 - Both applicant and agent should date and sign

Block 24 - Applicant or agent must date and sign

Page 4 of SVN form - Detailed instructions for each block

If form not filled out correctly, then incomplete & project not covered by SV

23. STATEMENT OF AUTHORIZATION *(see instructions)*
 I certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT	DATE	SIGNATURE OF AGENT	DATE

24. SIGNATURES *(see instructions)*
 I hereby certify that the information in this Self-Verification Notification is complete and accurate. As the applicant or their duly authorized agent, I certify the activity was completed in accordance with the terms and conditions of the GP. This includes all applicable terms, general conditions, and activity-specific GP criteria. I agree to allow the duly authorized representatives of the Corps of Engineers Regulatory Program and other regulatory or advisory agencies to enter upon the premises of the project site at reasonable times to evaluate inspect and photograph site conditions. This consent to enter the property is superior to, takes precedence over, and waives any communication to the contrary. For example, if the property is posted as "no trespassing" this consent specifically supersedes and waives that prohibition and grants permission to enter the property despite such posting.

SIGNATURE OF APPLICANT	DATE	SIGNATURE OF AGENT	DATE

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



MA GENERAL PERMITS (GPs)- PCN REVIEW TIMEFRAME

R. Brien



What is USACE doing during the 60+ days of PCN review time?

Interagency coordination (2-week comment period):

- Environmental Protection Agency (EPA)
- Massachusetts Coastal Zone Management (MA CZM)
- Massachusetts Division of Marine Fisheries (MA DMF)
- Massachusetts Department of Environmental Protection (Mass DEP)



MA CZM consistency determination:

- For tidal PCNs, MA CZM has to confirm general consistency determination.
- Can also request individual consistency certification.

401 Water Quality Certificate (WQC):

- USACE cannot issue permit without WQC.
- USACE sets Reasonable Period of Time for review with Mass DEP.
- If no agreement defaults to 6 months. Cannot exceed 1 year.
- After issued USACE sends to EPA for 30 day “neighboring jurisdiction determination.”





MA GENERAL PERMITS (GPs)- PCN REVIEW TIMEFRAME

R. Brien



Endangered Species Act (ESA) consultation:

- Up to 60 days for U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) to concur once USACE sends informal consultation letter.

Essential Fish Habitat (EFH) consultation:

- 30 days for NMFS to provide Conservation Recommendations (CRs) after USACE sends worksheet.
- 30 days for USACE response to CRs & must wait 10 days to issue permit.

Sec 106 NHPA/Tribal consultation:

- USACE no adverse effect determination letter - MHC/Tribes have 30 days to respond.
- USACE adverse effect determination- must resolve through Memorandum of Agreement (MOA). No set period of time but usually months.
- If tribal concerns with project enter into consultation. No set timeframe.





MA GENERAL PERMITS (GPs)- PCN REVIEW TIMEFRAME

R. Brien



What is USACE doing during the 60+ days of PCN review time?

- Wild and Scenic Rivers – If applicable, must coordinate with the National Park Service to ensure project will not adversely affect the resource.
- Section 408 – If project in buffer of a federal project channel or could impact other Civil Works project, must coordinate internally and potentially issue a 408 authorization.





MA GENERAL PERMITS (GPs) PCN PROCEDURES

R. Brien

21



PCN PROCEDURES

If applicant/agent determines project requires a PCN:

- Fill out Pre-Construction Notification Form (Appendix B)
- Submit PCN Checklist (Appendix D)
- Include project plans and all other required documents.
- Digital submittals to cenae-r-ma@usace.army.mil preferred.
- USACE can receive emails up to 25 MB. Try to keep to 10 MB (flatten plans, etc.)
- USACE cannot use commercial file transfer sites. If too big request transfer link.
- Submit at least 90 days before proposed work start date
- USACE PCN processing goal 60 days from complete submittal. However, PCN often incomplete. Also, some agency consultations/required permits make the timeline exceed 60 days.



MA GENERAL PERMITS (GPs) PCN PROCEDURES

R. Brien



PCN Form (Appendix B)

#5, #8: Put in email addresses. Send out permits digitally now

#11: Applicant must sign if designating consultant to handle permitting

#15: Use decimal degrees for location

#22: Impact Table

- Square feet of impacts. Separate by resource: wetlands, waters
- Separate by temporary, permanent under “duration”
- Do not use state Wetland Protection Act terms such as BVW, IVW, LSCF, Coastal Beach, etc.

U.S. Army Corps of Engineers (USACE), New England District (NAE) PRE-CONSTRUCTION NOTIFICATION (PCN)	
DATA REQUIRED BY THE PRIVACY ACT OF 1974	
Authority	Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332.
Principal Purpose	The information provided will be used in evaluating activities under Pre-Construction Notification procedures within New England.
Routine Uses	This information may be shared with other federal, state, and local government agencies during the application review process. Submission of requested information is voluntary. However, if information is not provided the PCN application cannot be fully evaluated nor can USACE render a permit decision.
Instructions	The applicant must complete ALL required sections of this document before their submission to USACE. The PCN submission to USACE shall include one set of drawings which show the location and character of the proposed activity, statements that address each required field below, and documentation that supports each field (e.g., emails, letters, description/narrative, phone calls, surveys, reports, etc.). Electronic submissions to the following address are strongly preferred: cenae-r-ma@usace.army.mil . The email subject line shall contain the following: General Permit #, PCN, City/Town, and date submitted. An application that is not completed in full will be returned.



MA GENERAL PERMITS (GPs) PCN PROCEDURES

R. Brien



PCN Form (Appendix B)

#24: If aquatic resource losses exceed mitigation thresholds, need to propose mitigation. This is typically for permanent impacts.

#26-#30: Address questions regarding other federal or state laws, such as: ESA, NHPA, Wild and Scenic Rivers Act, Sec 408, 401 WQC

PCN form pages 4 - 6 give instructions for each block.

U.S. Army Corps of Engineers (USACE), New England District (NAE) PRE-CONSTRUCTION NOTIFICATION (PCN)	
DATA REQUIRED BY THE PRIVACY ACT OF 1974	
Authority	Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332.
Principal Purpose	The information provided will be used in evaluating activities under Pre-Construction Notification procedures within New England.
Routine Uses	This information may be shared with other federal, state, and local government agencies during the application review process. Submission of requested information is voluntary. However, if information is not provided the PCN application cannot be fully evaluated nor can USACE render a permit decision.
Instructions	The applicant must complete ALL required sections of this document before their submission to USACE. The PCN submission to USACE shall include one set of drawings which show the location and character of the proposed activity, statements that address each required field below, and documentation that supports each field (e.g., emails, letters, description/narrative, phone calls, surveys, reports, etc.). Electronic submissions to the following address are strongly preferred: cenae-r-ma@usace.army.mil . The email subject line shall contain the following: General Permit #, PCN, City/Town, and date submitted. An application that is not completed in full will be returned.



MA GENERAL PERMITS (GPs)

R. Brien

24



PCN CHECKLIST (Appendix D)

Section 1: General Information

Section 2: Wetland Delineation

- If wetlands on site need to submit USACE wetland determination forms to support boundaries

Section 3: Avoidance and Minimization

- Need to show how project designed to limit impacts

Section 4: Project Impacts

- Need square footages, cubic yardages
- Permanent vs. temporary



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

APPENDIX D: PCN APPLICATION CHECKLIST

The following information shall be submitted for all PCNs for USACE to properly evaluate your application. Some applications may require more information and this checklist is offered as a tool to assist applicants with submitting a complete application.



MA GENERAL PERMITS (GPs)

R. Brien

25



PCN CHECKLIST

Section 4B/4C: Project Plans

<10 MB (flatten PDFs!)

Plan and cross-section views

Existing conditions and proposed conditions

USACE jurisdictional boundaries

- Tidal: **high tide line (HTL) if fill involved**, mean high water (MHW), mean low water (MLW), mean lower low water (MLLW) if dredging involved. Tidal wetlands, eelgrass, mudflat
- Non-Tidal: ordinary high water (OHW), non-tidal wetlands

Location of any USACE federal navigation projects (FNPs), their buffer zones and distance from proposed work: www.nae.usace.army.mil/missions/navigation **Horizontal buffer zone = 3x the FNP depth**

Piers - Height of structure over salt marsh substrate

Floats - Method of anchoring



US Army Corps
of Engineers®
New England District

APPENDIX D: PCN APPLICATION CHECKLIST

The following information shall be submitted for all PCNs for USACE to properly evaluate your application. Some applications may require more information and this checklist is offered as a tool to assist applicants with submitting a complete application.



U.S. ARMY

MA GENERAL PERMITS (GPs)

R. Brien

26



PCN CHECKLIST

Section 5: Structures

Section 6: Aquaculture

Section 7: Dredging

- Time for sampling plan, suitability determination

Section 8: Wetland/Waterbody Crossings

Section 9: Compensatory Mitigation

- Check thresholds

Section 10: Historic Properties

Section 11: Endangered Species & Essential Fish Habitat

- Submit species lists (USFWS, NOAA) for ESA, EFH mapper results



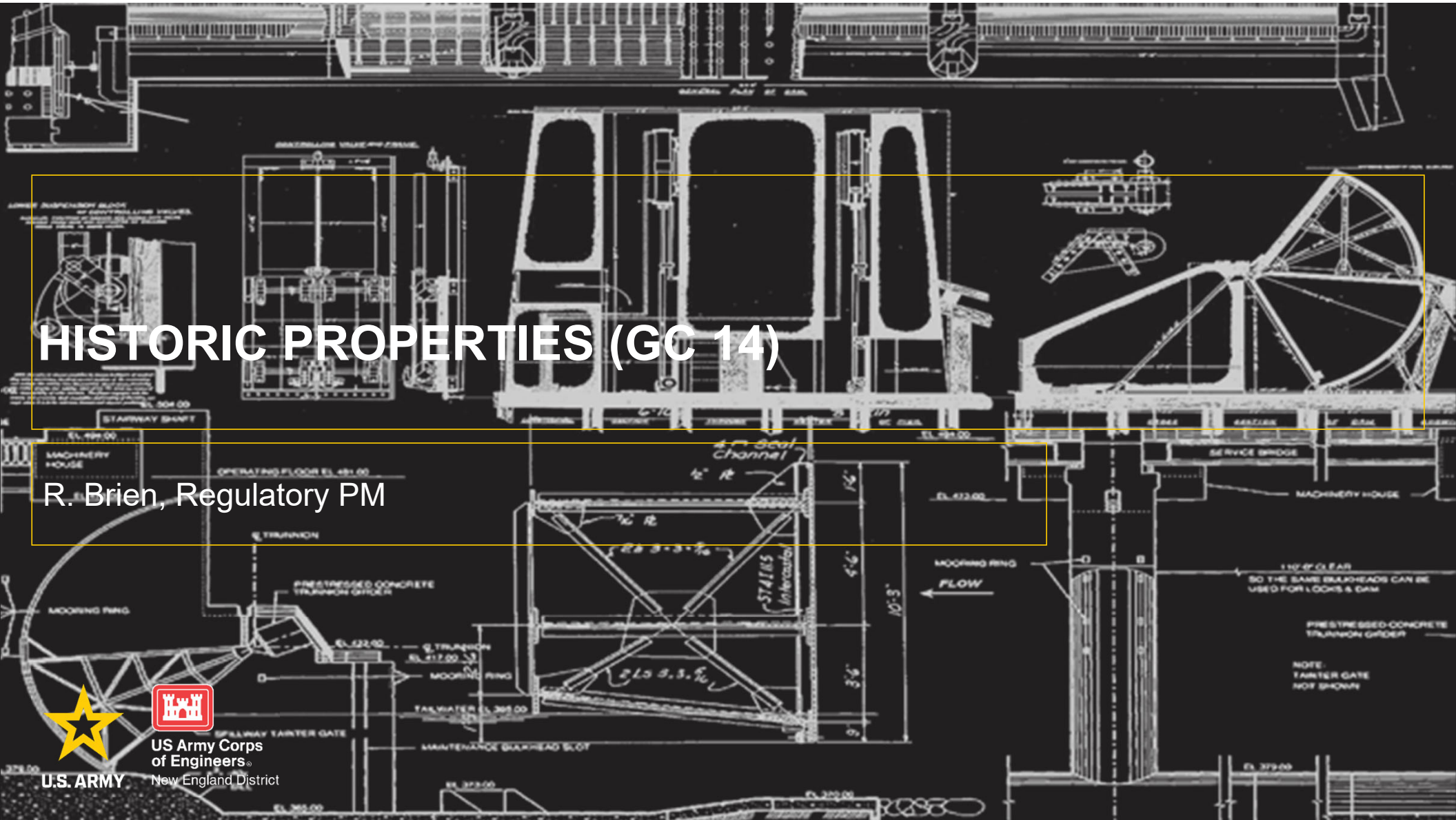
US Army Corps
of Engineers®
New England District

APPENDIX D: PCN APPLICATION CHECKLIST

The following information shall be submitted for all PCNs for USACE to properly evaluate your application. Some applications may require more information and this checklist is offered as a tool to assist applicants with submitting a complete application.

HISTORIC PROPERTIES (GC 14)

R. Brien, Regulatory PM





U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

R. Brien



Section 106 of the National Historic Preservation Act of 1966 (NHPA)

USACE must:

- Consider effects of “undertaking” on properties listed in National Register of Historic Places (NRHP).
- Consider effects on properties eligible for listing in NRHP
- **This includes previously unidentified properties at project site**

State Agencies for Sec 106:

- State Historic Preservation Officer (SHPO) = Massachusetts Historic Commission (MHC)
- Massachusetts Board of Underwater Archaeological Resources (BUAR)
- Tribal Historic Preservation Officers (THPOs). In MA, four federally recognized tribes.



Mashpee Wampanoag Tribe



Narragansett Indian Tribe



Stockbridge-Munsee Community Band of Mohican Indians



Wampanoag Tribe of Gay Head (Aquinnah)



U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

29

R. Brien



USACE potential effect determinations:

No potential to cause effect: No consultation with MHC, MBUAR, and Tribes

No effect: Can use 30-day project notification letters submitted by applicant.

No adverse effect: Send to MHC, MBUAR, and Tribes for 30-day concurrence.

Adverse effect: Have to resolve with a Memorandum of Agreement (MOA). Can take months.



Image: U.S.S. Constitution (National Park Service)



U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

30

R. Brien



General Condition 14

- For SVs & PCNs, applicants follow guidance in Appendix A of MA GPs
- No GP project can cause effects on historic properties unless USACE or another Federal agency has satisfied Section 106.
- If another lead federal agency, applicant must submit documentation to USACE showing 106 compliance & **USACE must confirm.**



Image: North Bridge (National Park Service)



PROJECT EFFECTS ON HISTORIC PROPERTIES

R. Brien



Appendix A in MA GPs

“No Potential to Affect Historic Properties”- Activities USACE determined will have no potential to cause effects. No ground disturbance, < 45 years old, etc. If qualifies, no need to contact MHC, MBUAR, and Tribes. **Read carefully.**



Image: North Bridge (National Park Service)

General Permit	Activity Parameters
1	Temporary buoys, markers and similar structures that are placed during winter events on ice and removed before spring thaw.
2	Repair or rehabilitation of structures that are less than 45 years in age. Any temporary structures or fills or work necessary to complete repairs or rehabilitation must not result in any ground disturbance.
3	Maintenance and replacement of moorings that are less than 45 years in age.
6	Maintenance, repair, replacement, or removal of utility lines, oil or natural gas pipelines, outfall or intake structures, and/or appurtenant features that are less than 45 years in age when all access, staging, and ground disturbance is strictly limited to previously disturbed areas (including any previous ground disturbance). Replacement must be in kind or smaller in size. Installation of tide gates on outfall structures that are less than 45 years in age.
7	Maintenance dredging of previously dredged areas where dredging does not extend beyond the original bottom elevations.

