

STATE OF MAINE



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October 31, 2025

Tammy Turley
Chief, Regulatory Division
U.S. Army Corps of Engineers New England District
696 Virginia Rd
Concord, MA 01742

RE: WQC and CZM Decision on Proposed 2025 Maine General Permits

Dear Ms. Turley,

This letter is in response to the Clean Water Act Section 401 Water Quality Certification requests received by the Maine Department of Environmental Protection (DEP) and Land Use Planning Commission (LUPC) as well as the Coastal Zone Management Act consistency determination received by Maine Coastal Program (MCP) on June 13, 2025 for the proposed U.S. Army Corps of Engineers (USACE) Maine General Permits (GPs) that would replace the existing GPs set to expire on October 14, 2025.

The New England District USACE proposes to issue statewide Department of the Army Maine GPs to streamline the review of regulated activities under USACE jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act within waters of the United States in Maine. The proposed ME GPs consist of 37 regional general permits (RGPs), including 34 that are comparable to the current 2021-2026 and proposed 2026-2031 nationwide permits (NWP), and three RGPs specific to the New England District.

Under Section 401 of the Clean Water Act, any activity authorized by a federal permit that may result in a discharge to waters of the U.S. must obtain a Water Quality Certification (WQC) or waiver from the appropriate certifying authority. DEP and LUPC are both certifying authorities in the State of Maine. Additionally, pursuant to Section 307 of the Coastal Zone Management Act of 1972, federal activities affecting a state's coastal zone must be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of MCP. Maine's federally approved coastal zone extends from the inland boundary of coastal municipalities or unorganized townships or plantations that contain tidal waters seaward to the outer limit of the State's territorial ownership, three nautical miles from the baseline from which the territorial sea is measured. Public notice of this proposed action was published online on June 27, 2025, and in the Portland Press Herald on July 2, 2025, with a comment period through July 21, 2025. No comments were received.

Maine's Natural Resources Protection Act (NRPA), 38 M.R.S. §§480-A – 480-KK, finds and declares the state's rivers and streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, coastal wetlands, and coastal sand dune systems to be resources of state significance. A state permit is required when an activity would be located in, on, or over any of the above protected natural resources, as well as other cases where an activity would be adjacent to those natural resources, unless the activity is otherwise exempt. The DEP issues permits pursuant to NRPA and LUPC issues permits pursuant to Chapter 10 of the Commission's Rule and Regulations, having delegation of permit-granting authority under NRPA for projects wholly within its jurisdiction. The MCP incorporates NRPA, Chapter 10, and other state laws and regulations as enforceable policies of the coastal program, and federal actions must be carried out in a manner consistent with those policies. The DEP additionally has its own streamlined permitting process through Permit by Rule (PBR), 06-096 C.M.R. ch. 305, for activities that

have been determined to not significantly affect the environment if carried out in accordance with the standards of Chapter 305. Where applicable, this decision letter may rely upon the PBR standards due to the alignment of the objectives of PBR and the Maine GPs.

DEP, LUPC, and MCP have coordinated on the review of the proposed ME GPs and have decided that 34 RGP's would comply with state water quality requirements and MCP enforceable policies with additional conditions, as set forth below. DEP, LUPC, and MCP determined that three RGP's would not comply with state water quality requirements and MCP enforceable policies and therefore DEP and LUPC deny those RGP's and MCP objects to those RGP's.

DEP and LUPC issue WQC and MCP concurs with the following RGP's with additional conditions:

1. Aids to Navigation
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
11. Temporary Recreational Structures
12. Oil or Natural Gas Pipeline Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
17. Hydropower Projects
20. Response Operations for Oil or Hazardous Substances
27. Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities
29. Residential Developments
33. Temporary Construction, Access, and Dewatering
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
41. Reshaping Existing Drainage and Irrigation Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
46. Discharges in Ditches
48. Commercial Shellfish Mariculture Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
55. Seaweed Mariculture
54. Living Shorelines
57. Electric Utility Line and Telecommunications Activities
58. Utility Line Activities for Water and Other Substances
60. Activities to Improve Passage for Fish and Other Aquatic Organisms
- A. Boat Ramps and Marine Railways
- B. Dredging, Disposal of Dredged Material, Beach Nourishment, Rock and Debris Removal and Rock Relocation
- C. Structures in Navigable Waters of the U.S.

