



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

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# PUBLIC NOTICE

**Date: October 4, 2022**

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## **ISSUANCE OF THE DEPARTMENT OF THE ARMY NEW HAMPSHIRE GENERAL PERMITS (GPs)**

The New England District, U.S. Army Corps of Engineers hereby announces issuance of the attached statewide Department of the Army General Permits for the State of New Hampshire (GPs), pursuant to 33 CFR Part 325.5(c)(1) for minimal impact projects. The GPs will replace the prior statewide New Hampshire General Permit, which expired on August 18, 2022. These GPs will become effective on September 28, 2022 and will continue the expedited review process for activities subject to Corps jurisdiction under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899, located in waters of the United States (U.S.), including navigable waters, within boundaries of the State of New Hampshire.

General Permits are used as a way to streamline state and Federal regulatory programs. The New England District has already had success with streamlining these programs with the use of GPs throughout New England. These GPs are designed to authorize activities covered under the Nationwide Permit (NWP) program and the prior GPs.

### **Some of the major changes from the previous GP include:**

1. Addition of one new GP Activity: GP 20- Living Shoreline Projects
2. Lowering the compensatory mitigation threshold for non-tidal wetland loss from 10,000 square feet to 5,00 square feet.
3. Allowance of up to 1,000 square feet of temporary or permanent fill in tidal special aquatic sites (SAS) and 100 square feet of submerged aquatic vegetation (SAV) under multiple GP activities.
4. Section 103 activities are no longer authorized under these GPs.
5. Removal of GP 20- Temporary Fill Not Associated with a Project within USACE Jurisdiction.
6. Incorporated a digital review process.
7. Minimal impact determination for projects with over 1 acre of permanent fill.
8. Updated general conditions according to current state and Federal law and policies.

The 2022 GPs supersede the previous GPs which expired on August 18, 2022. Activities authorized by the previous GPs but had not commenced or were not under contract to commence by August 18, 2022, will need to apply for a new authorization under the new GPs. Conversely, activities authorized by the previous GPs that have either commenced or are under contract to commence will have an additional year from the expiration date of August 18, 2022, to complete the work.

Please contact Ms. Lindsey E. Lefebvre at (978) 318-8295 or at [lindsey.e.lefebvre@usace.army.mil](mailto:lindsey.e.lefebvre@usace.army.mil) for more information or to request a copy of the GPs.

Frank J. DelGiudice  
Chief, Permits & Enforcement Branch  
Regulatory Division

**Department of the Army General Permits  
for the State of New Hampshire**

The New England District of the U.S. Army Corps of Engineers (USACE) hereby issues twenty-three (23) regional general permits (GPs) for activities subject to USACE jurisdiction in waters of the United States (U.S.), including navigable waters within the State of New Hampshire, adjacent ocean waters to the seaward limit of the outer continental shelf, and tribal lands. These GPs are issued in accordance with USACE regulations at 33 CFR 320-332 [see 33 CFR 325.5 (c)(1)]. These GPs will provide protection to the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental impacts.

For activities regulated by both New Hampshire Department of Environmental Services (NHDES) and within USACE jurisdiction, USACE will regulate those activities according to the terms and conditions of these GPs to minimize duplication between New Hampshire's regulatory programs and the USACE Regulatory Program. However, for activities not regulated by NHDES within USACE jurisdiction, USACE will use these GPs to regulate the activities provided they meet the terms and conditions of these GPs.

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In issuing these GPs, the Federal Government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest; (c) damages to persons, property or to other permitted or unpermitted activities or structures caused by the activity authorized by any of the GPs; (d) design or construction deficiencies associated with the permitted work; or (e) damage claims associated with any future modification, suspension or revocation of these permits.