	Disposal of dredged material at an existing established and USACE-approved confined aquatic disposal cell. Beach nourishment in ongoing existing nourishment areas.
11	Fish and wildlife harvesting and attraction devices and activities.
13	Cleanup of hazardous and toxic waste materials, including contaminated sediments, that are less than 45 years in age.
16	Removal of land-based and water-based renewable energy generation facilities and hydropower projects that are less than 45 years in age.
18	Installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures for previously authorized by the USACE and ongoing aquaculture activities. Discharges of dredged or fill material into tidal or non-tidal waters necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities for previously authorized and ongoing aquaculture activities.
20	Maintenance activities for existing living shorelines <u>excluding</u> maintenance activities that require new ground disturbance such as excavation or re-sloping of the bank/shoreline
22	Reshaping or maintenance of existing drainage ditches less than 45 years in age <u>excluding</u> ditch enlargement.
23	Placement of temporary and removable linear transportation and wetland/stream crossings that have no ground disturbance prior to placement, during placement, and during removal (i.e., placed on the surface and subsequently removed within one year of placement).
24	Placement of temporary and removable crossings and cofferdams that have no ground disturbance prior to placement, during placement, and during removal (i.e., placed on the surface and subsequently removed within one year of placement).
25	Emergency repair of existing structures and/or fills less than 45 years in age.



U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

32

R. Brien



Appendix A (continued)

Previously identified historic properties:

- Notify the MHC, BUAR, and appropriate tribes
- Must submit proof of receipt or proof of delivery (certified mail receipt for MHC, email read receipts or delivery receipts for others)
- Include statement “Please send responses to this notification directly to the USACE via email: cenae-r-ma@usace.army.mil or address regular mail responses to: Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751.”
- Even so forward any responses to USACE
- 35-day notification period for mailings, 30 days for emails



Image: U.S.S. Constitution (National Park Service)



U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

33

R. Brien



Appendix A (continued)

Previously unidentified historic properties:

New requirement in 2023 MA GPs

Must evaluate project site and determine sensitivity for the presence of historic properties if project site has not been previously surveyed for cultural resources within past 10 years.

If moderate to high sensitivity, then archaeological survey required.

Low sensitivity indicators:

- Survey last 10 years with negative results
- Location created modern times (fill/excavation < 45 years ago)
- USACE review determines no need for survey.



Image: North Bridge (National Park Service)



PROJECT EFFECTS ON HISTORIC PROPERTIES

R. Brien



SVN FORM: Sec 106 NHPA

19 a. State Historic Preservation Officer (MHC):

Drop-down menu:

- Activity has no potential to affect historic properties
- SHPO notified & did not respond in 30 days
- Another federal agency said no effect
- SHPO responded with concerns (PCN may be required)
- Another federal agency consulted with SHPO. Contact USACE.
- SHPO determined historic properties present (PCN required).

COMPLIANCE WITH FEDERAL REGULATIONS & SUPPLEMENTAL INFORMATION	
19. DUE DILIGENCE (see instructions) Complete the entries below to document compliance with the following Federal requirements. Construction may NOT begin if a PCN is/may be required, and you must contact USACE to determine permitting requirements. Documentation that demonstrates how the activity complies with each field below shall be submitted to the USACE as noted in the instructions block. See each General Condition (GC) in the GP for how to comply with each requirement.	
a. State Historic Preservation Officer	Select Option
b. Massachusetts BUAR	Select Option
c. Tribal Historic Preservation Officers	Per Appendix A, the activity has no potential to affect historic properties.
d. Endangered Species Act - NOAA	Per Appendix A, SHPO was notified and they did not respond with concerns within 30 days.
e. Endangered Species Act - USFWS	Another Federal agency made a no effect determination.
f. Northern Long Eared Bat (ESA)	SHPO responded to the notification with concerns (PCN may be required).
g. Essential Fish Habitat	Another Federal agency consulted with SHPO. Contact USACE.
h. Wild & Scenic Rivers	SHPO determined that historic properties are present (PCN required).
i. 401 Water Quality Certification 401	Select Option

If selected option states "PCN required," stop filling out SVN and fill out PCN form.

19 b. Massachusetts BUAR and 19 c. Tribal Historic Preservation Officers:

Similar drop-down menus

Need to append project notification forms and proof of delivery to SVN submittal.



U.S. ARMY

PROJECT EFFECTS ON HISTORIC PROPERTIES

35

R. Brien



PCN Procedures:

#27 on PCN Form:

- List historic properties that could be affected by project.

PCN Checklist Section 10:

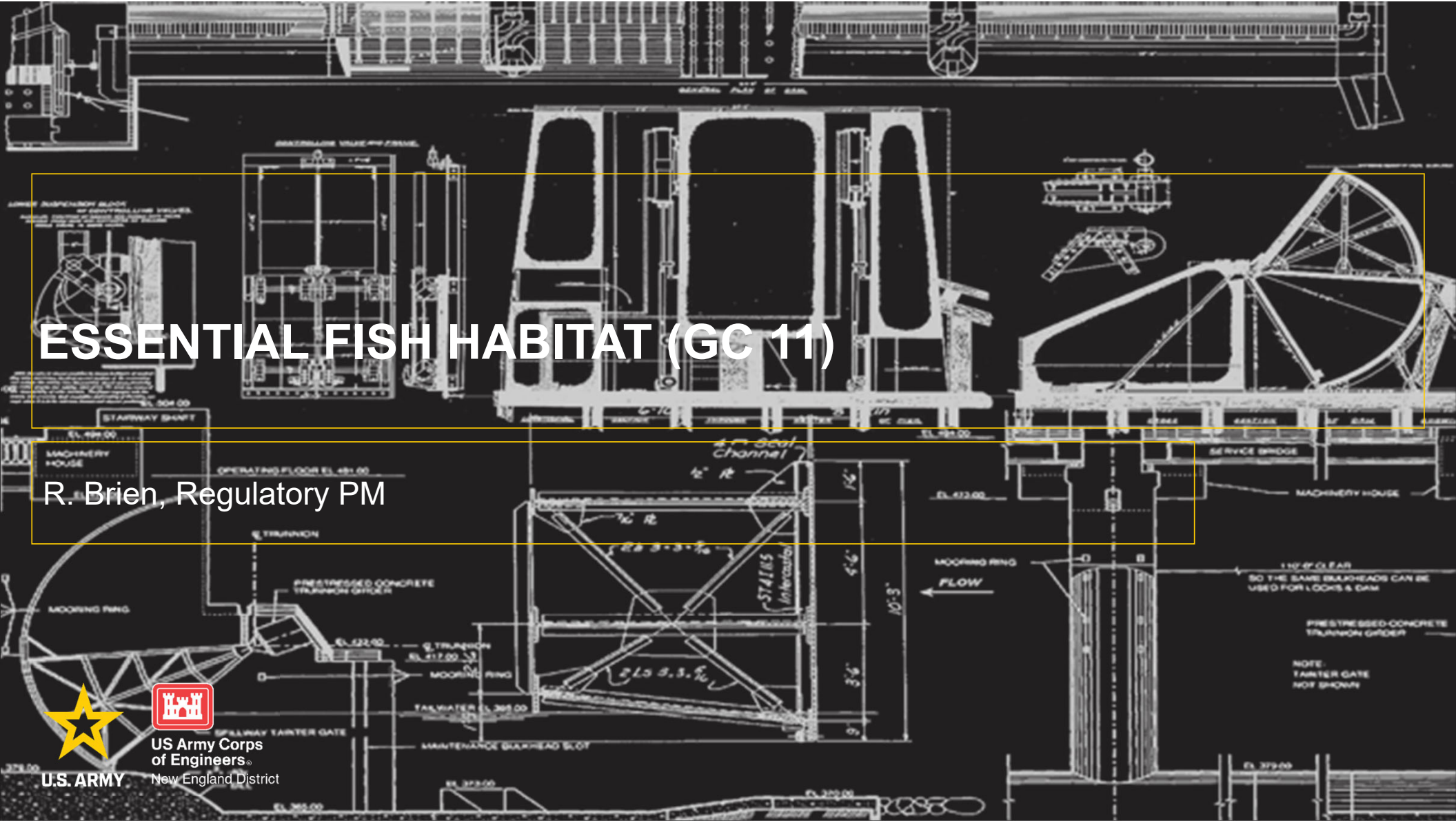
- Include notifications to MHC, MBUAR, and Tribes and any responses with submittal.
- Include any archaeological survey work performed on the site, especially within the last 10 years.
- If low sensitivity for historic properties, explain why.



Image: U.S.S. Constitution (National Park Service)

ESSENTIAL FISH HABITAT (GC 11)

R. Brien, Regulatory PM





MAGNUSON-STEVEN'S FISHERY CONSERVATION AND MANAGEMENT ACT (1976)

R. Brien

37



Protects habitat fish need for:

- Spawning
- Breeding
- Feeding
- Growing to maturity

Essential fish habitat (EFH) for commercially important fish

The [Magnuson–Stevens Fishery Conservation and Management Act](#) is the primary law that governs marine fisheries management in U.S. federal waters. First passed in 1976, the MSA fosters the long-term biological and economic sustainability of marine fisheries. Its objectives include:

- Preventing overfishing
- Rebuilding overfished stocks
- Increasing long-term economic and social benefits
- Ensuring a safe and sustainable supply of seafood
- Protecting habitat that fish need to spawn, breed, feed, and grow to maturity

Under the MSA, U.S. fisheries management is a transparent and public process of science, management, innovation, and collaboration with the fishing industry.

Requires federal agencies to consult with NOAA Fisheries for any action that may adversely affect EFH. Consultation process designed to advise federal agencies to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH.



EFH- GENERAL CONDITION 11

R. Brien

38



SVN:

NMFS has granted a general concurrence for all SV eligible activities.

PCN:

If activity requires PCN and occurs in EFH, applicant needs to provide information to support the EFH consultation.

If work is occurring below the high tide line of tidal waters then EFH is present.

If non-tidal, check waterbody in MA DMF's TR-47.

Applicant needs to use EFH mapper tool to identify fish species that could be present in the project vicinity.



U.S. ARMY

EFH MAPPER

R. Brien

39



NOAA FISHERIES
National Oceanic and Atmospheric Administration

QR code Share link

≡ MENU Essential Fish Habitat Mapper

Welcome to the EFH Mapper start by choosing a council

- Atlantic Highly Migratory Species
- Caribbean
- Gulf of Mexico
- New England / Mid-Atlantic**
- North Pacific
- Pacific
- South Atlantic
- Western Pacific

<https://www.habitat.noaa.gov/apps/efhmapper/>

Esri, TomTom, FAO, NOAA, USGS | NOAA Fisheries, Habitat Conservation - Habitat Protection

Powered by Esri





U.S. ARMY

EFH MAPPER

R. Brien



MENU

Essential Fish Habitat Mapper

New England / Mid-Atlantic

View Legend

Contents

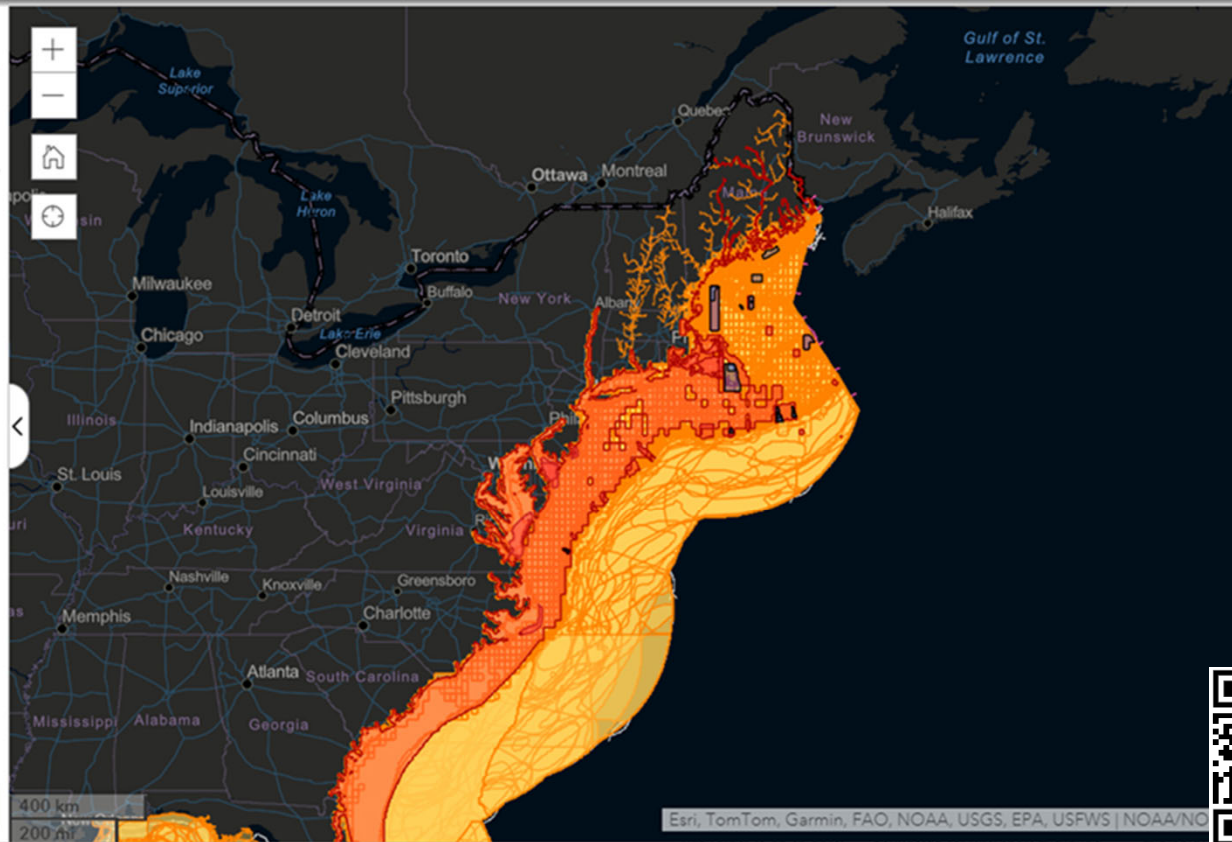
- EFH Areas Protected From Fishing ...
- Habitat Areas of Particular Concern ...
- Essential Fish Habitat ...
- Reference Data ...