WQC and CZM general conditions

WQC is issued and CZM concurrence is given for the immediately above-listed RGP's, provided the project meets the following general conditions:

Condition:

1. Projects that would result in any direct, permanent salt marsh (tidal wetlands) loss must be reviewed individually for WQC and CZM unless mitigation is required.

Explanation:

The protection of tidal wetlands supports the mission of ensuring state water quality standards are met. The DEP's Chapter 310 rules, in section 5(C)(6)(b), presume that compensation is required for any

amount of salt marsh fill.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 06-096 C.M.R. ch. 310; 01-672 C.M.R. ch. 10

Condition:

2. When operating equipment or otherwise undertaking construction activities in aquatic resources, the project proponent shall:
- Include in the project plan/design drawings the locations of:
 - the project site with all waters, including wetlands, clearly demarcated;
 - staging areas;
 - construction access points; and
 - disturbance limits.
 - Clean all equipment prior to the equipment arriving on the project site.
 - Have containment booms and/or absorbent material available onsite prior to the commencement of work. In the case of spills, the project proponent shall immediately employ containment booms and/or absorbent material to prevent discharges from reaching waters of the United States.
 - Prior to entering any waters of the United States, inspect all equipment for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, the project proponent shall repair the equipment in a staging area or move it offsite.
 - Clean all contaminated areas within 8 hours of spill detection and remove contaminated soil from the site within 24 hours or contain it in enclosed containers until it is removed from the site.

Explanation:

Providing such information will demonstrate the project proponent's understanding of various environmental permitting requirements, intent to undertake operations appropriately and responsibly, and ensure water quality standards are not exceeded through pollutants introduced by the equipment.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 06-096 C.M.R. ch. 310; 01-672 C.M.R. ch. 10

Condition:

3. Project proponents must identify whether a proposed project would occur within an S1 or S2 natural community identified by the Maine Natural Areas Program (MNAP) and coordinate with MNAP to address any potential concerns and discuss mitigation as appropriate. Project proponents can use MNAP online resources to learn more about how each natural community is characterized here: <https://www.maine.gov/dacf/mnap/features/commsheets.htm>. Project proponents may also contact MNAP directly for questions and coordination here: maine.nap@maine.gov.

Explanation:

Coordination with MNAP will ensure state water quality standards continue to be met for resources protected at the state and federal levels which are considered especially important or rare in Maine.

Citation:

38 M.R.S. §480-D(3); 06-096 C.M.R. ch. 310; 01-672 C.M.R. ch. 10

Condition:

4. Project proponents must identify whether a proposed project would occur within an Essential Habitat, as listed in 09-137 C.M.R. ch. 8, or Significant Wildlife Habitat, as defined in 38 M.R.S. § 480-B(10), and coordinate with IFW to address any potential concerns and discuss mitigation as appropriate. Project proponents may contact DIFW directly for questions and coordination here: IFWEnvironmentalReview@maine.gov.

Explanation:

Coordination with DIFW will ensure state water quality standards continue to be met for resources protected at the state and federal levels which are considered especially important or rare in Maine.

Citation:

38 M.R.S. §480-D(3); 12 M.R.S. § 12804; 06-096 C.M.R. ch. 310; 01-672 C.M.R. ch. 10; 09-137 C.M.R. ch. 8

WQC and CZM permit-specific conditions

WQC is issued and CZM concurrence is given for the immediately above-listed RGPs, provided the project meets the following permit-specific conditions:

Condition:

5. WQC and CZM are authorized for **RGPs 3, 12, 14, 17, 29, 39, 42, 43, 51, 52, 57, 58, and 60**, provided projects completed pursuant to these RGPs adhere to the following additional conditions for waterway crossings.
- To the greatest extent practicable, culvert installation must not disturb the stream's natural structure and work in the stream must be minimized.
 - The culvert must follow the course and grade of the stream channel to the greatest extent possible.
 - Culverts shall be sized to prevent perching and pooling.

Explanation:

Proper culvert sizing and design is integral to ensure projects comply with water quality standards because it reduces the risk of excessive erosion and sedimentation and maintains natural stream conditions by allowing aquatic and other wildlife to pass freely.

Note: All tidal waters in Maine are considered habitat for, or are within the geographic range of, species requiring consultation under the Federal Endangered Species Act and therefore pre-construction notification is likely needed under general condition 18.