*Tammy R. Turley*

September 29, 2022

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Tammy R. Turley  
Chief, Regulatory Division

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Date

## **SECTION I. STATUTORY AUTHORITIES & REGULATED ACTIVITIES**

### **1. Work Requiring USACE Authorization**

a. Section 10: Work and structures that are located in, over, under or that affect navigable waters of the United States (U.S.) (see 33 CFR 328). The USACE regulates these activities under Section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR 322).

b. Section 404: The discharge of dredged or fill material into waters of the U.S. The USACE regulates these activities under Section 404 of the Clean Water Act. The term “discharge of dredged or fill material” also includes certain discharges resulting from excavation. Applicants should contact USACE to determine if a particular excavation discharge occurring within waters of the U.S., is a regulated activity. Discharges not requiring permits, are any discharge of dredged or fill material that may result from normal farming, silviculture, ranching activities, maintenance of currently serviceable structures, construction and maintenance of farm and stock ponds, or irrigation ditches, construction of temporary sediment basins, and construction or maintenance of farm, forest roads or temporary roads for the movement of mining equipment is not prohibited by or otherwise subject to regulation under Section 404 (except as specified in paragraphs (b) and (c) of 33 CFR 323.4).

For additional information on the limits of USACE jurisdiction, please see:

[https://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/JurisdictionalLimits\\_Brochure.pdf](https://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/JurisdictionalLimits_Brochure.pdf).

### **2. Authority to issue General Permits**

In accordance with 33 USC 1344(e), “in carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will only have minimal cumulative adverse effect on the environment.”

### **3. Related Laws**

33 CFR 320.3 includes a list of related laws including, but not limited to, Section 408 of the Rivers and Harbors Act of 1899, Section 401 of the Clean Water Act, Section 402 of the Clean Water Act, Section 307(c) of the Coastal Zone Management Act of 1972, Section 106 of the National Historic Preservation Act of 1966, Section 7 of the Endangered Species Act, the Fish and Wildlife Coordination Act of 1956, the Magnuson-Stevens Fishery Conservation and Management Act, Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, and Section 7(a) of the Wild and Scenic Rivers Act.

## **SECTION II. REVIEW CATEGORIES & APPLICATION PROCEDURES**

For activities to qualify under these GPs, they must meet the terms and eligibility criteria of one or more of the GPs (Section III) and all general conditions (GCs) (Section IV) of the GP. Applicants should first review the GPs to see if a project is eligible under one or more of the GPs within this document. Any activity not specifically listed may still be eligible for authorization under these GPs; applicants are advised to contact USACE for specific eligibility determination.

The USACE will review activities according to the State of New Hampshire classification of Self-Verification (SV) (Minimum) and Pre-construction Notification (PCN) (Minor/Major) per the State of New Hampshire Wetland Administrative Rules Env-Wt 100 – 1000. The USACE review thresholds are typically the same as the State’s but may differ according to the activity (see table below). For activity specific thresholds and Section 10 requirements reference Section III.

<b>Section 404 Thresholds for SV (Minimum) &amp; PCN (Minor &amp; Major) <sup>1</sup></b>		
	<b>NHDES</b>	<b>USACE</b>
<b>Non-tidal Wetlands</b>		
SV (Minimum)	< 3,000 square feet (SF)	< 3,000 SF
PCN (Minor)	≥3,000 SF to <10,000 SF	≥3,000 SF to <3 acres
PCN (Major)	>10,000 SF	≥3,000 SF to <3 acres
<b>Tidal Wetlands</b>		
SV (Minimum)	No new fill	<100 SF
PCN (Minor)	No new fill	< 1 acre
PCN (Major)	New fill	< 1 acre
<b>Watercourses/Waterways</b>		
SV (Minimum)	< 50 linear feet (LF)	< 100 LF
PCN (Minor)	≥50 LF to <200 LF	≥100 LF to <500 LF
PCN (Major)	≥200 LF	≥100 LF to <500 LF

There are exceptions to these thresholds based on activity type which can be found in the GPs listed in Section III. Additionally, NHDES requires all projects in Priority Resource Areas (PRAs) to be reviewed as a Major unless there is a NHDES project exemption.

Proposed projects with aquatic resource impacts greater than 1 acre shall include additional information to support a minimal impact determination. Additional information will include a functional assessment for aquatic resources within the project area, on and off-site analysis, and the checklist provided in Appendix B, Section 6. Based on the information provided, USACE will determine whether the proposed project will qualify under this GP. If a minimal impact determination cannot be made, then an individual permit review will be required.

<sup>1</sup> Under the NHDES administrative rules, *Env-Wt 407.03 Jurisdictional Area Size Thresholds* specifies the classifications for Minimum, Minor and Major, which may be further modified by *Env-Wt 903 Stream Crossings: Classifications and Applications*, and *Env-Wt 600 Coastal Lands and Tidal Waters/Wetlands*. Additionally, NHDES regulates both bed and bank for streams while USACE only regulates below the OHWM.