START
Generate Report:



Choose Another Council

Generate Report



Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS | NOAA/NO





EFH MAPPER



R. Brien

1

2

3

4

New Haven, CT

EFH Mapper Report

EFH Data Notice

Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional fishery management councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

[Greater Atlantic Regional Office](#)
[Atlantic Highly Migratory Species Management Division](#)

Query Results

Degrees, Minutes, Seconds: Latitude = 41° 20' 44" N, Longitude = 73° 7' 9" W
 Decimal Degrees: Latitude = 41.345, Longitude = -72.881

The query location intersects with spatial data representing EFH and/or HAPCs for the following species/management units.

***** WARNING *****

Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all...

- STEP 1 – SEARCH/NAVIGATE TO YOUR LOCATION**
- STEP 2 – CLICK THE MAP AT THE POINT OF YOUR LOCATION**
- STEP 3 – AN EFH MAPPER REPORT WILL BE GENERATED**
- STEP 4 – PRINT/SAVE AND SUBMIT REPORT TO USACE**





EFH CONSULTATION PROCESS

USACE does an EFH consultation if project will adversely affect EFH.

An adverse effect includes direct or indirect physical, chemical, or biological alterations.

Can be temporary or permanent. It includes adverse changes to:

- Waters or substrate
- Species and their habitat
- Other ecosystem components
- Quality and/or quantity of EFH

R. Brien



Submerged Aquatic Vegetation (SAV)



Salt Marsh and Tidal Wetlands



U.S. ARMY

EFH PROGRAMMATIC CONSULTATION

- Jul 2016: USACE & National Marine Fisheries Service (NMFS) developed an EFH programmatic consultation (PC) document to reduce the # of individual consultations.
- For actions adversely affecting EFH that meet thresholds of the PC, NMFS programmatically provided conservation recommendations (CRs).
- USACE will incorporate CRs as permit special conditions to avoid and minimize potential adverse effects to EFH.
- This may include provisions for the use of turbidity and erosion controls, time of year (TOY) restrictions, or other specific criteria to minimize adverse impacts on EFH.
- For projects that exceed the thresholds of the PC, individual consultation between USACE and NMFS is required.

R. Brien

43



Hard Bottom Habitats



Areas Containing Shellfish



EFH INDIVIDUAL CONSULTATION

R. Brien

44



Federal agency provides EFH assessment to NMFS.

An EFH assessment must include:

- A description of the action
- An analysis of the potential adverse effects of the action on EFH
- The lead federal agency's conclusions regarding the effects of the action on EFH
- Proposed mitigation, if applicable



Shallow Water Habitat



Anadromous Fish



EFH INDIVIDUAL CONSULTATION

R. Brien

45



NMFS makes EFH conservation recommendations (CRs) within 30 days

Federal agency responds to CRs within 30 days and waits 10 days to issue authorization

Federal agency turns CRs into permit special conditions



Shallow Water Habitat



Anadromous Fish



EFH PCN SUBMITTALS

For PCNs in areas with EFH:

Follow guidance in PCN Checklist Section 11

- Submit EFH mapper results
- Identify substrate types (sand, silt, clay, natural rocky habitat)
- Identify aquatic resources that will be affected by the proposed action (intertidal, subtidal)
- Identify special aquatic sites (SAV, salt marsh, mudflat)



Intertidal Mudflats



Intertidal Habitat



EFH PCN SUBMITTALS

Per GC 11 applicant needs to provide:

A description of the action located in EFH

An analysis of the potential adverse effects of the action on EFH and the managed species

Conclusions regarding the effects of the action on EFH

Proposed mitigation, if applicable (check thresholds)



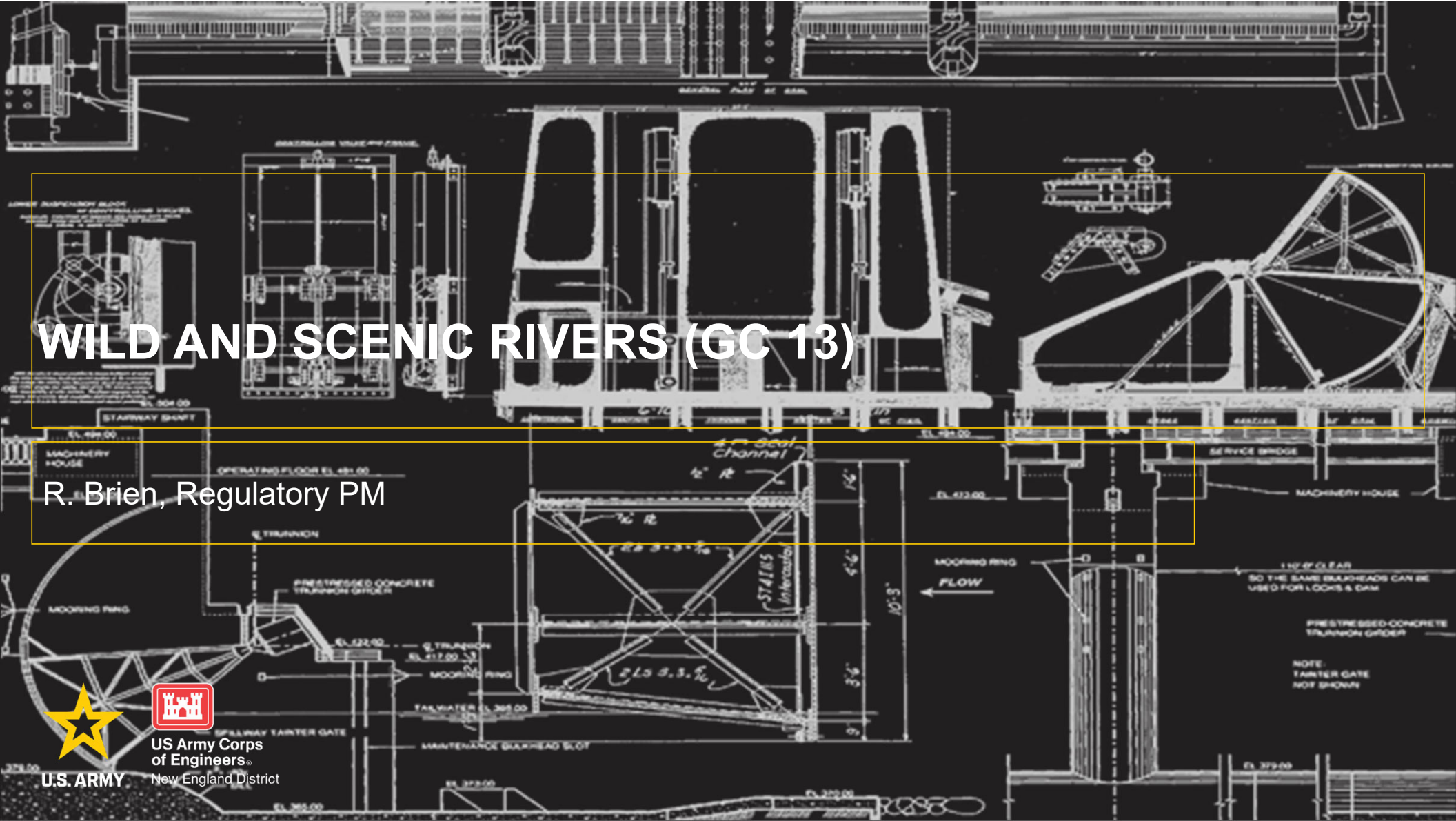
Intertidal Mudflats



Intertidal Habitat

WILD AND SCENIC RIVERS (GC 13)

R. Brien, Regulatory PM





U.S. ARMY

WILD AND SCENIC RIVERS ACT OF 1968

R. Brien

49



- Created National Wild and Scenic Rivers System
- Preserves rivers with outstanding natural, cultural, recreational values
- Keeps free-flowing condition for present/future generations.
- River designated by Congress or Secretary of Interior.
- Each river administered by federal or state agency.
- In MA, all rivers administered by National Park Service (NPS).





U.S. ARMY

WILD AND SCENIC RIVERS: GC 13

PCN required for the following work:

- In WSR segments and study river segments
- 0.25 mile upstream/downstream
- Tributaries within 0.25 mile
- Wetlands within 0.25 mile
- That could alter free-flowing characteristics

UNLESS NPS determines in writing to the applicant that work will NOT adversely affect the WSR



Taunton River (National Rivers Project)



U.S. ARMY

WILD AND SCENIC RIVERS ACT OF 1968

R. Brien

51



Designated Wild and Scenic Rivers (WSRs) in MA:

- Taunton River
- Sudbury River
- Assabet River
- Concord River
- Nashua River
- Squannacook River
- Nissitissit River
- Westfield River

Potential future study river:

- Deerfield River

Information on these rivers is available at:

<http://www.rivers.gov/>



Sudbury River (photo credit: Tim Palmer)



U.S. ARMY

WILD AND SCENIC RIVERS: SVN

52

R. Brien



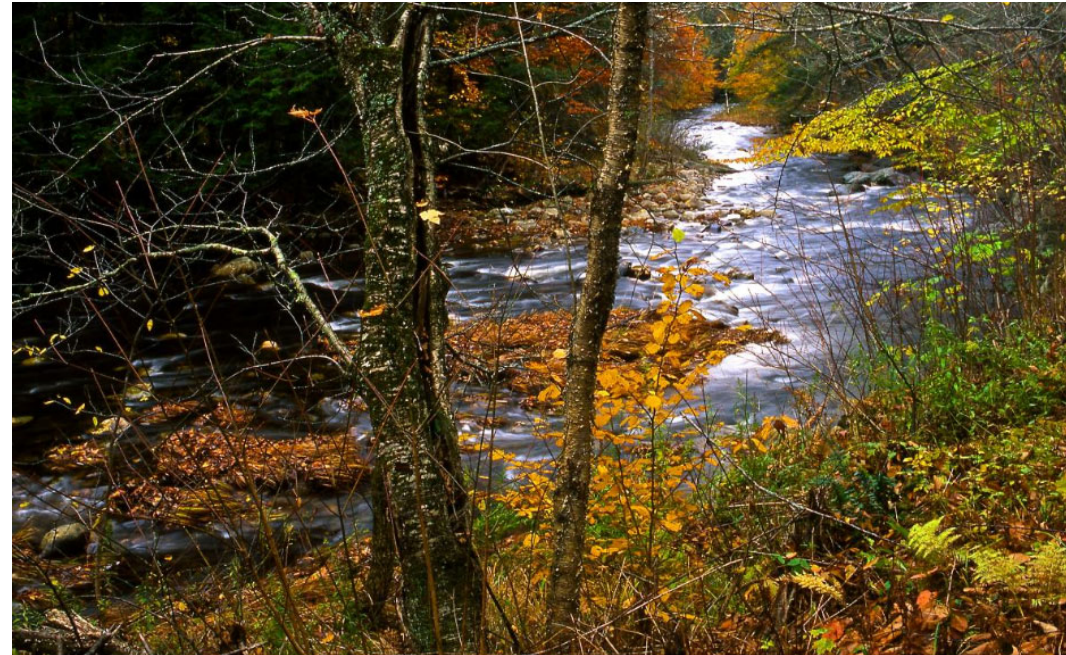
SVN Form:

#19h. Wild & Scenic Rivers

Drop-down menu. 3 choices:

- No WSRs within 0.25 mile
- NPS determined no adverse effect
- Project may affect WSR (PCN required)

If choose option 3, stop filling out
SVN form and change to PCN.



Westfield River (Photo credit: Tim Palmer)



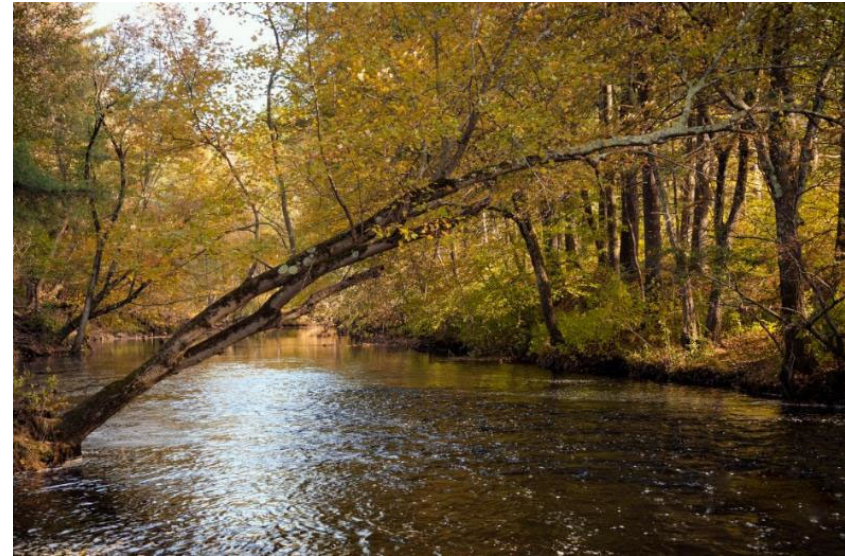
U.S. ARMY

WILD AND SCENIC RIVERS: PCN

- PCN form: #28 - Is project within WSR segment or study river segment?
- If yes, indicate river
- USACE will need to consult with NPS.
- Applicant can contact NPS directly to consult on project design even before submitting PCN.
- May require project modifications to reach “no adverse effect” determination from NPS.

R. Brien

53



Squannacook River (photo credit: Cindy Knox)



THREATENED AND ENDANGERED SPECIES (GC 10)

R. Brien and Katelyn Rainville, Regulatory Project Managers



U.S. ARMY



US Army Corps
of Engineers
New England District



GENERAL CONDITION 10

R. Brien



10. Federal Threatened and Endangered Species

- a. No activity is authorized under any GP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any GP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."
- b. Other Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If a PCN is required for the proposed activity, the Federal permittee must provide USACE with the appropriate documentation to demonstrate compliance with those requirements. The USACE will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
- c. USFWS ESA-Listed Species: Non-federal applicants shall use the USFWS website, Information for Planning and Consultation (IPAC), to determine if their activity is located within the ESA-listed species range. The IPAC website can be accessed on the NAE Regulatory website: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>. Applicants shall ensure they have an updated, valid species list before construction begins. This may require applicants to update their species list in IPAC before the start of construction. Note: Applicants should refer to the NAE Regulatory Website at the link above to determine if they have been designated as a non-federal representative. Applicants shall complete Section 7 consultation according to the guidance document located on the NAE Regulatory Website. After completing the Rangewide Determination Key and reaching the outcome "may affect, not likely to adversely affect", you may be required to wait up to 15 days before that outcome is final and compliance under Section 7 of the ESA is fulfilled.
 - i. Self-Verification Criteria: The activity is SV-eligible if:
 - 1) The activity is not located within the ESA-listed species range;
 - 2) Another (lead) Federal agency has completed Section 7 consultation; or
 - 3) The activity is located within the ESA-listed species range and USACE has designated the applicant as a non-federal representative under 50 CFR 402.08 of the ESA for all



If an activity requiring USACE authorization has the potential to affect ESA-listed species, then USACE* must evaluate the project to determine if there will be effects to listed species.

When there is another Lead Federal Action Agency, their Section 7 documentation must be included in your USACE SV/PCN submission.

The applicant must have a valid IPAC Official Species List prior to starting work.