Citation:

38 M.R.S. §§ 480-A–480-KK; 01-672 C.M.R. § 10.27(D)

Condition:

6. WQC and CZM are authorized for **RGP 7**, provided projects completed pursuant to these RGPs adhere to the following additional conditions:
- Stormwater outfalls must utilize velocity reducing structures and/or rock aprons to prevent erosion. A vegetative filter strip with a length of at least 25 feet must be established and maintained between the outfall structure and the resource.
 - Maintenance clearing of deposited debris and sediments from the outfall area is allowed provided the cleared materials are removed from the resource. Any debris generated during the activity must be prevented from washing downstream and must be removed from the wetland or waterbody. Disposal of debris must be in conformance with the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S. §§ 1301 et seq.

Explanation:

Erosion and sedimentation controls are important for ensuring state water quality requirements are met.

Citation:

38 M.R.S. § 420-C; 38 M.R.S. §§ 480-A–480-KK; 06-096 C.M.R. ch. 305; 01-672 C.M.R. ch. 10

Condition:

7. WQC and CZM are authorized for **RGPs 12, 57, and 58**, provided projects completed pursuant to these RGPs adhere to the following additional conditions:
- WQC and CZM are only authorized for transmission lines or pipelines that would not be constructed on outstanding river segments defined under 12 M.R.S § 403 and 38 M.R.S. § 480-P. Projects proposed in outstanding river segments require individual WQC and CZM review.
 - Loss of waters of the United States cannot exceed 1/2-acre cumulatively across hydrologically connected wetlands or waterbodies.
 - Any debris generated during the activity must be prevented from washing downstream and must be removed from the wetland or water body. Disposal of debris must be in conformance with the Maine Hazardous Waste, Septage and Solid Waste Management

Act, 38 M.R.S. §§ 1301 et seq.

Explanation:

Outstanding river segments have been determined by the legislature to have unparalleled natural and recreational values and provide irreplaceable social and economic benefits. The cumulative effect of frequent minor alterations and occasional major alterations of protected resources poses a substantial threat to the environment and economy of the state and its quality of life. Erosion and sedimentation controls are important for ensuring state water quality requirements are met.

Citation:

12 M.R.S. § 403 and 38 M.R.S. § 480-P; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1); 06-096 C.M.R. ch. 305

Condition:

8. WQC and CZM are authorized for **RGP 13**, provided projects completed pursuant to these RGPs adhere to the following additional conditions:
- For projects on rivers, streams, brooks, and lakes, WQC is issued and CZM concurrence is given up to 100 linear feet of bank stabilization. Projects greater than 100 linear feet require individual WQC and CZM review.
 - For projects on tidal waters, WQC is issued and CZM concurrence is given up to 250 linear feet of bank stabilization. Projects greater than 250 linear feet require individual WQC and CZM review.

Explanation:

The length of a project may not be longer than necessary to protect the structure or space that the project is designed to protect in order to minimize impacts to water quality.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1); 06-096 C.M.R. ch. 305 and 06-096 C.M.R. ch. 310

Condition:

9. WQC and CZM are authorized for **RGP 14**, provided projects completed pursuant to these RGPs adhere to the following additional conditions:
- For projects in non-tidal waters, WQC and CZM are only authorized for the discharge of dredged or fill material up to 1/2-acre loss of waters of the U.S. cumulatively across hydrologically connected wetlands or waterbodies.
 - For projects in tidal waters, the discharge of dredged or fill material cannot exceed 1/3-acre loss of waters of the United States cumulatively across hydrologically connected wetlands or waterbodies.

Explanation:

The cumulative effect of frequent minor alterations and occasional major alterations of protected resources poses a substantial threat to the environment and economy of the state and its quality of life. Limiting cumulative impacts can better ensure state water quality standards are met.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1)

Condition:

10. WQC and CZM are authorized for **RGP 17**, provided projects completed pursuant to these RGPs adhere to the following additional condition:
- WQC and CZM are only authorized for hydropower projects that would not be constructed on outstanding river segments defined under 12 M.R.S. § 403 and 38 M.R.S. § 480-P. Projects proposed in outstanding river segments require individual WQC and CZM review.