Notwithstanding compliance with the terms and GCs in these GPs, USACE retains discretionary authority to require either a PCN (Minor/Major) review or an individual permit review for any project, including a higher-level review for an SV(Minimum), based on concerns for the aquatic environment or for any of the other public interest factors found in 33 CFR 320.4(a). This authority is invoked on a case-by-case basis whenever USACE determines that the potential impacts of the proposal warrant either a PCN (Minor/Major) review or an individual permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project. Whenever USACE notifies an applicant that an individual permit review is required, authorization under these GPs is voided, and no work may be conducted in waters of the U.S. until USACE issues the required authorization or until USACE notifies the applicant that further review has demonstrated that the work may proceed under these GPs.

## **1. State Approvals**

a. The following state Water Quality Certification (WQC) and the Coastal Zone Management Act (CZMA) Federal Consistency Concurrence approvals must be obtained prior to the commencement of work in USACE jurisdiction (see GC 1) for USACE GP authorizations to be valid. Applicants are responsible for applying for and obtaining any of the other required State and or local approvals such as the NH Shoreland Water Quality Protection Act (SWQPA).

i. Water Quality Certification under Section 401 of the Federal Clean Water Act (CWA) (33 USC 1341). The CWA requires applicants to obtain a WQC or waiver from the state water pollution control agency (NHDES, Watershed Management Bureau) for any GP that may result in a discharge during construction or operation of the activity. State jurisdiction for impacts to wetlands extends back to 1967 for tidal waters and 1969 for non-tidal waters. An applicant proposing to impact historic fill areas should meet with NHDES prior to plan development to ensure that the wetland plan captures state regulated resources. The NHDES has granted WQC #2022-404P-001 (WQC #2022-404P-001) for the activities authorized in these GPs provided that the Applicant complies with the conditions in this document and obtains and compiles with all other applicable permits and approvals, which could include, but are not limited to, permits issued by the NHDES Wetlands Bureau and the NHDES Alteration of Terrain Bureau. Under condition E-3 of the WQC #2022-404P-001, proposed GP activities shall be coordinated with NHDES. If NHDES recommends that additional conditions, modifications, or monitoring of a proposed activity are necessary, NHDES may include additional conditions in their other NHDES permits, when applicable to the activity authorized by law. NHDES may request that the Corps include certain special conditions in the applicable GP authorizations. If NHDES believes that an individual WQC is necessary, they may request that USACE use its discretionary authority pursuant to 33 CFR 325.2(e)(2); which would require the applicant obtain an individual permit and individual WQC. USACE will independently evaluate any requested conditions or use of discretionary authority (if received before a decision is rendered) and determine whether these will be required to ensure the project will result in no more than minimal individual or cumulative adverse effects on the aquatic environment or be contrary to the public interest.

ii. Coastal Zone Management Act Federal Consistency Concurrence pursuant to Section 307 of the CZMA of 1972, as amended. The NHDES administers the NH Coastal Program (NHCP). The NHCP has determined that any project in the NH Coastal Zone that

is authorized under the SV (Minimum) or PCN (Minor/Major) categories of these GPs is consistent with the NHCP and does not require additional CZMA Federal consistency review. The landward boundary of the state's coastal zone encompasses the jurisdictional borders of the 17 coastal municipalities subject to tidal influence. The seaward boundary of the state's coastal zone extends three nautical miles offshore.

## **2. Procedures For How to Apply/Obtain Self-Verification (SV) (Minimum)**

SV (Minimum) may proceed after receiving NHDES Wetlands Bureau authorization unless the applicant receives written notification from USACE within 30 days of the NHDES authorization. If the project is eligible for an SV (Minimum), the applicant must ensure the project is in full compliance with the terms and GCs of the applicable GP's. If any of the terms or GCs are not met, your project must be reviewed under the PCN (Minor/Major) procedures or individual permit procedures described within this document. These GPs do not replace or change the activities exempt from USACE regulation or USACE individual permit review process.