ONE of the Criteria 10c, i(1-3) must be met for an activity to be Self-Verification (SV) Eligible



GENERAL CONDITION 10 (CONT)

R. Brien

56



species within the project's action area. As the non-federal representative, the applicant shall complete consultation through IPAC and reach the outcome of "no effect" or "not likely to adversely affect".

ii. *Pre-Construction Notification Criteria:* The activity requires a PCN if:

- 1) The activity is located within the ESA-listed species range *and* USACE has NOT designated the applicant as a non-federal representative under 50 CFR 402.08 of the ESA for all species within the project's action area;
- 2) The activity is located in designated or proposed critical habitat; or
- 3) The activity is located within the ESA-listed species range and completion of the IPAC determination key has resulted in the outcome of "may affect" or "may affect, likely to adversely affect"; or
- 4) A PCN is required elsewhere in this document.

d. NOAA-Listed Species: Non-federal applicants shall refer to the Section 7 Mapper for federally listed species to determine if any species are mapped as present. When NOAA-listed species are present, the applicant shall generate a species report through the mapper and submit this document as part of their PCN or SVN submission. The NOAA Fisheries' Section 7 Mapper can be accessed here on the NAE Regulatory website here: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>.

e. Authorization of an activity by an GP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

Criteria 10c, ii(1-4) elevate an SV to a Pre-Construction Notification (PCN)

Proposed activities shall not generate stressors that have the potential to affect NOAA-listed species under SV procedures.



USFWS-LISTED ENDANGERED SPECIES

R. Brien

57



- USACE must comply with Section 7 of the Endangered Species Act.
- USFWS maintains a website called Information for Planning and Consultation (IPaC):
 - Used to determine if USFWS ESA-listed species and/or suitable habitat are present within the action area.
 - Boundaries encompass the entire Commonwealth of Massachusetts.
 - Generate an Official Species List and complete determination keys (dkeys).
- The Northeast Endangered Species Dkey covers ~55 listed species.
- The Northern Long Eared Bat Rangewide Species Dkey covers the NLEB only.

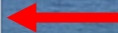




IPaC is a project planning tool that streamlines the USFWS environmental review process

GET STARTED

LOG IN



Integrate the environmental review process into your project design

Quickly and easily identify USFWS managed resources and suggested conservation measures for your project.

Explore species and habitat

See if any listed species¹, critical habitat, migratory birds or other natural resources may be impacted by your project.

Using the map tool, explore other resources in your location, such as wetlands, wildlife refuges, GAP land cover, and other important biological resources.

Conduct a regulatory review

Log in and define a project to get an official species list and evaluate potential impacts on resources managed by the U.S. Fish and Wildlife Service.

Follow IPaC's Endangered Species Act (ESA) Review process—a streamlined, step-by-step consultation process available in select areas for certain project types, agencies, and species.

Build a Consultation Package


Consultation Package Builder (CPB) replaces and improves on the original Impact Analysis by providing an interactive, step-by-step process to help you prepare a full consultation package leveraging U.S. Fish and Wildlife Service data and recommendations, including conservation measures designed to help you avoid or minimize effects to listed species.

CPB will continue to be improved over time.






IPaC Information for Planning and Consultation

1 Find location

2 Define area 

Draw the area where activities will occur

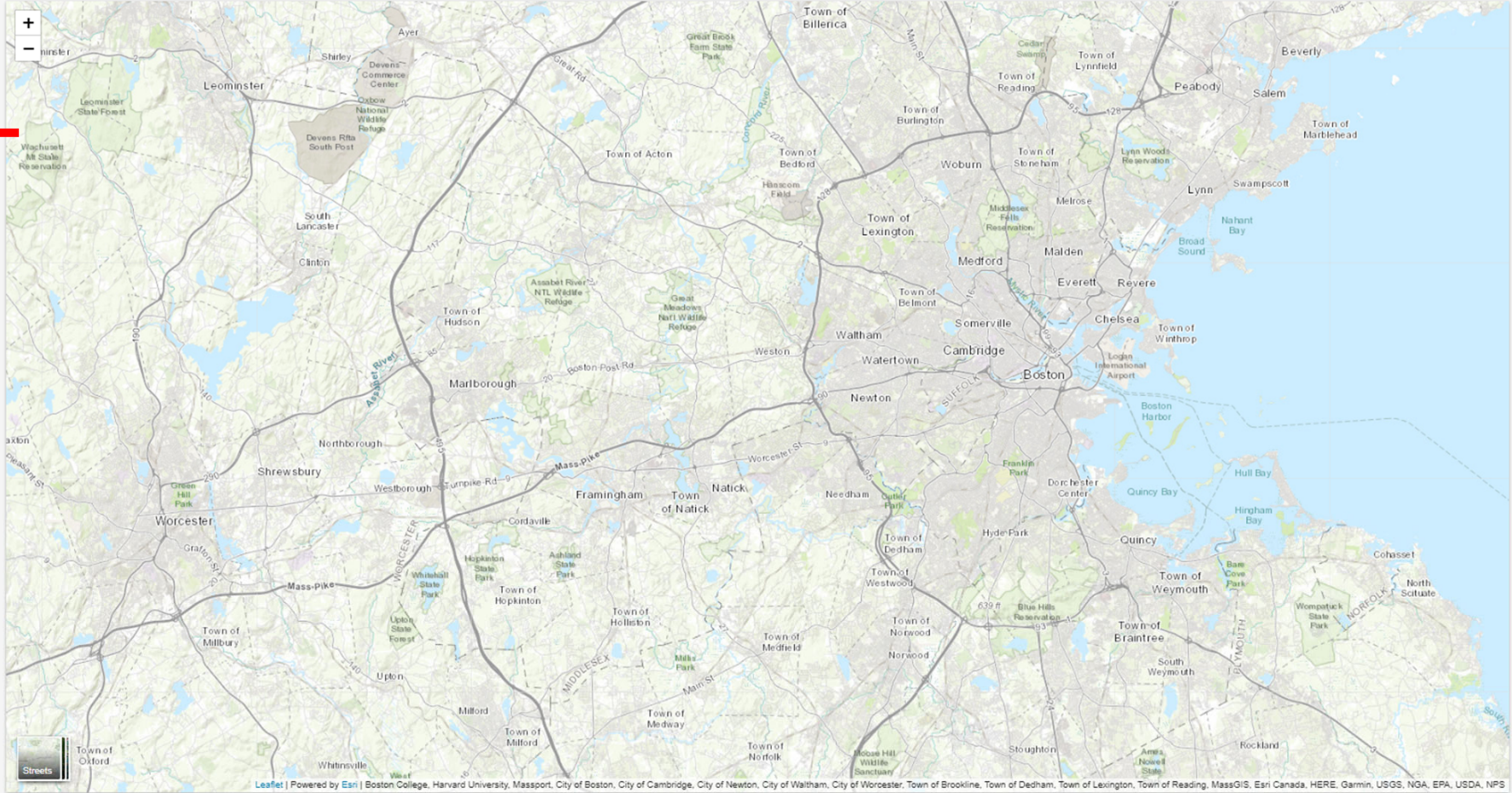
Select a drawing tool

-  SKETCH
-  POLYGON
-  LINE

Other options:

-

Selection by state or county is no longer available.



 Layers



USFWS
IPAC

IPaC Information for Planning and Consultation
MY PROJECTS

U.S. Fish & Wildlife Service
KATELYN RAINVILLE -

Explore location
LOCAL OFFICE: NEW ENGLAND ESFO -

LOCATION
Middlesex County,
Massachusetts
CHANGE LOCATION

Resources

ENDANGERED SPECIES	2
BALD & GOLDEN EAGLES	1
MIGRATORY BIRDS	14
FACILITIES	
WETLANDS	✓

PRINT RESOURCE LIST

What's next?

Define a project at this location to evaluate potential impacts, get an official species list, and make species determinations.

DEFINE PROJECT

Select "Define Project" to create a project profile



Endangered species

Listed species and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries).

Species and critical habitats under the sole responsibility of NOAA Fisheries are not shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

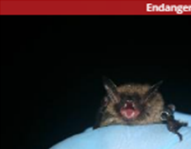
Additional information on endangered species data is provided [below](#).

The following species are potentially affected by activities in this location:

THUMBNAILS LIST

Mammals


Endangered



Northern Long-eared Bat
Myotis septentrionalis
Wherever found

Insects

Candidate



Monarch Butterfly
Danaus plexippus
Wherever found

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.





NAE-2024-00000 Middlesex County, Massachusetts

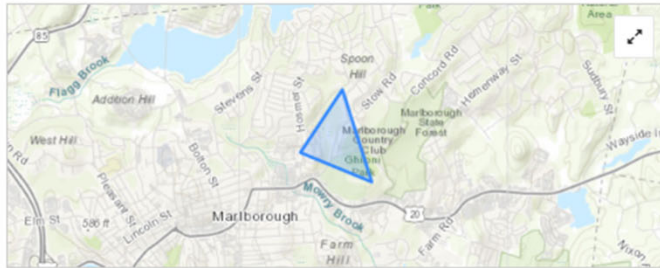
PROJECT HOME

REGULATORY REVIEW

LOCAL OFFICE NEW ENGLAND ESFO

NAE-2024-00000

test



LOCATION Middlesex County, Massachusetts

CREATED February 22, 2024

1 MEMBER

1 DOCUMENT

Resources

This project potentially impacts 25 resources managed or regulated by the U.S. Fish and Wildlife Service.

- 2 endangered species
- 14 migratory birds
- Known wetlands

SEE RESOURCES

What's next?

ESA REVIEW

Review this project's effects on listed species pursuant to the Endangered Species Act (ESA), as part of the overall regulatory review.

START REVIEW

SPECIES LIST

To request an official species list, including updated lists, please select the 'Start Review' button.

Local office

New England Ecological Services Field Office **LEAD**

(603) 223-2541

(603) 223-0104

70 Commercial Street, Suite 300
Concord, NH 03301-5094

R. Brien



Select "Start Review" and request an Official Species List



USACE DESIGNATION OF NON-FEDERAL REPRESENTATIVE FOR NORTHERN LONG-EARED BAT (NLEB)

R. Brien



- 11/29/22: USFWS elevated NLEB status to endangered.
- 06/27/23: USACE has designated applicants in New England as non-Federal representatives **for the NLEB only**. Applicant can conduct informal consultation using the IPaC Rangewide Dkey at <https://ipac.ecosphere.fws.gov>.
- **USACE will be posting detailed information on procedures soon. Need to follow to qualify. Need to answer "no" to questions 2 and 10 in key that ask if you want to make a no effect determination.**
- The NLEB Rangewide Dkey provides outcomes of: "no effect," "may affect, not likely to adversely affect" (NLAA), or "may affect, likely to adversely affect" (MALAA).



Outcomes: 1) No effect 2) NLAA 3) MALAA 4) MALAA - BOM required



USFWS



USFWS



Northern Long-Eared Bat:

SVN Form:

#19 f. Northern Long-Eared Bat (ESA) Drop-down list:

- The activity is not located within the species range NLEB doesn't show up on species list. SV eligible.
- The activity IS located within the NLEB Species Range (PCN required). *Don't have to choose anymore.
- No effect determination reached with the NLEB Rangewide Dkey. See instructions below. SV eligible
- NLAA determination reached with the NLEB Rangewide DKey. See instructions below. SV eligible.
- MALAA determination reached with the NLEB Rangewide Dkey. PCN required. PCN required.

*Applicant can now use Rangewide Dkey to get an effect determination.

PCN:

#26. List the names of any threatened/endangered species or critical habitat could be impacted by project.
Address items in Section 11 of PCN Checklist

Include documents from IPAC in SVN or PCN submittal.



U.S. ARMY

Endangered Species Act Review

← BACK EXIT REVIEW

R. Brien

64



Step 2: Evaluate determination keys

The U.S. Fish and Wildlife Service has performed up-front analyses for certain project types, agencies, and species. The analyses have been compiled into *determination keys*, a simple interview process to help you arrive at a recommended determination for some species in your project area.

There are 2 determination keys that may apply to your project. Each determination key starts with a qualification interview to see if the key is appropriate for your project.

- FHWA, FRA, FTA Programmatic Consultation for Transportation Projects affecting NLEB or Indiana Bat

Release date: October 30, 2023

The key is intended for projects funded or authorized by FHWA, FRA, or FTA, that may affect the endangered Indiana bat and/or the endangered northern long-eared bat, which requires consultation with the USFWS under Section 7 of the ESA.

EVALUATE SKIP / DOES NOT APPLY

← Skip unless FHWA, FRA or FTA are the Lead Federal Action Agency

- Northern Long-eared Bat Rangewide Determination Key

Release date: February 13, 2024

This key is intended to streamline review of projects for potential effects to the Northern Long-eared Bat (*Myotis septentrionalis*).

EVALUATE SKIP / DOES NOT APPLY

→ Evaluate when USACE is the Lead Federal Action Agency

NEXT STEP: ANALYZE PROJECT We recommend that you evaluate or skip all available determination keys before moving on.



Qualification interview

The following questions will determine whether this key applies to your project and provide guidance to help you make appropriate determinations for the species covered by this key.



1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

CHANGE ANSWER

2. The proposed action does not intersect an area where the northern long-eared bat is likely to occur, based on the information available to U.S. Fish and Wildlife Service as of the most recent update of this key. If you have data that indicates that northern long-eared bats are likely to be present in the action area, answer "NO" and continue through the key.

Do you want to make a no effect determination?

Always select "No"



No

CHANGE ANSWER

3. The action area does not overlap with an area for which U.S. Fish and Wildlife Service currently has data to support the presumption that the northern long-eared bat is present. Are you aware of other data that indicates that northern long-eared bats (NLEB) are likely to be present in the action area?

Bat occurrence data may include identification of NLEBs in hibernacula, capture of NLEBs, tracking of NLEBs to roost trees, or confirmed NLEB acoustic detections. Data on captures, roost tree use, and acoustic detections should post-date the year when white-nose syndrome was detected in the relevant state. With this question, we are looking for data that, for some reason, may have not yet been made available to U.S. Fish and Wildlife Service.

If you DO have survey data suggesting NLEB presence



Yes

No

CANCEL

If you DO NOT have survey data suggesting NLEB presence





USFWS IPAC

10. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the [effects of any activities](#) that would not occur but for the proposed action.

If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer "No" below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project's action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a "no effect" determination for the northern long-eared bat.

Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer "No" and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of [Effects of the Action](#) can be found here: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

No

CHANGE ANSWER

← The same question will be asked again, answer "No"

11. [Semantic] Is the action area located within 0.5 miles of a known northern long-eared bat hibernaculum?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

Automatically answered

No

12. Does the action area contain any caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating northern long-eared bats?

Yes

No

EVALUATION PROGRESS

SAVE FOR LATER




R. Brien



14. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?
(If unsure, answer "Yes.")

Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats (i.e., live trees and/or snags ≥ 3 inches (12.7 centimeter) dbh), answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat can be found at: <https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions>

Select "Yes" if you know suitable habitat exists OR are unsure

 Yes
 No

CANCEL

EVALUATION PROGRESS

SAVE FOR LATER

Rangewide D-Key Tips to Reach NLAA:

- Only cut trees during the NLEB inactive season (Active Season: April 1 – October 31).
- Avoid tree cutting June 1 to July 31 (pup season).