Explanation:

Outstanding river segments have been determined by the legislature to have unparalleled natural and recreational values and provide irreplaceable social and economic benefits. No new water diversion that would constitute a hydropower project pursuant to 38 M.R.S. § 632 can be constructed without the specific authorization of the legislature to ensure there are no alterations to physical and chemical characteristics and designated uses of the waters of these river and stream segments such that water quality is diminished and water quality standards are violated.

Citation:

12 M.R.S. § 403 and 38 M.R.S. § 480-P; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1)

Condition:

11. WQC and CZM are authorized for **RGP 33**, provided projects completed pursuant to these RGPs adhere to the following additional condition:
- The project proponent must submit to certifying authorities a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions for all waters (navigable and non-navigable) as well as photos once the restoration work is completed.

Explanation:

Requiring a restoration plan for projects involving temporary fills and structures in all waters is more protective of state water quality standards than only requiring restoration plans for navigable waters.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1)

Condition:

12. WQC and CZM are authorized for **RGPs 38, 52, and B**, provided projects completed pursuant to these RGPs adhere to the following additional condition:
- Projects involving dredging and excavation must submit a dredging and excavation plan to the certifying authorities that includes information on material types and quantities, hazard assessment, site characterization, staging area location(s), dewatering and treatment, disposal, containment controls, erosion and sediment control, and site restoration.

Explanation:

Providing such information will demonstrate the project proponent's understanding of various environmental permitting requirements, intent to undertake operations appropriately and responsibly, and ensure water quality standards are not exceeded through releases outside planned areas.

Citation:

06-096 C.M.R. ch. 310; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1)

Condition:

13. WQC and CZM are authorized for **RGP 54**, provided projects completed pursuant to these RGPs adhere to the following additional conditions:
- Project proponents must submit to the certifying authorities a detailed site description, site plan, photos of pre-construction conditions, as-built plans, and post-construction photos within 20 days of project completion.

Explanation:

Providing such information will demonstrate the project proponent's understanding of various environmental permitting requirements, intent to undertake operations appropriately and responsibly, and ensure water quality standards are not exceeded due to unstable designs.

Citation:

38 M.R.S. §§ 480-A – 480-KK; 06-096 C.M.R. ch. 305 and ch. 310; 12 M.R.S. § 685-B(4)(C) as restated in in 01-672 C.M.R. § 10.24(A)(1)

Condition:

14. WQC and CZM are authorized for **RGP A**, provided projects completed pursuant to these RGPs adhere to the following additional condition RGP A:
- WQC and CZM are only given for public boat ramps. Private boat ramps require individual WQC and CZM review.
 - WQC and CZM are only given for projects that are not proposed for areas in, on, or over emergent marsh vegetation or intertidal mudflat. Projects proposed for areas in, on, or over emergent marsh vegetation or intertidal mudflat require individual WQC and CZM review.

• Machinery may operate below the water line only when necessary to excavate or place material below the existing water level and must travel and operate on temporary mats or portions of the ramp that have been constructed. • Any debris generated during the activity must be prevented from washing downstream and must be removed from the wetland or water body. Disposal of debris must be in conformance with Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S. §§ 1301 et seq.
<u>Explanation:</u> Limiting the scope of this RGP ensures the most public benefit per project and also prevents destruction of emergent marsh vegetation and intertidal mudflat and violation of state water quality standards.
<u>Citation:</u> 38 M.R.S. §§480-A – 480-KK; 06-096 C.M.R. ch. 305; 12 M.R.S. § 685-B(4) as restated in 01-672 C.M.R. § 10.24(A)(1); 01-672 C.M.R. § 10.27(L)

<u>Condition:</u> 15. WQC and CZM are authorized for RGP B, provided projects completed pursuant to this RGP adhere to the following additional conditions: • WQC and CZM are only given in areas with no known historical contamination that would pose elevated risk to human health and aquatic life under 06-096 C.M.R. ch. 584. Maintenance and/or improvement dredging must be less than 50,000 cubic yards. • Wheeled or tracked equipment may not be operated in the water. • Beach nourishment may extend up to the frontal dune, including up to the top of an erosional scarp, but may not cover in-place dune vegetation. Maine Coastal Sand Dune Geology: https://www.maine.gov/dacf/mgs/pubs/digital/dunes.htm. • For a beach nourishment project, the total volume of sand and gravel to be placed on the beach may not exceed a volume of two feet deep over the surface area of the beach or 10,000 cy, whichever is less.
<u>Explanation:</u> Dredging projects must not be allowed to result in degradation of water quality or negative impacts to human health and aquatic life. The 50,000 cubic yard dredging threshold is established in PBR to not significantly affect the environment. The 10,000 cubic yard beach nourishment threshold is also established in PBR.
<u>Citation:</u> 38 M.R.S. § 420-B; 06-096 C.M.R. ch. 305; 06-096 C.M.R. ch. 584; 01-672 C.M.R. § 10.25(K)