### **a. Eligible SV Activities:**

- Are subject to USACE jurisdiction [see GC 2];
- Meet the GCs of this document and any applicable GP;
- Meet the definitions of a State of New Hampshire SV (Minimum); this may include Utility Line Notifications, Culvert Repair-Replacement Permit-by-Notification (PBN) & Wetlands PBN;
- Qualifies for one or more of the GPs within this document; and
- Receive approval from the NHDES Wetlands Bureau and all other applicable Federal and State agencies, may proceed upon authorization from the NHDES Wetlands Bureau if they meet SV (Minimum) conditions unless notification is received from USACE requiring further review or additional information.

Minimal impact work which meets the terms and conditions found within these GPs, under SV (Minimum), eliminates the need to apply separately to USACE for most minor, non-controversial work in New Hampshire when that work is authorized by NHDES.

### **b. Abbreviated Application Procedures for Self-Verification (SV) (Minimum)**

An application to USACE is not required but the applicant must submit the information in Appendix B, which includes the USACE Section 404 Checklist, in the NHDES Wetlands Bureau application. For convenience, Appendix B is also attached to the NHDES Wetlands Bureau applications and Permit by Notification forms. The USACE will review this information for all projects to assess direct, indirect, secondary, and cumulative impacts. The USACE will decide if the project:

- i. As proposed will have no more than minimal environmental impacts, which means the project may then proceed upon authorization from the NHDES Wetlands Bureau without waiting for USACE confirmation; or
- ii. Will receive a higher-level review, if there are concerns for the aquatic environment and/or, any other factor of the public interest. If a higher-level review is

required, USACE will notify the NHDES Wetlands Bureau and the applicant. The USACE will then notify the applicant of their project status and request any additional information that may be required.

Applicants seeking SV (Minimum) authorizations are not relieved of their obligation to comply with the GCs and other Federal laws such as the National Historic Preservation Act (GC 14), the Endangered Species Act (GC 10) the Wild and Scenic Rivers Act (GC 13), and Essential Fish Habitat (GC 11).

### **3. Procedures for How to Apply/Obtain Pre-Construction Notification (PCN) (Minor and Major)**

For activities that are not eligible for SV (Minimum) or when it is stated that a PCN (Minor/Major) is required, an application to and written authorization from NHDES and USACE is required. No work requiring a PCN may proceed until written authorization from USACE has been received.

#### **a. Eligible PCN Activities:**

- Are subject to USACE jurisdiction;
- Meet the GCs of one or more of the GPs in this document;
- Meet the definitions of a NHDES PCN (Minor/Major);
- Meet the definition of SV (Minimum) but have been determined by USACE to have concern for the aquatic environment, any other factor of the public interest, or for any potential secondary impacts;
- Evaluated through the USACE Interagency Review Process;
- Meet the minimal impact determination if impacts to aquatic resources are greater than 1 acre (Appendix B);
- Receive approval from the NHDES Wetlands Bureau and all other applicable State agencies; and
- Receive all other required Federal and State approvals.

#### **b. Application Procedures Pre-Construction Notification (PCN) (Minor and Major)**

For projects qualifying as a PCN (Minor/Major), the applicant shall submit the NHDES wetland application package to the NHDES Wetlands Bureau. Once NHDES permits are finalized, NHDES will deliver a weekly Decision Report to USACE listing the prior week's finalized permits, to include the State permit number, narrative, and applicant/agent contact information. Alternatively, the applicant may submit an application directly to USACE concurrently with their NDHES application. Digital submissions are encouraged and preferred and can be submitted directly to USACE staff or at [cenae-r-nh@usace.army.mil](mailto:cenae-r-nh@usace.army.mil). If the digital file application is too large for an electronic email attachment, the applicant or agent may also send a request to the email address above for a secure file transfer protocol (FTP) link. If a hard copy or large-scale drawings are required for the evaluation, USACE staff will notify the applicant or agent directly. Where applications are time sensitive, applicants are encouraged to submit them simultaneously with NHDES and USACE.

Information required for a complete application can be found in Appendix B, which is also an addendum to the NHDES Wetland Bureau application. If a project is exempt from the



State process, an application for work within USACE jurisdiction shall be sent directly to USACE for review and authorization. Applicants must submit all project revisions and modifications to both agencies.