IPAC Species List Results: Threatened/endangered species other than NLEB (red knot, roseate tern, piping plover, bog turtle, etc.)

The Northeast Endangered Species Dkey covers ~55 threatened/endangered species.

USACE has not yet designated applicants in New England as non-federal representatives for these species. If these species are on IPAC species list - PCN

Applicants still use dkey and include results with PCN submittal.



Red knot (Allaboutbirds.org)



SVN Form:

#19 e. Endangered Species Act (USFWS) Drop-down list:

- The activity is not located within the ESA species range. Doesn't show up on species list. SVN eligible
- Another Federal agency has reached a No Effect determination. SVN eligible. Submit documentation.
- ESA consultation completed by another Federal agency. SVN eligible. Submit documentation.
- Project may affect listed species, Section 7 consultation required (PCN required). Submit PCN

PCN:

#26. List the names of any threatened/endangered species or critical habitat could be impacted by project.

Address items in Section 11 of PCN Checklist

Include documents from IPAC in SVN or PCN submittal.



Piping plover (USFWS)



General IPAC Tips:

- Refer to the links throughout the dkeys to ensure that your answers are accurate.
- Consider dkey questions as criteria to design your project around.
- Contact your local USFWS field office staff for assistance when needed.
- Include the completed Official Species List and dkey output letter with your SVN or PCN submission.
- Update your Official Species List every 90 days before commencing work to ensure new species not in project area.
- If new species show up that were not present during original consultation, project will have to be re-evaluated to comply with Section 7 of the ESA.



U.S. ARMY

NOAA-LISTED ENDANGERED SPECIES

R. Brien

71



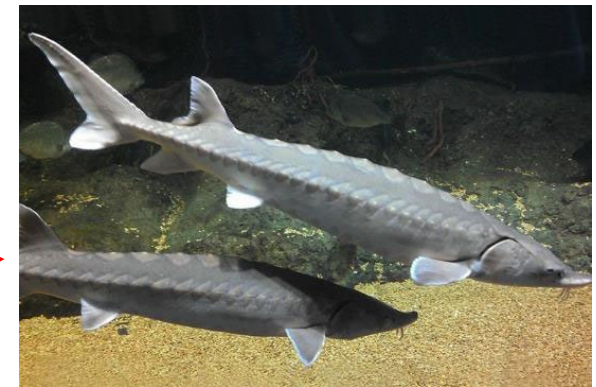
- Section 7 review and/or consultation may be required for NOAA-listed species.
- Presence of NOAA listed species can be determined by using the mapper at (<https://www.fisheries.noaa.gov/resource/map/greater-atlantic-region-esa-section-7-mapper>).
- Generate Section 7 Mapper Report to include with your SVN/PCN submission.
- Currently, USACE has not designated applicant as non-federal representative for NOAA-listed species.
- Check with NOAA on presence if mapper shows species but work is up in a small tidal creek that may not be deep enough to support marine ESA-listed species.



North Atlantic
Right Whale



Atlantic
Sturgeon





SVN Form:

#19 d. Endangered Species Act (NOAA) Drop-down list:

- The activity is not located within the ESA species range. No species in mapper. SVN eligible
- Another Federal agency has reached a No Effect Determination. SVN eligible. Submit documentation.
- ESA consultation completed by another Federal agency. SVN eligible. Submit documentation.
- Project may affect listed species, Section 7 consultation required (PCN required).

PCN:

#26. List the names of any threatened/endangered species or critical habitat that could be impacted by project.

Address items in Section 11 of PCN Checklist

Include documents from ESA mapper in SVN or PCN submittal.



Green sea turtle (NOAA)



NOAA ESA: SECTION 7 MAPPER

R. Brien



CONSULTATIONS

Section 7: Species/Critical Habitat Information & Maps in the Greater Atlantic Region

Federal action agencies can use our species information and maps to determine which species are present in their action area.

New England/Mid-Atlantic

Table of Contents

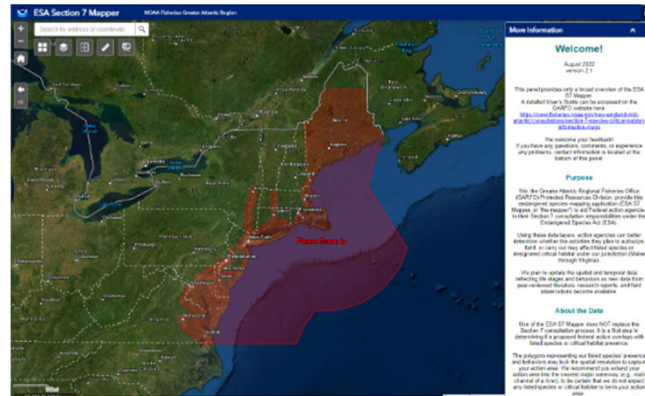
- ESA Section 7 Mapper
- Species Tables
- Species and Critical Habitat Maps
- Atlantic Sturgeon Critical Habitat
- Other GIS Resources



[List of ESA-Protected Species in New England/Mid-Atlantic >](#)

[What is Critical Habitat? >](#)

ESA Section 7 Mapper



We have created a new App, the Section 7 Mapper, to assist Federal action agencies in identifying the ESA-listed species and critical habitat in their project action area.

[Access the ESA Section 7 Mapper](#)



Access the Mapper here on NOAA's website



NOAA ESA: SECTION 7 MAPPER

U.S. ARMY



R. Brien

ESA Section 7 Mapper NOAA Fisheries Greater Atlantic Region <https://www.fisheries.noaa.gov/resource/map/greater-atlantic-region-esa-section-7-mapper>

Search by address or coordinate

More Information

This panel provides only a broad overview of the ESA S7 Mapper. A detailed User's Guide can be accessed on the GARFO website here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps>

We welcome your feedback! If you have any questions, comments, or experience any problems, contact information is located at the bottom of this panel.

Purpose

We, the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division, provide this endangered species mapping application (ESA S7 Mapper, or "the mapper") to aid Federal action agencies in their Section 7 consultation responsibilities under the Endangered Species Act (ESA).

Using these data layers, action agencies can better determine whether the activities they plan to authorize, fund, or carry out may affect listed species or designated critical habitat under our jurisdiction (Maine through Virginia).

We plan to update the spatial and temporal data reflecting life stages and behaviors as new data from peer-reviewed literature, research reports, and field observations become available.

About the Data

Use of the ESA S7 Mapper does NOT replace the Section 7 consultation process; it is a first step in determining if a proposed federal action overlaps with

100mi
81.564 47.302 Degrees
Earthstar Geographics | Esri, TomTom



U.S. ARMY

NOAA ESA: SECTION 7 MAPPER

R. Brien



ESA Section 7 Mapper
NOAA Fisheries Greater Atlantic Region

Search by address or coordinate 🔍

Draw your action area

More Information

Welcome!

August 2022
version 2.1

This panel provides only a broad overview of the ESA S7 Mapper.

A detailed User's Guide can be accessed on the GARFO website here:
<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps>

We welcome your feedback!
 If you have any questions, comments, or experience any problems, contact information is located at the bottom of this panel.

Purpose

We, the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division, provide this endangered species mapping application (ESA S7 Mapper, or "the mapper") to aid Federal action agencies in their Section 7 consultation responsibilities under the Endangered Species Act (ESA).

Using these data layers, action agencies can better determine whether the activities they plan to authorize, fund, or carry out may affect listed species or designated critical habitat under our jurisdiction (Maine through Virginia).

We plan to update the spatial and temporal data reflecting life stages and behaviors as new data from peer-reviewed literature, research reports, and field observations become available.

600ft
-70.494 41.775 Degrees

USFWS
USFWS

Maxar | Esri Community Maps Contributors, MassGIS, © OpenStreetMap



NOAA ESA: SECTION 7 MAPPER

R. Brien



ESA Section 7 Mapper
NOAA Fisheries Greater Atlantic Region
i

x

Draw Your Action Area

Your Action Area x

Draw
Coordinates

Select draw mode

📍

~

■

◀

📏

Buffer distance (optional)

Show results within

Meters
▼

Get details

Start Over

More Information
x

Welcome!

August 2022
version 2.1

This panel provides only a broad overview of the ESA S7 Mapper. A detailed User's Guide can be accessed on the GARFO website here: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps>

We welcome your feedback! If you have any questions, comments, or experience any problems, contact information is located at the bottom of this panel.

Purpose

We, the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division, provide this endangered species mapping application (ESA S7 Mapper, or "the mapper") to aid Federal action agencies in their Section 7 consultation responsibilities under the Endangered Species Act (ESA).

Using these data layers, action agencies can better determine whether the activities they plan to authorize, fund, or carry out may affect listed species or designated critical habitat under our jurisdiction (Maine through Virginia).

We plan to update the spatial and temporal data reflecting life stages and behaviors as new data from peer-reviewed literature, research reports, and field observations become available.

600ft
USFWS
USFWS

Maxar | Esri Community Maps Contributors, MassGIS, © OpenStreetMap



NOAA ESA: SECTION 7 MAPPER

U.S. ARMY

R. Brien



ESA Section 7 Mapper NOAA Fisheries Greater Atlantic Region

Search by address or coordinate

Draw Your Action Area

Get details

Area : 40.28 acres

Back

- Atlantic Sturgeon (2)
- Shortnose Sturgeon (1)
- Atlantic Salmon (0)
- Sea Turtles (4)
- Atlantic Large Whales (4)

Upload shapefile to include in analysis **Upload**

More Information

Welcome!

August 2022
version 2.1

This panel provides only a broad overview of the ESA S7 Mapper.
A detailed User's Guide can be accessed on the GARFO website here:
<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps>

We welcome your feedback!
If you have any questions, comments, or experience any problems, contact information is located at the bottom of this panel.

Purpose

We, the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division, provide this endangered species mapping application (ESA S7 Mapper, or "the mapper") to aid Federal action agencies in their Section 7 consultation responsibilities under the Endangered Species Act (ESA).

Using these data layers, action agencies can better determine whether the activities they plan to authorize, fund, or carry out may affect listed species or designated critical habitat under our jurisdiction (Maine through Virginia).

We plan to update the spatial and temporal data reflecting life stages and behaviors as new data from peer-reviewed literature, research reports, and field observations become available.

Maxar | Esri Community Maps Contributors, MassGIS, © OpenStreetMap

Generate Section 7 Mapper Report



NOAA ESA: SECTION 7 MAPPER REPORT

R. Brien



Drawn Action Area & Overlapping S7 Consultation Areas

Area of Interest (AOI) Information

Area : 40.28 acres

Feb 22 2024 14:10:19 Eastern Standard Time



Enter comments here

Summary

Name	Count	Area(acres)	Length(mi)
Atlantic Sturgeon	2	44.21	N/A
Shortnose Sturgeon	1	22.10	N/A
Atlantic Salmon	0	0	N/A
Sea Turtles	4	88.44	N/A
Atlantic Large Whales	4	88.44	N/A
In or Near Critical Habitat	1	18.25	N/A

Atlantic Sturgeon

#	Feature ID	Species	Lifestage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	ANS_C50_ADU_MAF	Atlantic sturgeon	Adult	Migrating & Foraging	N/A	01/01	12/31	N/A	N/A	22.11
2	ANS_C50_SUB_MAF	Atlantic sturgeon	Subadult	Migrating & Foraging	N/A	01/01	12/31	N/A	N/A	22.11

*Print this report to include with your submission

Shortnose Sturgeon

#	Feature ID	Species	Life Stage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	SNS_C50_ADU_MAF	Shortnose sturgeon	Adult	Migrating & Foraging	N/A	04/01	11/30	N/A	N/A	22.10

Sea Turtles

#	Feature ID	Species	Life Stage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	GRN_STN_AJV_MAF	Green sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	8/1	11/30	No Data	No Data	22.11
2	KMP_STN_AJV_MAF	Kemp's ridley sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	8/1	11/30	No Data	No Data	22.11
3	LTR_STN_AJV_MAF	Leatherback sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	8/1	11/30	No Data	No Data	22.11
4	LOG_STN_AJV_MAF	Loggerhead sea turtle	Adults and juveniles	Migrating & Foraging	Maine to Massachusetts (N of Cape Cod)	8/1	11/30	No Data	No Data	22.11

Atlantic Large Whales

#	Feature ID	Species	Lifestage	Behavior	Zone	From	Until	From (2)	Until (2)	Area(acres)
1	RIT_WFN_AJV_FOR	North Atlantic right whale	Adults and juveniles	Foraging	Northeast (ME to Cape Cod, MA)	1/1	12/31	No Data	No Data	22.11
2	RIT_WFN_AJV_WIN	North Atlantic right whale	Adults and juveniles	Overwintering	Northeast (ME to Cape Cod, MA)	11/1	1/31	No Data	No Data	22.11
3	FIN_WFN_AJV_WIN	Fin whale	Adults and juveniles	Overwintering	Northeast (ME to Cape Cod, MA)	11/1	3/31	No Data	No Data	22.11
4	FIN_WFN_AJV_FOR	Fin whale	Adults and juveniles	Foraging	Northeast (ME to Cape Cod, MA)	1/1	12/31	No Data	No Data	22.11

In or Near Critical Habitat

#	Species	In or Near Critical Habitat	Area(acres)
1	North Atlantic Right Whale	Critical Habitat Unit 1: Feeding Area	18.25



U.S. ARMY

NOAA ESA: PROJECT DESIGN CONSIDERATIONS

R. Brien

79



AVOIDANCE & MINIMIZATION MEASURES

- Complete all work in the dry when the tide is waterward of the work area.
- Isolate the work area by installing coffer dams to complete work in the dry.
- Complete pile driving activities in the dry (not via a barge at high tide) to reduce acoustic impacts generated from the noise.
- Utilize siltation/turbidity curtains to limit turbidity within the water column. This may also help reduce spread of noise generated from pile driving if proposed.
- Abide by TOY restrictions listed in the MA GPs and in the MA DMF TR-47.
- Do not impact submerged aquatic vegetation (SAV).



Credit: NOAA Fisheries



NOAA ESA: NLAA FORM

R. Brien

80



NOAA Consultation:

- When USACE is the Lead Federal Action Agency and has not made a “no effect” determination, consultation with NOAA is required.
 - Informal Consultation (NLAA determination) is the most common.
- Most informal consultations occur through GARFO (PRD)-USACE (NAD) 2017 NLAA Program (“NLAA Program”). This program covers ESA consultation for routine, non-controversial projects that are not likely to adversely affect (NLAA) ESA-listed species or critical habitat.

GARFO (PRD) - USACE (NAD) NLAA Program

The GARFO (PRD)-USACE (NAD) 2017 NLAA Program (“NLAA Program”) represents an interagency effort to streamline ESA consultation for routine, non-controversial projects that are not likely to adversely affect (NLAA) ESA-listed species or critical habitat. The NLAA Program does not address whether or not certain activity categories or stressor levels will have no effect on listed species or critical habitat (this remains under the discretion of individual NAD Districts). Under the NLAA Program, individual projects are reviewed using a streamlined verification form to demonstrate that the project falls within defined activity categories and stressor thresholds. Those which are ineligible require individual section 7 consultation (informal or formal, depending on whether or not the proposed work will likely adversely affect listed species or critical habitat).

