



**US Army Corps  
of Engineers**<sup>®</sup>  
New England District

696 Virginia Road  
Concord, MA 01742-2751

# Public Notice

In Reply Refer to: Mark Habel  
[nae-pn-nav@usace.army.mil](mailto:nae-pn-nav@usace.army.mil)

Planning Division

Date: December 28, 2021

Comment Period Closes: January 31, 2022

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**30 DAY PUBLIC NOTICE  
BREAKWATER REPAIR AND MAINTENANCE  
ISLES OF SHOALS HARBOR OF REFUGE FEDERAL NAVIGATION PROJECT  
RYE, NH & KITTEERY, ME**

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), New England District, plans to perform work in the navigable waters of this District, subject to the provisions of Section 404 of the Clean Water Act of 1977 (P.L. 95-217) and subject to the requirements of the National Environmental Policy Act (P.L. 91-190). The work involves the maintenance and repair of three breakwater structures located on the Isles of Shoals (Star Island, Cedar Island, Smuttynose Island, and Malaga Island) in Rye, New Hampshire and Kittery, Maine. The project is authorized by acts of 3 March 1821, 7 May 1822, and the River and Harbor Acts of 13 June 1902 and 25 June 1910. Attachment No. 1 lists pertinent laws, regulations, and directives.

**Project Description:** The proposed project involves the maintenance and reconstruction of the Isles of Shoals breakwaters to their previous dimensions in order to return full functionality of the structures. The three breakwaters are (from south to north) Star Island to Cedar Island (800 feet long), Cedar Island to Smuttynose Island (900 feet long), and Smuttynose Island to Malaga Island (300 feet long) (Attachment 2). The breakwaters were initially built between 1821 and 1913. Of the three breakwaters, two are located entirely in Maine, while the southern-most (Cedar Island to Star Island) is split by the state border with New Hampshire. Repairs to the three breakwaters would involve a combination of recovery and resetting of existing stone and delivery and placement of new armor stone. Each of the three breakwaters would be restored to a top elevation of +15.5 feet at mean lower low water (MLLW), with a 20-foot top width and slopes of 1:1.5 seaward and 1:1 leeward. Work would begin at Star Island and proceed northeasterly along the three breakwaters to Cedar, Smuttynose, and Malaga Islands. New armor stone would be delivered by deck barge from the mainland as needed. The shore ends of the Star-Cedar and Cedar-Smuttynose breakwaters and the entirety of the Smuttynose-Malaga breakwater would be accessed and repaired from shore. The central portion of the Star-Cedar and Cedar-Smuttynose breakwaters may be repaired from an elevated deck barge spudded alongside the structures. For the Star-Cedar and Cedar-Smuttynose breakwaters, existing displaced armor stone may be removed and reset together with recovered and new stone in order to achieve a tight interlocking fit for the finished armor layer.

For the Smuttynose-Malaga breakwater (which is built atop a bedrock ledge) all existing stone would be cleared and stockpiled to expose a suitable bedrock foundation upon which new armor stone would be placed. The existing stone would then be used to reform the toes of the structure.

To provide shore access for equipment and stone delivery, temporary stone ramps would be constructed above mean low water on the east side of Star Island, the south side of Cedar Island, the southeast side of Smuttynose Island, and the south and east side of Malaga Island. The stone ramps would allow barges to deliver and recover heavy equipment and deliver stone to the islands. The ramp on Star Island would be approximately 170 feet long by 30 feet wide, the ramp on Cedar Island would be approximately 145 feet long by 30 feet wide, the ramp on Smuttynose Island would be approximately 190 feet long by 30 feet wide, and the ramp on Malaga Island would be approximately 120 feet long by 30 feet wide. Overland routes between the ramp sites and the shore ends of the breakwaters would be located within the defined easement areas on the islands above mean high water elevation. Staging for equipment and stone stockpiles would also be located in the easement areas. Specific locations within the easement area for equipment storage and stone stockpiles would be determined by the contractor based on equipment needs. Stone trucks and equipment placing the stone (cranes and excavators) would accomplish their work from atop the breakwaters and from barges (for the central portions of the Star-Cedar and Cedar-Smuttynose breakwaters. No barge access would be allowed from the lee side of the Star-Cedar breakwater due to eelgrass beds in that area. Stone ramps for Star and Cedar Islands would also be located outside of the eelgrass areas. Stone ramps would be removed from the four islands after the breakwater repairs were completed. Barge deliveries would require clear fairways through the harbor. All floating mooring gear would need to be removed from these fairway areas. The work is anticipated to begin in the spring of 2022 and would take about seven months to complete. The window for construction will be April 1 through November 30.

**Purpose of Work:** The breakwaters sustained significant damage during the winter storms of 2015 and 2018. The purpose of the proposed work is to repair the three stone breakwaters which form the Isles of Shoals Harbor of Refuge (also known as Gosport Harbor) to their previous dimension to return full functionality of the structures.