All applicants requiring a USACE authorization shall submit a Request for Project Review (RPR) Form to the NH State Historic Preservation Officer (SHPO) at the NH Division of Historical Resources (DHR) to be reviewed for the presence of historic and/or archaeological resources within the proposed permit area. The applicant must submit with their application to the NHDES Wetlands Bureau, a copy of their cover letter to and/or comments received from the SHPO concerning their project. Any correspondence from the DHR to the applicant or their consultant shall be forwarded to USACE with their state NHDES file number. The SHPO will notify USACE if there are State concerns on historic resources within 30 days of submission of notification (33 CFR Appendix C 325.3). The RPR Form submission to the DHR is not required by USACE if the project is not within USACE permit area or another Federal action agency has previously satisfied the consultation requirements of Section 106 of the National Historic Preservation Act.

The USACE will notify the applicant within thirty (30) days from the NHDES Wetlands Bureau decision if the project is authorized under one or more of the GPs, if additional information is needed, or if an individual permit review is required.

### **c. Interagency Review Procedures**

The USACE, Federal resource agencies, U.S. Fish and Wildlife Service (USFWS), U.S. Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS), National Park Service (NPS), Aquinnah Wampanoag Tribe, and the NHDES Wetlands Bureau will comprise the interagency review team (IRT) should they decide to participate. The USACE will review all PCN (Minor/Major) applications with the IRT on a monthly basis. The USACE and the Federal resource agencies at the branch chief or equivalent level may agree on certain activities that do not require coordination or may substitute a different review process. The USACE may determine on its own, or in consultation with the IRT within ten (10) business days of the review, if applications for PCN (Minor/Major) work:

- i. Are eligible under these GPs as proposed;
- ii. Require additional information;
- iii. Will require avoidance, minimization, construction sequencing, project modification, mitigation, or other special conditions to avoid or minimize adverse environmental impacts and protect the aquatic environment to be eligible for authorization under these GPs;
- iv. Are ineligible under the terms and/or conditions of these GPs; or
- v. Require individual permit review regardless of whether the terms and GCs of these GPs are met, based on concerns for the aquatic environment or any other factor of the public interest (see GC 4 Discretionary Authority).

The USACE will contact the applicant if there are concerns. For additional information requests, USACE will copy the NHDES Wetlands Bureau administrator and assigned NHDES reviewer along with the Federal resource agency making the request. If the applicant is unable to resolve the concerns or modify the project, USACE may determine that a project is ineligible under these GPs and invoke its discretionary authority and require the applicant to apply for an individual permit. A project may regain eligibility under one or

more of these GPs if the applicant subsequently addresses all the concerns raised to USACE satisfaction.

All New Hampshire Department of Transportation (NHDOT) projects will be reviewed at a monthly Natural Resources Meeting that includes the applicant, NHDOT, NHDES, USACE, Federal Highway Administration (FHWA), EPA, NMFS, and USFWS. Additionally, these projects may also be reviewed at a monthly Cultural Resource Meeting if there are concerns regarding any historic and/or archaeological resources with the SHPO.

The applicant must wait for written authorization from USACE before the start of construction. To proceed with a PCN (Minor/Major) without a USACE written authorization is a violation of these GPs, and the terms and conditions of this document. The applicant may be subjected to an enforcement action by the EPA and/or USACE.

#### **4. Construction of Solid Fill Structures and Fills Along the Coastline or Baseline from Which the Territorial Sea is Measured. All are considered Pre-Construction Notification (PCN) (Major)**

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

#### **5. Individual Permit**

Projects that are not eligible for these GPs require an IP (33 CFR 325.5 (b)). Proposed work in this category will require a separate Federal application for an individual permit from USACE (33 CFR 325.1). In addition, USACE retains discretionary authority on a case-by-case basis to elevate GP-eligible activities to an IP based on concerns for the aquatic environment or any other factor of the public interest (33 CFR 320.4 (a)). Applicants are required to submit the appropriate application materials directly to USACE as early as possible to expedite the permit review process. General information and application forms can be obtained at our web site or calling our office at (978) 318-8338. Individual 401 WQC and/or CZMA Federal consistency concurrence from the appropriate NH agencies are required before USACE can issue an individual permit. Filing an individual permit application does not relieve the applicant from their obligation to obtain all required Federal, State and/or local approvals.