(Please submit signed verification forms, together with any project plans, maps, supporting analyses, etc., to nmfs.gar.esa.section7@noaa.gov with “USACE NLAA Program: [Application Number]” in the subject line)

- > [Verification Form - Updated January 23, 2024 \(PDF, 11 pages\)](#)
- > [Standard Operating Procedures \(PDF, 21 pages\)](#)
- > [Example NLAA Project Using the Verification Form - Dredging & Pile Driving \(PDF, 11 pages\)](#)
- > [Example NLAA Project Using the Verification Form - Aquaculture \(PDF, 11 pages\)](#)
- > [Programmatic Consultation \(PDF, 42 pages\)](#)
- > [Biological Assessment \(PDF, 12 pages\)](#)
- > [Updates - July 12, 2023 \(PDF, 6 pages\)](#)

<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic>

Download the Verification Form here



NOAA ESA: NLAA FORM

- If USACE concludes that a NLAA determination is appropriate, providing the information required in this form will assist with Section 7 consultation with NMFS.
- You may complete this form and include it in your PCN submission to USACE for more efficient processing of your application.

CONSULTATIONS

Section 7 Effects Analysis: Acoustics in the Greater Atlantic Region

Guidance for action agencies on how to address acoustics in their Effects Analysis.

New England/Mid-Atlantic

Table of Contents

- Multi-Species Pile Driving Calculator
- Writing Your Justification
- Example Analysis - Temporal
- Example Analysis - Distance
- Questions or suggestions?

Multi-Species Pile Driving Calculator

This calculator was developed by NMFS Office of Protected Resources as a tool for assessing the potential effects to ESA-listed species exposed to elevated levels of underwater sound produced during pile driving activities. **This calculator is most appropriate for coastal or inland pile driving projects (not pile driving associated with wind farm construction).**

[Acoustic Tool](#) (Excel, last updated August 2022)

DISCLAIMER: NMFS has provided this spreadsheet as an optional tool to provide estimated effect distances (i.e., isopleths) where pile driving thresholds may be exceeded. Results provided by this spreadsheet do not represent the entirety of the comprehensive effects analysis, but rather serve as one tool to help evaluate the effects of a proposed action on protected species and make findings required by NOAA's various statutes. Input values are the responsibility of the individual user. NMFS does not take any responsibility for the interpretation of the results by non-NMFS users or for misuse or modification of the spreadsheet.

The document below provides additional step-by-step guidance on the use of the Multi-Species Acoustic Calculator. **We encourage project managers and other users to take the time to carefully review this guidance, in addition to the introductory information included in the calculator, as they get familiarized with the use of this new tool and its interpretation.**

[Acoustic Tool Guidance](#) (PDF, 52 pages)



R. Brien



GARFO ESA Section 7: NLAA Program Verification Form

(Please submit a signed version of this form, together with any project plans, maps, supporting analyses, etc., to nmfs.gar.esa.section7@noaa.gov with "USACE NLAA Program: [Application Number]" in the subject line)

Section 1: General Project Details

Application Number:			
Reinitiation:		Select Yes or No	
Applicant(s):			
Permit Type:		Select Permit Type	
Anticipated project start date (e.g., 10/1/2020)			
Anticipated project end date (e.g., 12/31/2022 – if there is no permit expiration date, write "N/A")			
Project Type/Category (check all that apply to entire action):			
<input type="checkbox"/>	Aquaculture (shellfish) and artificial reef creation	<input type="checkbox"/>	Mitigation (fish/wildlife enhancement or restoration)
<input type="checkbox"/>	Dredging and disposal/beach nourishment	<input type="checkbox"/>	Bank stabilization
<input type="checkbox"/>	Piers, ramps, floats, and other structures	<input type="checkbox"/>	If other, describe project type category:
Town/City:		Zip:	
State:		Water body:	

CHANGES FROM THE MA 2018 GPS

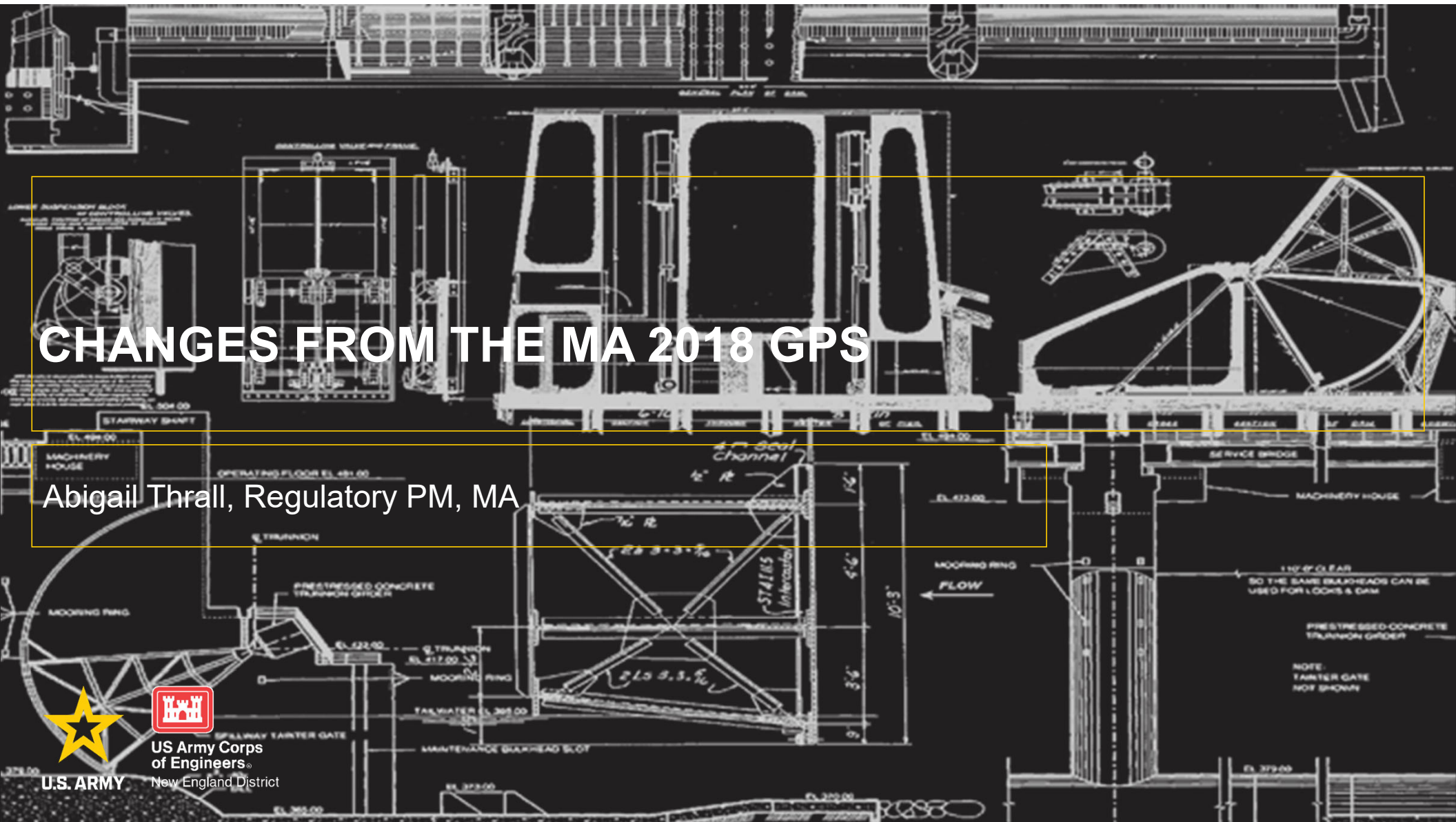
Abigail Thrall, Regulatory PM, MA



U.S. ARMY



US Army Corps
of Engineers
New England District





NEW GENERAL PERMITS IN 2023

Abigail Thrall

83



There are two new GPs in 2023.

GP 20. LIVING SHORELINES

Construction and maintenance of living shorelines to stabilize banks and shores in tidal waters. In non-tidal waters that are not subject to the ebb and flow of the tide, nature-based bank stabilization techniques such as bioengineering and vegetative stabilization may be authorized by GP 9. This GP authorizes those maintenance and repair activities that are necessary to address changing environmental conditions.

GP 25. EMERGENCY SITUATIONS

Structures or work in or affecting navigable waters of the U.S. and the discharge of dredged or fill material into waters of the U.S., including wetlands, necessary for repair or protection measures associated with an emergency situation, MassDEP Emergency Declaration/Certification, or FEMA Declared Disaster.



<https://coastalreview.org/2015/07/report-cites-benefits-of-living-shorelines/>



EMERGENCY SITUATIONS

Abigail Thrall

84



Definition of an emergency: An emergency, as determined by this office and 33 CFR 325.2(e)(4), is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Department of the Army permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.

In an emergency situation...

1. Determine if the situation fits the description of an emergency.
2. Prepare an application the same as you would under any other General Permit.
3. Include a description of how the activity qualifies as an emergency.



Link for emergency situations: <https://www.nae.usace.army.mil/Missions/Regulatory/Emergency-Situations/>



MITIGATION THRESHOLDS

Abigail Thrall

85



There are new compensatory mitigation thresholds in Massachusetts.

Compensatory Mitigation Thresholds in Massachusetts		
Resource Area	Non-Tidal Threshold	Tidal Threshold
Stream	200 LF	200 LF
Bank Stabilization	500 LF	500 LF
Open Water	Project Dependent	Project Dependent
Wetland	5,000 SF	500 SF
Vernal Pool	All	N/A
SAV	Project dependent	25 SF
Mudflat	N/A	1,000 SF
Intertidal	N/A	1,000 SF



MITIGATION THRESHOLDS

Abigail Thrall

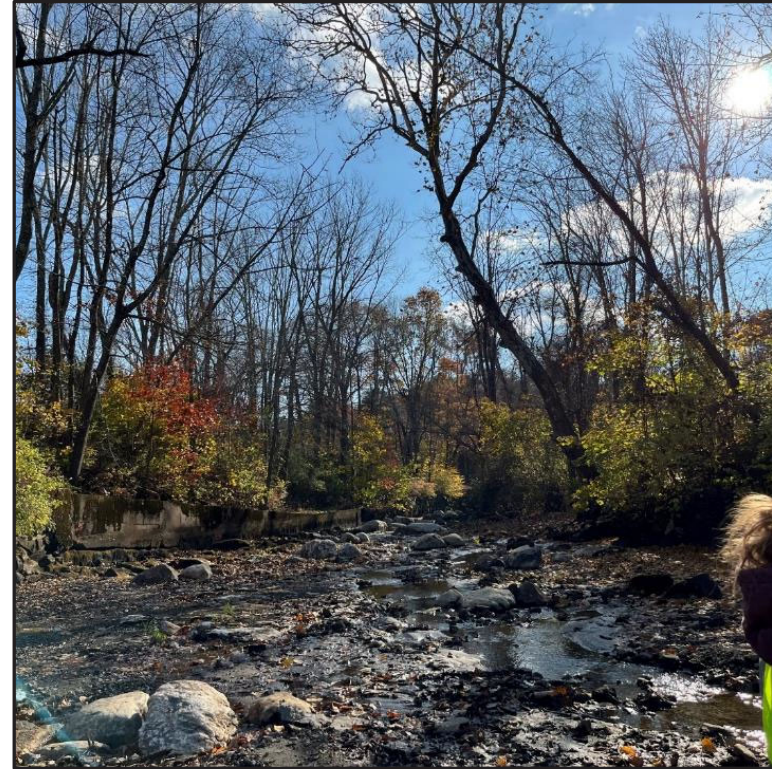
86



For all activities, applicants must (a) demonstrate how the project has been designed to avoid or minimize impacts to aquatic resources; and (b) describe measures taken to avoid or minimize impacts to aquatic resources through construction techniques and/or site access.

Mitigation Hierarchy

1. Mitigation Bank Credits
2. In-Lieu Fee Program
3. Permittee-Responsible Mitigation
 1. Watershed Approach
 2. On-Site and In-Kind Mitigation
 3. Off-Site and/or Out-of-Kind Mitigation



Link: <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>



TIDAL THRESHOLDS BETWEEN SV AND PCN

Abigail Thrall

87



Several projects have changed tidal thresholds from the 2018 General Permits

- GP 2: Maintenance
- GP 4: Structures in Navigable Waters
- GP 6: Utility Lines
- GP 8: U.S. Coast Guard Approved Bridges
- GP 9: Bank and Shoreline Stabilization
- GP 10: Restoration
- GP 15: Survey Activities
- GP 23: Linear Transportation
- GP 24: Temporary Construction

In tidal waters, the combined permanent and temporary impacts extending beyond the original footprint are <5,000 SF, <1,000 SF in mudflats and/or natural rocky habitat, and not located in saltmarsh and tidal vegetated shallows.





GENERAL CONDITION 20: TIME-OF-YEAR RESTRICTIONS

Abigail Thrall



Time-of-Year (TOY) Restrictions:
Activities must comply with the TOY Restrictions below to be SV eligible, otherwise a PCN is required

In-water work: does not include conditions where the work site is “in-the-dry,” including work contained within a cofferdam or when intertidal areas are exposed at low tide

TOY Restriction (No work)	
Non-tidal Waters	Defer to TR-47
Tidal Waters	January 15 – November 15

Alternate work windows proposed under a PCN will generally be coordinated with the USFWS and NMFS. Resulting written verifications may include species-specific work allowed windows.

Refer to pages 44-45 of the 2023 Massachusetts GPs for more information on General Condition 22.