**Alternatives:** The alternatives considered for this project included a no action alternative and a reconstruction to pre-existing dimensions alternative. The no action alternative involves doing nothing and allowing the structures to exist in their current poor condition. The reconstruction alternative involves repairing the breakwaters to their pre-existing conditions and restoring the functionality of the structures.

**Additional Information:** Additional information may be obtained from the Planning Division of the U.S. Army Corps of Engineers, Mr. Mark Habel, Project Manager, or Mr. Todd Randall, Project Ecologist, at the address shown above. These individuals may also be reached by phone at 978-318-8871 (Mr. Habel) or 978-318-8518 (Mr. Randall) or via mail at pn-nav@usace.army.mil.

**Coordination:** The proposed work has, or will be coordinated with the following agencies:

Federal:

U.S. Environmental Protection Agency  
U.S. Fish and Wildlife Service  
National Marine Fisheries Service

State agencies:

Maine Department of Environmental Protection  
Maine Department of Marine Resources  
Maine Historic Preservation Commission  
New Hampshire Department of Environmental Services  
New Hampshire Fish and Game

Local agencies:

Town of Rye  
Town of Kittery

Tribes:

Passamaquoddy Tribe Historic Preservation Officer  
Penobscot Tribe Historic Preservation Officer

**Environmental Impacts:** An environmental assessment is available for review upon request. I have made a preliminary determination that an environmental impact statement for the proposed maintenance dredging is not required under the provisions of the National Environmental Policy Act of 1969. This determination will be reviewed in light of facts submitted in response to this notice.

**Other Information:**

- a. Local Sponsor: There is no local sponsor.
- b. Floodplain Management: In accordance with Executive Order 11988, USACE has determined that the proposed work will not contribute to negative impacts or damages caused by floods.
- c. Endangered Species: It is our preliminary determination that the project is not likely to adversely affect threatened or endangered species. USACE is in consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service to ensure that the proposed activity will not significantly affect any species or critical habitat designated as endangered or threatened pursuant to the Endangered Species Act of 1973 (87 Stat. 844).
- d. Cultural Resources: USACE is in coordination project with the Maine Historic Preservation Commission, the Passamaquoddy Tribe Historic Preservation Officer, and the Penobscot Tribe Historic Preservation Officer in accordance with the National Historic Preservation Act of 1966, as amended.

e. Essential Fish Habitat Assessment: USACE has determined that the project may have a temporary adverse effect on Essential Fish Habitat (EFH). The project site is contained within areas designated as EFH as defined by the Magnuson-Stevens Fishery Conservation and Management Act and amended by the Sustainable Fisheries Act of 1996 for federally-managed fish species. USACE assessed the effects that the project is likely to have on EFH and determined that they will be short-term and localized and that there will be no significant impacts on the designated fisheries resources. USACE is in consultation with the National Marine Fisheries Service to ensure that any potential impacts will be minimized.

f. Additional Requirements: USACE has requested a 401 Water Quality Certificate from the states of New Hampshire (New Hampshire Department of Environmental Services) and Maine (Maine Department of Environmental Protection) and a Coastal Zone Management Consistency Determination Concurrence from the New Hampshire Coastal Program and the Maine Coastal Program.

Please bring this notice to the attention of anyone you know to be interested in this project. Comments are invited from all interested parties and should be directed to the U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751, ATTN: Mr. Mark Habel; or emailed to [nae-pn-nav@usace.army.mil](mailto:nae-pn-nav@usace.army.mil) within 30 days of this notice.

8 December 2021  
Date



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John A. Atilano II  
Colonel, Corps of Engineers  
District Engineer

Attachments

## **Attachment 1**

### **PERTINENT LAWS, REGULATIONS, AND DIRECTIVES**

Clean Water Act, as amended (33 U.S.C. 1251 et seq.)

National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347)

Fish and Wildlife Coordination Act (16 U.S.C. 661-667e)

Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et seq.)

Migratory Marine Game-Fish Act (16 U.S.C. 760c-760g)

Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)

National Historic Preservation Act of 1966 (54 U.S.C. 100101 et seq.)

Endangered Species Act of 1973 as amended (16 U.S.C. 1531 et seq.)

Clean Air Act, as amended (42 U.S.C. 7401 et seq.)

Estuary Protection Act (16 U.S.C. 1221 et seq.)

Federal Water Project Recreation Act, as amended (16 U.S.C. 4601-12 et seq.)

Land and Water Conservation Fund Act of 1965, as amended (54 U.S.C. 20301 et seq.)

Magnuson-Stevens Fishery Conservation and Management Act as amended by the  
Sustainable Fisheries Act of 1996 (16 U.S.C. 1801 et seq.)

Executive Order 11988, Floodplain Management, 24 May 1977

Executive Order 11990, Protection of Wetlands, 24 May 1977

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority  
Populations and Low Income Populations, 11 February 1994

Executive Order 13045, Protection of Children from Health Risks and Safety Risks,  
21 April 1997

# Attachment 2