## **6. Emergency Procedures 33 CFR 325.2(e)(4): Pre-Construction Notification (PCN) (Minor/ Major)**

An “emergency” is a situation 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 permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

In accordance with NHDES administrative rules, applicants may request, and NHDES may authorize, work within jurisdiction when there is an emergency situation (as defined above) if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures and the event causing the emergency occurred within the previous five days. Emergency work shall be limited to that which is necessary to stabilize and secure the situation. Additional work needed for final repairs shall not be completed until approval is obtained through the appropriate, non-emergency process. Emergency work is subject to the same terms and conditions of these GPs as non-emergency work, and similarly, is subject to the terms and conditions of this document; otherwise, an IP is required. Contact NHDES and USACE in the event of an emergency situation.

The work proponent shall submit a description of all work performed during an emergency to USACE, except for those projects classified SV (Minimum), in lieu of a permit application. Applications as required under NHDES administrative rules shall be submitted for any permanent repairs, restoration, or other activities proposed to be conducted after the emergency has ended. The USACE will review emergency work and confirm any additional Federal authorizations or mitigation required during real-time review and/or through an after-the-fact permit process. Emergency authorizations shall be limited to stabilization of the site and/ or mitigation of an immediate threat.

### **SECTION III. NEW HAMPSHIRE GENERAL PERMITS**

1. Aids to Navigation and Temporary Recreation Structures
2. Repair or Maintenance of Existing Currently Serviceable, Authorized or Grandfathered Structures/Fills, Removal of Structures
3. Moorings
4. Pile-Supported Structures and Floats, Including Boat Lifts/Hoists and Other Miscellaneous Structures and Work
5. Boat Ramps and Marine Railways
6. Utility Line Activities
7. Dredging, Transport & Disposal of Dredged Material, Beach Nourishment, Rock Removal, and Rock Relocation
8. U.S. Coast Guard Approved Bridges and Causeways
9. Shoreline and Bank Stabilization Projects
10. Aquatic Habitat Restoration, Establishment, & Enhancement Activities
11. Fish & Wildlife Harvesting, Enhancement and Attraction Devices and Activities
12. Oil Spill and Hazardous Material Cleanup
13. Cleanup of Hazardous and Toxic Waste
14. Scientific Measurement Devices
15. Survey Activities
16. Energy Generation, Renewable Energy Generation and Hydropower Facilities
17. New/Expanded Residential & Commercial Developments & Recreation Facilities
18. Aquaculture Projects and Fisheries
19. Mining Activities
20. Living Shorelines
21. Agricultural Activities
22. Repair or Maintenance of Existing Currently Serviceable, Authorized or Grandfathered Dams
23. Wetland, Stream, River, and Brook Crossings

**GP 1. AIDS TO NAVIGATION AND TEMPORARY RECREATIONAL STRUCTURES (Section 10; tidal and navigable waters of the U.S.)** The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (see 33 CFR, chapter I, subchapter C, part 66) and temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as firework displays, water skiing competitions, and boat races or seasonal use.

**Not authorized under GP 1:** Permanent and temporary fill to  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, and areas containing shellfish.

**Note:** These activities in non-navigable inland waters do not require USACE authorization.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p>1. Temporary buoys, markers, floats, etc. for recreational use during specific events, provided:</p> <ul style="list-style-type: none"> <li>• They are in place for no more than 30 days and are removed within 15 days after use is discontinued.</li> <li>• Moorings, buoys, and floats are not located over submerged aquatic vegetation (SAV).</li> <li>• Float stops, cable connections, or other devices must be used to provide <math>\geq 2</math>-foot clearance between the bottom of the float and the substrate during all tides.</li> <li>• Not located within Federal navigation projects (FNPs) and their associated buffer zones.</li> </ul> <p>2. Structures, buoys, floats, and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard provided placement is outside of EFH, SAV, or areas containing shellfish. If placement outside of SAV isn't possible, proper/eco-friendly moorings must be used so cable connections don't rest on the bottom; and</p> <p>For 1 and 2 above to be SV Eligible, authorization by the local harbormaster and/or the Pease Development Authority, Division of Ports and Harbors, (<a href="http://www.portofnh.org">http://www.portofnh.org</a>) is required.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p>Aids to navigation or temporary markers, floats, etc. that are not to be removed within 30 days.</p> <p>Aids to navigation or temporary markers, floats, structures, etc. that are within a USACE FNP.</p> <p>Moorings, buoys, and floats located over SAV must use proper/eco-friendly connections that don't rest on the bottom; and</p> <p>&lt; 1 acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p>

**GP 2. REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED STRUCTURES/FILLS, REMOVAL OF STRUCTURES (Section 10 & 404; tidal and non-tidal waters of the U.S.)** Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 (activities occurring before certain dates), provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Includes removal of structures and fill.