Link to the TR-47: <https://www.mass.gov/files/documents/2016/08/ry/tr-47.pdf>



GENERAL CONDITION 22: TEMPORARY FILL, WORK & CONSTRUCTION MATS

Abigail Thrall

89



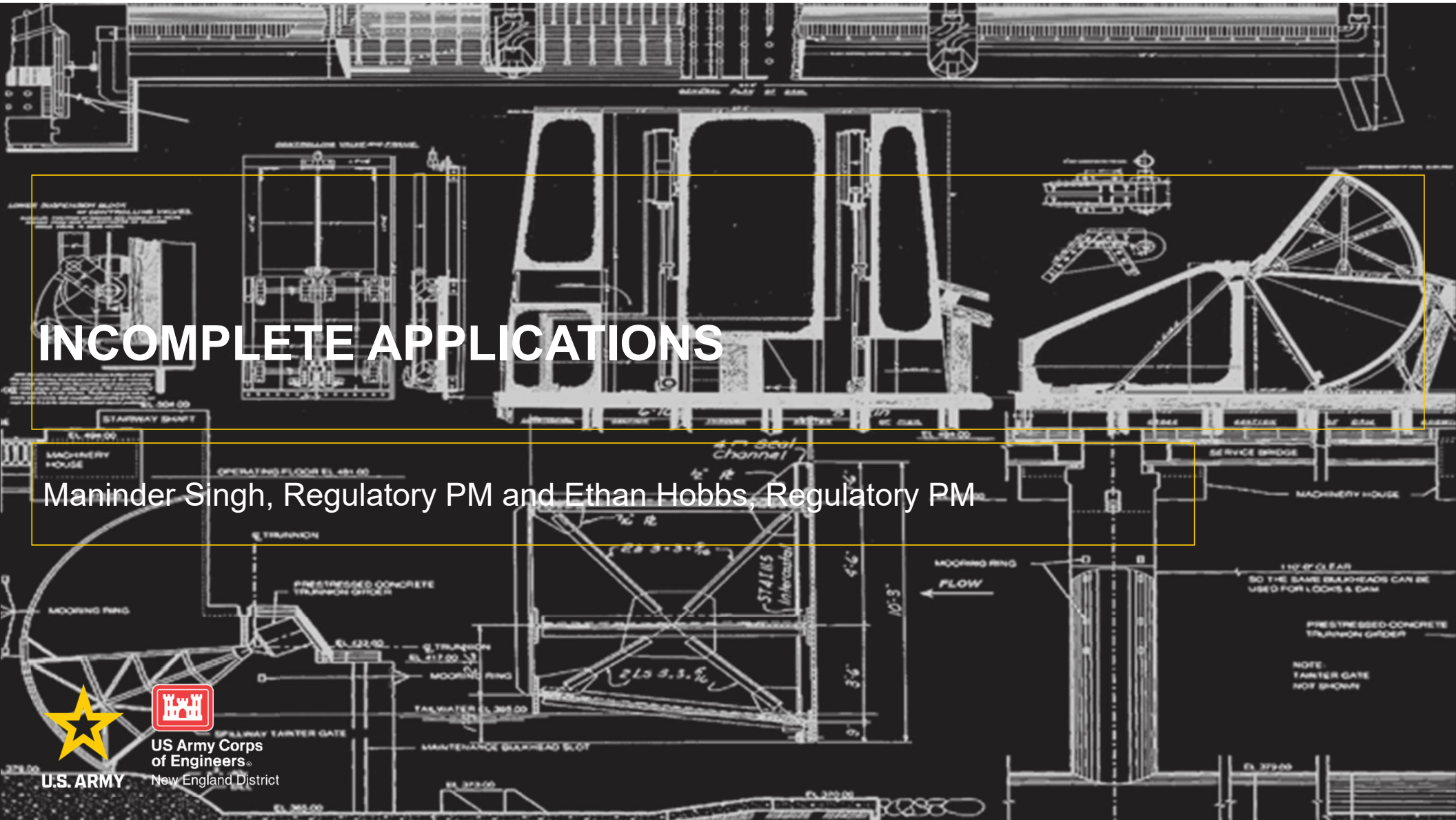
1. New condition from 2018
2. SV eligible when in place
 1. Less than one year in non-tidal waters
 2. Less than 6 months AND in an area less than 5,000 square feet in tidal waters
3. Must be managed in accordance with construction mat Best Management Practices (BMPs)

Refer to page 45 of the 2023 Massachusetts GPs for more information on General Condition 22.



INCOMPLETE APPLICATIONS

Maninder Singh, Regulatory PM and Ethan Hobbs, Regulatory PM





ITEMS MISSING FROM APPLICATIONS

U.S. ARMY

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:
Applicant name, email address, and signature

(ITEMS 1 THRU 4 TO BE FILLED BY USACE)			
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
(ITEMS BELOW TO BE FILLED BY APPLICANT)			
5. APPLICANT'S NAME First - Middle - Last - Company - E-mail Address -		6. AUTHORIZED AGENT'S NAME AND TITLE (<i>agent is not required</i>) First - Middle - Last - Company - E-mail Address -	
6. APPLICANT'S ADDRESS: Address- City - State - Zip - Country -		7. AGENT'S ADDRESS: Address- City - State - Zip - Country -	
7. APPLICANT'S PHONE NOs. with AREA CODE a. Residence b. Business c. Fax d. Mobile		10. AGENT'S PHONE NOs. with AREA CODE a. Residence b. Business c. Fax d. Mobile	
STATEMENT OF AUTHORIZATION			
11. I hereby authorize, _____ to act on my behalf as my agent in the processing of this general permit PCN application and to furnish, upon request, supplemental information in support of this general permit PCN application.			
_____ SIGNATURE OF APPLICANT		_____ DATE	
NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY			
12. PROJECT NAME or TITLE (<i>see instructions</i>)			
13. NAME OF WATERBODY, IF KNOWN (<i>if applicable</i>)		14. PROPOSED ACTIVITY STREET ADDRESS (<i>if applicable</i>) City: State: Zip:	
15. LOCATION OF PROPOSED ACTIVITY (<i>see instructions</i>) Latitude: °N Longitude: °W			

(ITEMS 1 THRU 3 TO BE FILLED BY USACE)																									
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED																							
APPLICANT AND AGENT INFORMATION																									
4. APPLICANT'S NAME First - Middle - Last - Company - E-mail Address -		5. AGENT'S ADDRESS: Address- City - State - Zip - Country -																							
5. APPLICANT'S ADDRESS: Address- City - State - Zip - Country -		6. AGENT'S PHONE NOs. w/AREA CODE a. Residence b. Business c. Fax																							
NAME, LOCATION, AND DESCRIPTION OF PROJECT SITE																									
10. PROJECT NAME OR TITLE																									
11. FILE NUMBER(S) OF PREVIOUS USACE ACTIONS ON THE SITE (<i>if applicable</i>)	12. NAME OF WATERBODY																								
13. PROJECT COORDINATES (in decimal degrees) Latitude: -N Longitude: -W		14. PROJECT STREET ADDRESS (<i>if applicable</i>) Address City - State - Zip -																							
ACTIVITY TYPE, PROJECT IMPACTS, AVOIDANCE & MINIMIZATION																									
15. GENERAL PERMIT ACTIVITIES (CHECK ALL THAT APPLY)		16. SUMMARY OF PROJECT IMPACTS (<i>see instructions</i>)																							
1 <input type="checkbox"/>	6 <input type="checkbox"/>	11 <input type="checkbox"/>	16 <input type="checkbox"/>	21 <input type="checkbox"/>	<table border="1"> <thead> <tr> <th>Area (square feet)</th> <th>Length (linear feet)</th> <th>Volume (cubic yards)</th> <th>Duration</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	Area (square feet)	Length (linear feet)	Volume (cubic yards)	Duration																
Area (square feet)	Length (linear feet)	Volume (cubic yards)	Duration																						
2 <input type="checkbox"/>	7 <input type="checkbox"/>	12 <input type="checkbox"/>	17 <input type="checkbox"/>	22 <input type="checkbox"/>																					
3 <input type="checkbox"/>	8 <input type="checkbox"/>	13 <input type="checkbox"/>	18 <input type="checkbox"/>	23 <input type="checkbox"/>																					
4 <input type="checkbox"/>	9 <input type="checkbox"/>	14 <input type="checkbox"/>	19 <input type="checkbox"/>	24 <input type="checkbox"/>																					
5 <input type="checkbox"/>	10 <input type="checkbox"/>	15 <input type="checkbox"/>	20 <input type="checkbox"/>	25 <input type="checkbox"/>																					



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:

[USACE Wetland Determination Forms](#)

Regulatory Menu

- NEW: Clean Water Rule 2015
- Public Notices
- State General Permits
- Permits Issued
- Jurisdiction and Wetlands
- Mitigation +
- Invasive Species
- Dredged Material Program
- Stream and River Continuity

Wetland Delineation Manual/Forms

Sections of the January 1987 Corps of Engineers Wetland Delineation Manual have been superseded and distilled into regional supplements. A link for the supplement that is applicable to the six New England states is provided below. This supplement includes citations and highlights changes to the January 1987 Corps of Engineers Wetland Delineation Manual.

Downloads:

- Corps of Engineers Wetland Delineation Manual
- Wetland Delineation Manual, Northcentral / Northeast Supplement
- Wetland Determination Data Form, Northcentral and Northeast Region

Automated Wetland Determination Data Form from Corps of Engineers, Detroit District

- User Guide Automated Wetland Determination Data Form (Northcentral-Northeast Region) v1.26
- Automated Wetland Determination Data Form (Northcentral-Northeast Region) v1.08



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:
Proposed Compensatory Mitigation if project impacts exceed thresholds

Massachusetts General Permit

- Massachusetts General Permits (MA GPs) - June 2023
- Pre-Construction Notification (PCN) (Appendix B)
- Self-Verification Notification (SVN) (Appendix C)
- Pre-Construction Notification Application Checklist (Appendix D)
- ENG 4345 (needed for IP applications)
- Certificate of Compliance (6-9-2023)

Aquatic Resource Identification and Mitigation

Identification of Aquatic Resource Areas

- Jurisdiction and Delineation of Aquatic Resources
- Mass Mapper
- MassDEP Eelgrass Mapping Project

Avoidance, Minimization, Compensatory Mitigation

- Massachusetts General Permit, Section V
- New England District Compensatory Mitigation Standard Operating Procedures
- Massachusetts In-Lieu Fee Program
- Additional resources (e.g. monitoring templates, vernal pool SAMPs, 2008 Mitigation Rule, SVAP Version 2.0, etc)

Compensatory Mitigation Thresholds in Massachusetts

Resource Area	Non-Tidal Threshold	Tidal Threshold
Stream	200 LF	200 LF
Bank Stabilization	500 LF	500 LF
Open Water	Project Dependent	Project Dependent
Wetland	5,000 SF	500 SF
Vernal Pool	All	N/A
SAV	Project dependent	25 SF
Mudflat	N/A	1,000 SF
Intertidal	N/A	1,000 SF

Links:

- [Compensatory Mitigation SOP](#)
- [Massachusetts In-Lieu fee Program](#)



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:
Project Compliance with [Technical Report \(TR\) – 47](#) Time of the Year (TOY) restrictions

Town	Waterbody Name	Watershed	Region	Spring TOY Restriction	Fall TOY Restriction	herring: Alewife	herring: Blueback	American shad	Rainbow Smelt	American eel	White Perch	Atlantic tomcod	Atlantic salmon	Sturgeon spp.	Winter flounder	Atlantic cod	Horseshoe crab	Shellfish
Acushnet	Acushnet River	Buzzards Bay	SM	15-Jan to 30-Jun	01-Sep to 15-Nov	1	1	5	1	1	3	ND	5	5	3	5	ND	5
Acushnet	New Bedford Reservoir	Buzzards Bay	SM	15-Mar to 30-Jun	01-Sep to 15-Nov	2	2	5	5	3	ND	5	5	5	5	5	5	5
Agawam	Connecticut River	Connecticut River	SM	15-Mar to 15-Nov		5	1	1	5	5	5	5	1	1	5	5	5	5
Agawam	Westfield River	Connecticut River	SM	15-Mar to 15-Jul	01-Sep to 15-Nov	5	1	1	5	3	5	5	1	5	5	5	5	5

- Defer to TR-47 for activities in Non-tidal Waters
- For activities in Tidal Waters a general TOY restriction from January 15th to November 15th will apply
- In-water work shall not occur during TOY restriction period for Self-Verification projects unless Massachusetts Division of Marine Fisheries (DMF) has waived the TOY restriction
- The term “in-water work” does not include conditions where the work site is “in-the-dry”, which includes work contained within cofferdams as long as their installation and removal are outside TOY restrictions



ITEMS MISSING FROM APPLICATIONS



These items are often missing and can make the SVN or PCN submittal incomplete:

[Project Compliance with Massachusetts River and Stream Crossing Standards](#)

STREAM CROSSING STANDARDS

Stream crossing standards are based on six important variables (see page 8 for common measurements). While the specifics of the regulations listed below may change over time, the crossing guidelines presented throughout this handbook remain effective for fish and wildlife.

1. TYPE OF CROSSING

- **General:** Spans (bridges, 3-sided box culverts, open-bottom culverts or arches) are strongly preferred.
- **Optimum:** Use a bridge.

2. EMBEDMENT

- All culverts should be embedded (sunk into stream) a minimum of 2 feet, and round pipe culverts at least 25%.
- If pipe culverts cannot be embedded this deep, then they should not be used.
- When embedment material includes elements >15 inches in diameter, embedment depths should be at least twice the D_{84} (particle width larger than 84% of particles) of the embedment material.

3. CROSSING SPAN

- **General:** Spans channel width (a minimum of 1.2 times the bankfull width of the stream).
- **Optimum:** Spans the streambed and banks (at least 1.2 times bankfull width) with sufficient headroom to provide dry passage for wildlife.

4. OPENNESS

- **General:** Openness ratio (cross-sectional area/crossing length) of at least 0.82 feet (0.25 meters). The crossing should be wide and high relative to its length.
- **Optimum:** Openness ratio of at least 1.64 feet (0.5 meters) and minimum height of 8 feet. If conditions significantly reduce wildlife passage near a crossing (e.g., steep embankments, high traffic volumes, and physical barriers), maintain a minimum height of 8 feet (2.4 meters) and openness ratio of 2.46 feet (0.75 meters).

5. SUBSTRATE

- Natural bottom substrate should be used within the crossing and it should match the upstream and downstream substrates. The substrate and design should resist displacement during floods and maintain an appropriate bottom during normal flow.

6. WATER DEPTH AND VELOCITY

- Water depths and velocities are comparable to those found in the natural channel at a variety of flows.