<u>Condition:</u> 16. WQC and CZM are authorized for RGP C, provided projects completed pursuant to this RGP adhere to the following additional conditions: • WQC and CZM are not given for proposed structures within a coastal sand dune system. Structures in a sand dune system would require individual WQC and CZM review. Maine Coastal Sand Dune Geology: https://www.maine.gov/dacf/mgs/pubs/digital/dunes.htm. • WQC and CZM are not given for new permanent structures greater than 100 linear feet over tidal wetlands. New permanent structures greater than 100 linear feet over tidal wetlands would require individual WQC and CZM review. • Dimensions of replacement structures in wetlands must be minimized and any disturbed wetlands must be re-established upon completion of the activity and must be maintained. • Wheeled or tracked equipment may not be operated in the water.
<u>Explanation:</u> The protection of sand dunes and wetlands supports the mission of ensuring state water quality standards are met.
<u>Citation:</u> 38 M.R.S. §§ 480-A – 480-KK; 06-096 C.M.R. ch. 305 and ch. 310; 01-672 C.M.R. ch. 10

DEP and LUPC deny WQC and MCP objects to the following RGPs:

18. Minor Discharges

19. Minor Dredging

45. Repair of Uplands Damaged by Discrete Events

18. Minor Discharges

The state cannot certify that this activity would comply with water quality requirements without knowing more information about when this permit could be used. It is very open-ended and there are no best management practices associated with it to provide context. Erosion and sedimentation controls are important for ensuring state water quality requirements are met.

38 M.R.S. § 420-C; 38 M.R.S. §§480-A – 480-KK; 01-672 C.M.R. ch. 10

19. Minor Dredging

The state cannot certify that this activity would comply with water quality requirements. This RGP does not include a notification requirement because disposal must occur outside a jurisdictional resource. However, the activity of dredging itself can increase turbidity and suspend sediments into the water column and make them bioavailable for aquatic life. Notification should be required to ensure appropriate sediment characterization information is collected and determine if the activity can utilize the RGP. Maine will utilize RGP B instead of RGP 19 for dredging activities.

38 M.R.S. §§ 490-A – 480-KK; 06-096 C.M.R. ch. 584; 01-672 C.M.R. ch. 10

45. Repair of Uplands Damaged by Discrete Events

The state cannot certify that this activity would comply with water quality requirements. RGP 45 does not align with DEP's Chapter 310 Wetlands and Waterbodies Protection rules, which clarify that "a yard or other developed area may not be extended closer to the water as part of a shoreline stabilization project." It also does not align with *Land Use Districts and Standards* 01-672 C.M.R. ch. 10 (Chapter 10), included by not limited to Sections 10.25(A), 10.25(P)(1)(b), 10.25(P)(1)(c), 10.25(T), and 10.27(F)(6).

38 M.R.S. §§ 480-A – 480-KK; 06-096 C.M.R. ch. 310; 01-672 C.M.R. ch. 10

Any instance where a project does not follow the terms and conditions of the RGPs, general conditions, and WQC/CZM conditions shall be assumed to constitute a WQC denial and a CZM objection and necessitate individual review under such authorities.

The State of Maine appreciates the opportunity to collaborate on this federal permitting streamlining effort. Please note that WQC issuance and CZM concurrence does not negate the need for any other state and/or local authorizations and coordination that may be required. Early coordination with project proponents is always recommended. For questions, please reach out to the following contacts:

DEP – Jessica.Damon@maine.gov

LUPC – LUPC@maine.gov

MCP – CZM_FederalConsistency@maine.gov

Sincerely,



Robert Wood
Director of the Bureau of Land Resources
Department of Environmental Protection



Benjamin Godsoe
Acting Executive Director
Land Use Planning Commission



Jocelyn Runnebaum
Director
Maine Coastal Program