**Not authorized under GP 2:** (a) Permanent and temporary fill in  $\geq 3$  acres of non-tidal waters and/or wetlands; or (b) Permanent and temporary fill in tidal waters  $\geq 1$  acre,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish.

**Notes:** (1) Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2). (2) Grandfathered dates for USACE purposes only: a) Work performed and structures installed before December 18, 1968 (Section 10); and b) Fill placed before July 25, 1975 (section 404). (3) The State's maintenance provisions differ from USACE and may require written authorization from the State, even though it's not required from USACE. For example, the state does not grandfather wetland fill. The state also defines "abandoned" and "grandfathered structure," while USACE does not.

Self-Verification (Minimum)	Pre-Construction Notification (Minor / Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair, replacement in-kind, or maintenance of existing, currently serviceable, authorized structures or fills:</p> <ul style="list-style-type: none"> <li>• In compliance with the terms and conditions of the original authorization.</li> <li>• No substantial expansion or change in use.</li> <li>• Must be rebuilt in same footprint; however, minor deviations in structure design are allowed.</li> <li>• The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire, or other discrete events is authorized, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage.</li> <li>• Removal of previously authorized structures.</li> <li>• No new fill and/or piles in tidal waters.</li> <li>• Work to previously approved tide gates with a USACE-approved operation and maintenance plan and tide gates not affecting the hydraulic regime.</li> </ul> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair/maintenance of existing, currently serviceable, authorized fills, including maintenance of existing flood control facilities, with an expansion or a change in use &lt; 3000 SF.</p> <p>Replacement of non-serviceable authorized fills &lt; 3000 SF.</p> <p>Removal of previously authorized structures.</p> <p>Culvert replacements that are eligible under the NHDES Culvert Maintainer Program.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair/maintenance of currently serviceable authorized fills with expansion or a change in use &lt; 1 acre.</p> <p>Replacement of non-serviceable authorized fills, including expansion or a change in use &lt; 1 acre.</p> <p>Repair/maintenance of currently serviceable authorized structures w/expansion where the structure (existing + expansion) qualifies as a Minor/Major Impact.</p> <p>Replacement of non-serviceable authorized structures w/expansion where the structure (existing + expansion) qualifies as a Minor/Major Impact.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair/maintenance of existing, currently- serviceable, authorized fills, with an expansion or a change in use &lt; 3 acres.</p> <p>Replacement of non-serviceable authorized fills &lt; 3 acres.</p>

**GP 3. MOORINGS (Section 10; navigable waters of the U.S.)** Private, non-commercial, non-rental, single-boat moorings & temporary moorings or moorings to facilitate construction or dredging, minor relocation of previously authorized moorings and mooring field expansions, boundary reconfigurations or modifications of previously authorized mooring fields and maintenance and replacement of moorings.

**Not authorized under GP 3:** Moorings within Federal navigation channels. Moored floats, lobster cars, rafts, and similar float structures.

**Notes:** (1) The buffer zone is equal to 3 times the authorized depth of that Federal navigation channel and Federal anchorage. (2) Boating facilities provide for a fee, rent, or sell mooring space. These facilities include but are not limited to marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominiums, etc.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p>Private, non-commercial, non-rental, single-boat moorings, and temporary moorings to facilitate construction or dredging, provided:</p> <ul style="list-style-type: none"> <li>• Conservation moorings are used so connections do not rest on the bottom during any tide.</li> <li>• Private moorings authorized by the local harbormaster and/or the Pease Development Authority, Division of Ports and Harbors (<a href="http://www.portofnh.org">www.portofnh.org</a>).</li> <li>• Not associated with a boating facility.</li> <li>• Moorings not located within FNPs and their associated buffer zones.</li> <li>• No interference with navigation.</li> <li>• No new or relocated moorings in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p>Moorings located such that they and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits of a Federal navigation channel or Federal anchorage.</p> <p>Moorings associated with an existing boating facility.</p> <p>New, expansions or boundary reconfigurations of mooring fields: a) within tidal SAS or intertidal or b) &gt;1 acre.</p> <p>Moorings located within a Federal anchorage and its associated buffer zone.</p> <p>Private moorings without local harbormaster and/or Pease Development Authority, Division of Ports and Harbors (<a href="http://www.portofnh.org">www.portofnh.org</a>), approval.</p> <p>Note: Locating new individual moorings in tidal SAS (including) should be avoided to the maximum extent practicable. If SAS cannot be avoided, plans should show elastic mooring systems that prevent mooring cable connections from resting or dragging on the bottom substrate at all tides or helical anchors, or equivalent SAS protection systems, where practicable.</p>