- All Massachusetts Stream Crossing standards shall be met for self-verification eligibility
- Project description and project plans should clearly and concisely showcase how project design meets the standards
- Justification shall be provided if any of the standards are not met



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs

These items are often missing and can make the SVN or PCN submittal incomplete:

NOAA NLAA Form

Application Number:	
Reinitiation:	Select Yes or No
Applicant(s):	
Permit Type:	Select Permit Type
Anticipated project start date (e.g., 10/1/2020)	
Anticipated project end date (e.g., 12/31/2022 – if there is no permit expiration date, write “N/A”)	
Project Type/Category (check all that apply to entire action):	
<input type="checkbox"/> Aquaculture (shellfish) and artificial reef creation	<input type="checkbox"/> Mitigation (fish/wildlife enhancement or restoration)
<input type="checkbox"/> Dredging and disposal/beach nourishment	<input type="checkbox"/> Bank stabilization
<input type="checkbox"/> Piers, ramps, floats, and other structures	<input type="checkbox"/> If other, describe project type category:
Town/City:	Zip:
State:	Water body:

Type of Bottom Habitat Modified:	Permanent/Temporary:	Area (acres):
Select Type of Bottom Habitat	Select Permanent or Tempora	
Sand (saline)	Select Permanent or Tempora	
Silt/Mud/Clay (saline)	Select Permanent or Tempora	
Hard bottom (saline)	Select Permanent or Tempora	
SAV (saline)		
Sand (freshwater)		
Silt/Mud/Clay (freshwater)		
Hard bottom (freshwater)		
SAV (freshwater)		
Select Type of Bottom Habitat		
of water body in action area:	(stressor that extends furthest distance into water body – e.g., turbidity plume; sound pressure wave):	Max extent (m) of stressor into the water body:



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:

NOAA NLAA Form

c) SOUND PRESSURE PDC

Information for Pile Driving:

If your project includes **pile driving of any kind**, please attach your calculation to this verification form to verify that it fits within the scope of the behavioral/injury threshold analysis for ESA-listed species in the action area. The NMFS Office of Protected Resources Acoustic Calculator is available as one source, should you not have other information:

<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effects-analysis-acoustics-greater-atlantic-region>

	Pile material	Pile diameter/width (inches)	Number of piles	Installation method
a)	Select pile material			Select installation method
b)	AZ Steel Sheet			Select installation method
c)	CISS Steel Pipe			Select installation method
d)	Concrete			Select installation method
	Fiberglass			Select installation method
	Micropile			
	Plastic			
	Steel H-Type			
	Steel Pipe			
	Timber			

c) SOUND PRESSURE PDC

Information for Pile Driving:

If your project includes **pile driving of any kind**, please attach your calculation to this verification form to verify that it fits within the scope of the behavioral/injury threshold analysis for ESA-listed species in the action area. The NMFS Office of Protected Resources Acoustic Calculator is available as one source, should you not have other information:

<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effects-analysis-acoustics-greater-atlantic-region>

	Pile material	Pile diameter/width (inches)	Number of piles	Installation method
a)	Select pile material			Select installation method
b)	Select pile material			Impact hammer
c)	Select pile material			Vibratory hammer
d)	Select pile material			Vibratory start and then impact hammer to depth
				Drilled
				Jetting
				Select installation method



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:

[NOAA NLAA Form](#)

e) TURBIDITY/WATER QUALITY PDC	
Information for Turbidity Producing Activity (excluding disposal):	
ESA-species turbidity control measures required (e.g., turbidity curtain):	Select Yes or No
If no turbidity control measures required, explain why:	Select reason why no turbidity control measures are required
Information for Dredged Material	Not operationally feasible
Disposal site:	Presence of ESA-listed species limited to rare, transient individuals
Estimated number of trips to disposal site:	Disturbed substrate won't generate measurable turbidity (e.g., rocks, coarse sand)
	Select reason why no turbidity control measures are required



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:

NOAA NLAA Form

f) ENTANGLEMENT PDC			
Information for Aquaculture Projects:			
Approximate distance from shore (MHW) (m):			
Grow season begins (approximate):			
Grow season ends (approximate):			
Total number of vertical lines:			
Total number of horizontal lines:			
Is any gear seasonally removed from the water? If yes, which parts and when?			
	Aquaculture Gear	Acreage (total permit footprint)	Type of Shellfish Cultivated
a)	Select aquaculture gear		Select type of shellfish cultivated
b)	Cage on bottom		Select type of shellfish cultivated
c)	Floating gear		Select type of shellfish cultivated
	Multimode		
Yes	Shell on bottom	bn	
<input type="checkbox"/>	Other	in <50 acres with maximum of 4 corner marker buoys;	
<input type="checkbox"/>	Select aquaculture gear	Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages, 4 corner marker buoys);	
<input type="checkbox"/>	<input type="checkbox"/>	26. Floating cages in <3 acres in waters and shallower than -10 feet MLLW with no loose lines and minimal vertical lines (1 per string of cages, 4 corner marker buoys);	
<input type="checkbox"/>	<input type="checkbox"/>	27. Floating upweller docks in >10 feet MLLW.	
<input type="checkbox"/>	<input type="checkbox"/>	28. Any in-water lines, ropes, or chains must be made of materials and installed in a manner to minimize or avoid the risk of entanglement by using thick, heavy, and taut lines that do not loop or entangle. Lines can be enclosed in a rigid sleeve.	

f) ENTANGLEMENT PDC			
Information for Aquaculture Projects:			
Approximate distance from shore (MHW) (m):			
Grow season begins (approximate):			
Grow season ends (approximate):			
Total number of vertical lines:			
Total number of horizontal lines:			
Is any gear seasonally removed from the water? If yes, which parts and when?			
	Aquaculture Gear	Acreage (total permit footprint)	Type of Shellfish Cultivated
a)	Select aquaculture gear		Select type of shellfish cultivated
b)	Select aquaculture gear		Clam
c)	Select aquaculture gear		Mussel
			Oyster
			Scallop
Yes	N/A	PDC #	PDC Description
<input type="checkbox"/>	<input type="checkbox"/>	24.	Shell on bottom <50 acres with ma
<input type="checkbox"/>	<input type="checkbox"/>	25.	Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
<input type="checkbox"/>	<input type="checkbox"/>	26.	Floating cages in <3 acres in waters and shallower than -10 feet MLLW with no loose lines and minimal vertical lines (1 per string of cages, 4 corner marker buoys);
<input type="checkbox"/>	<input type="checkbox"/>	27.	Floating upweller docks in >10 feet MLLW.
<input type="checkbox"/>	<input type="checkbox"/>	28.	Any in-water lines, ropes, or chains must be made of materials and installed in a manner to minimize or avoid the risk of entanglement by using thick, heavy, and taut lines that do not loop or entangle. Lines can be enclosed in a rigid sleeve.



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs



These items are often missing and can make the SVN or PCN submittal incomplete:

NOAA NLAA Form

h) VESSEL TRAFFIC PDC			
Information for Vessel Traffic:			
	Temporary Project Vessel Type	Number of Vessels	
a)	Select temporary vessel type		
b)	Work barge		
c)	Tug		
	Scow		
	Dredge vessel		
	Crew support vessel		
	Research vessel		
	Select temporary vessel type	Number of Vessels <i>(if sum > 2, PDC 33 is not met and justification required in Section 4)</i>	
a)	Select type of non-commercial or aquaculture vessels		
b)	Select type of non-commercial or aquaculture vessels		
	Type of Commercial Vessels Added <i>(only include if there is a net increase directly/indirectly resulting from project)</i>	Number of Vessels <i>(if > 0, PDC 33 is not met and justification required in Section 4)</i>	
a)			
b)			
If no temporary/permanent vessel traffic, briefly explain (e.g., all land-based work, no net increase in vessel traffic)			
Yes	N/A	PDC #	PDC Description
<input type="checkbox"/>	<input type="checkbox"/>	30.	Maintain project vessels operating within the action area to speed limits below 10 knots and dredge vessel speeds of 4 knots maximum, while dredging.
<input type="checkbox"/>	<input type="checkbox"/>	31.	Maintain a 1,500-foot buffer between project vessels and ESA-listed whales and a 150-foot buffer between project vessels and sea turtles unless the vessel is navigating to an in-water disposal site/activity. If the vessel is navigating to an in-water disposal site/activity, refer to and include the conditions contained in the appropriate GARFO-USACE/EPA consultation for the disposal site.
<input type="checkbox"/>	<input type="checkbox"/>	32.	The number of project vessels must be limited to the greatest extent possible, as appropriate to size and scale of project.
<input type="checkbox"/>	<input type="checkbox"/>	33.	The permanent net increase in vessels resulting from a project (e.g., dock/float/pier/boating facility) must not exceed two non-commercial vessels. A project must not result in the permanent net increase of any commercial vessels (e.g., a ferry terminal).

h) VESSEL TRAFFIC PDC			
Information for Vessel Traffic:			
	Temporary Project Vessel Type	Number of Vessels	
a)	Select temporary vessel type		
b)	Select temporary vessel type		
c)	Select temporary vessel type		
	Type of Non-Commercial or Aquaculture Vessels Added <i>– only include if there is a net increase directly/indirectly resulting from project</i>	Number of Vessels <i>(if sum > 2, PDC 33 is not met and justification required in Section 4)</i>	
a)	Select type of non-commercial or aquaculture vessels		
b)	Aquaculture Fishing vessel		
	Recreational motor boat		
	Recreational boat (non-motorized)		
	Select type of non-commercial or aquaculture vessels	Number of Vessels <i>(if > 0, PDC 33 is not met and justification required in Section 4)</i>	
a)			
b)			
If no temporary/permanent vessel traffic, briefly explain (e.g., all land-based work, no net increase in vessel traffic)			
Yes	N/A	PDC #	PDC Description
<input type="checkbox"/>	<input type="checkbox"/>	30.	Maintain project vessels operating within the action area to speed limits below 10 knots and dredge vessel speeds of 4 knots maximum, while dredging.
<input type="checkbox"/>	<input type="checkbox"/>	31.	Maintain a 1,500-foot buffer between project vessels and ESA-listed whales and a 150-foot buffer between project vessels and sea turtles unless the vessel is navigating to an in-water disposal site/activity. If the vessel is navigating to an in-water disposal site/activity, refer to and include the conditions contained in the appropriate GARFO-USACE/EPA consultation for the disposal site.
<input type="checkbox"/>	<input type="checkbox"/>	32.	The number of project vessels must be limited to the greatest extent possible, as appropriate to size and scale of project.
<input type="checkbox"/>	<input type="checkbox"/>	33.	The permanent net increase in vessels resulting from a project (e.g., dock/float/pier/boating facility) must not exceed two non-commercial vessels. A project must not result in the permanent net increase of any commercial vessels (e.g., a ferry terminal).



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs

101



These items are often missing and can make the SVN or PCN submittal incomplete:

- IPaC species list and determination letters for each species
- NOAA endangered species mapper report
- NOAA EFH mapper report
- Known sensitive area for historic properties at or near the project site
- Proof of project notification sent to SHPO and THPO



U.S. ARMY

ITEMS MISSING FROM APPLICATIONS

Maninder Singh and Ethan Hobbs

102



These items are often missing and can make the SVN or PCN submittal incomplete:

- Mean High Water (MHW) mark or High Tide Line (HTL) for tidal projects and Ordinary High Water Mark (OHWM) for non-tidal projects is often missing from project plans
 - Project application shall mention the methodology utilized to determine MHW, HTL, and OHWM
- Project methodology shall be clearly written out. Few examples:
 - How the docks will be installed
 - How the dredging will take place
 - How the dredged material be transported
 - Where the dredged material will be placed
 - How the dredged material will be dewatered
 - How the erosion control measures be deployed
 - How in-water sediment turbidity control measures will be deployed
- Final versions of project plans and project methodology shall be provided



REGULATORY DIVISION
REGULATORY REQUEST SYSTEM (RRS)

Katelyn Rainville, Regulatory Project Manager





U.S. ARMY

REGULATORY REQUEST SYSTEM (RRS)

Katelyn Rainville

104



- The RRS is part of a new multi-faceted, enterprise-wide approach to transforming the Regulatory Program.
- RRS will be an interactive online platform which will allow the regulated public to submit a variety of requests to the District through the online system and will operate nationally.
- RRS will streamline the permit application process and underscores USACE commitment to modernizing our application process, meeting user expectations, and providing a transparent, straightforward process for the timely review of permit requests.
- Status:
 - Phase 1A Implementation – **January 31, 2024 (LIVE NOW!)**
 - Request Jurisdictional Determinations (JDs)
 - Submit Pre-Applications
 - Report Violations
 - View Regulatory Program information
 - New England District Public BETA Testing SVs and PCNs– **Anticipated fall 2024**



U.S. ARMY

REGULATORY REQUEST SYSTEM (RRS)

Katelyn Rainville

105



An official website of the United States government [Here's how you know](#)

NOTICE: The Regulatory Request System (RRS) is currently operating within a beta version providing an avenue for the public to submit requests for both pre-application meetings and jurisdictional determinations. Additional capabilities, such as the submission of permit application requests, are slated to be incorporated by Spring 2024.



Login

Welcome to the Regulatory Request System

Apply Online • Learn about the Regulatory Program • Track Request Status

Get Started >>>



Regulatory Program Information

Learn the basics about the Regulatory Program, including recent announcements.



Jurisdiction

Does the property in question contain wetlands/waters? If so does the Corps have jurisdiction?



Permitting

Do you need a permit? Need to schedule a pre-application meeting?



Mitigation

Discover how we help avoid and minimize impacts to aquatic resources.



Report Violations

Submit a report of unauthorized activity or permit non-compliance.



RRS Support

Get general system support, district contact information, submit feedback, and login.gov help.



Public Notices

UNDER CONSTRUCTION
Visit the HQ Regulatory website to find your district and get local public notices.



Apply for a Permit

UNDER CONSTRUCTION
If you're ready to apply for a permit, click here to login.





REGULATORY REQUEST SYSTEM (RRS)

Katelyn Rainville

106



NOTICE: THIS SYSTEM IS FOR INFORMATIONAL PURPOSES ONLY! REQUESTS SUBMITTED USING THIS SYSTEM WILL NOT BE ACTED UPON BY USACE! [SUBMIT BETA FEEDBACK](#)



Home Request Page Updates Logged in: First, Last Name
Applicant -

Pre-application/Project Scoping

Exit Form



Save Progress
Last saved: 9 hours from now



Project Location

Current Step: 1 of 6

- ✓ Instructions
- ✓ General Project Information
- ✓ Contact Information
- ✓ Property Owners
- ✓ Supporting Information
- ✓ Certify, Sign, and Submit

INSTRUCTIONS

The **pre-application meeting and scoping request** provides an electronic option for applicants to request a pre-application meeting with the U.S. Army Corps of Engineers (USACE) or to submit project scoping letters. This electronic application will guide you through providing the information required for a complete request.

Scoping letters, which are typically submitted by applicants using Federal or State funding to accomplish a project of which they are the proponent, seek comment from the USACE regarding potential impacts to waters of the United States during very early phases of project development. These are typically submitted to help meeting requirements of the National Environmental Policy Act or similar state/local laws.

Preapplication meetings are typically held prior to an applicant submitting a project application and are normally reserved for **larger and more complex projects that require a standard individual permit**. The purpose of these meetings is to discuss various aspects of the project, such as the required permit type, estimated permit timeframes, potential complexities related to permitting (such as endangered species, historic properties, section 408, etc.), onsite and offsite alternatives, options for avoidance and minimization, potential construction layouts, compensatory mitigation options, and other information. The meetings usually involve the applicant, USACE staff, interested resource agencies (federal, state, or local), and sometimes the interested public.

Note - If a field site visit is requested, it will be necessary for the property owner to provide a Right of Entry Form and their designated agent (if one was retained) to provide a completed Agent Authorization Form.

Recommended Information for Standard Permit Pre-application Meetings (click to expand each section to learn more):

- Draft Waters of the United States Delineation
- Draft Project Plans
- Draft Alternative Analysis



Supported by Civil Works Business Intelligence

[Privacy & Legal](#) [Contact Us](#) [Site Feedback](#) RRS v0.6.1

Highest Possible Classification is CUI



U.S. ARMY

REGULATORY REQUEST SYSTEM (RRS)

Katelyn Rainville

107



[Request Page](#) > Dashboard

My Dashboard

You can review your request statuses in the table below.

Requests (0)

The requests shown below are ones that have been created by you. Select the Project Name to view and/or edit your request.

	Id	Request Type ↓↑	Project Name ↑	District ↓↑	Created Date ↓↑	Request Status ↓↑	Project Manager Name ↓↑
	218	Pre-application/Project Scoping	Shaeffer's Pig Farm	Wilmington District	2023-11-06	Submitted	Placeholder

Questions?





Please take our online survey:

<https://forms.osi.apps.mil/r/vdb00mSXbA>

USACE New England District
Regulatory MA GPs Outreach
Survey