**GP 4. PILE-SUPPORTED STRUCTURES AND FLOATS, INCLUDING BOAT LIFTS/HOISTS AND OTHER MISCELLANEOUS STRUCTURES AND WORK (Sections 10 & 404; navigable waters of the U.S.)** 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 crib-supported piers, floats, stairs, shore out hauls, and boat and float lifts/ways. Floats may include lobster cars, work floats, moored floats, swim floats, and shellfish upweller floats.

**Not authorized under GP 4:** (a) Excavation projects; (b) Structures within Federal navigation channels or Federal anchorages; (c) Structures associated with a new boating facility; or (d) Permanent and temporary fill to  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, and areas containing shellfish.

**Notes:** (1) Boating facilities are facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockminiums, etc. (2) Pile supported structures with no discharges of dredged or fill material are not regulated by USACE in non-navigable waters. (3) DES measures all structures attached to shore starting at the highest observed tide line (HOTL).

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Navigable Waters (Section 10)</b></p> <p>No allowances for new pile-supported structures, floats, or fill.</p> <p>Reconfiguring previously authorized structures within an existing boating facility provided those structures do not extend beyond the existing perimeter of the facility.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Non-Tidal Navigable Waters (Sections 10 &amp; 404)</b></p> <p>New pile supported structures within an existing boating facility, provided those structures do not extend beyond the existing footprint of the facility, and new private structures and floats.</p> <p>Recommendations for new private structures and floats:</p> <ul style="list-style-type: none"> <li>• Maximum overall length of a pier, ramp and float shall not exceed 200 linear feet.</li> <li>• Pile-supported structures for navigational access to the waterway &lt; 900 SF with attached floats &lt; 400 SF.</li> <li>• Pile-supported structures are &lt; 6' wide and have at least a 1:1 height: width ratio.</li> <li>• 1.5:1 over saltmarsh and 2:1 over SAV</li> <li>• Float stops, chains, or other devices must be used to provide <math>\geq 2.0</math>-foot clearance between the bottom of the float and the substrate during all tides.</li> <li>• Pile-supported structures &amp; floats are not located within 25' of SAV and moored vessels are not positioned over SAS.</li> <li>• No structure extends across &gt; 25% of the waterway width at mean low water (MLW).</li> <li>• Not located within the buffer zone of the horizontal limits of an FNP.</li> <li>• Free floating (not attached to shore) bottom-anchored floats &lt; 400 SF.</li> </ul> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p>Fill &lt; 400 SF waterward of the ordinary high-water mark (OHW) or high tide line (HTL) facilitating the construction of structures.</p>



**GP 5. BOAT RAMPS AND MARINE RAILWAYS (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Temporary or permanent discharges of dredged or fill material, excavation, and other work in waters of the U.S. required for the construction of temporary or permanent boat ramps and marine railways.

**Not authorized under GP 5:** (a) Permanent and temporary fill in  $\geq 3$  acres of non-tidal waters and/or wetlands; (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish; or (c) Dredging in navigable waters of the U.S.

<b>Self-Verification (Minimum)</b>	<b>Pre-Construction Notification (Minor/Major)</b>
<p><b>Tidal Waters (Section 10 &amp; 404)</b></p> <p>No new or previously unauthorized fills.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>&lt; 3,000 SF of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, or activities involving water diversions.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> </ul> <p>In-water work is conducted “in-the-dry” (See GC 19 &amp; 20).</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Section 10)</b></p> <p>&lt; 1 acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3 acres of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p>

**GP 6. UTILITY LINE ACTIVITIES (Sections 10 & 404; tidal and non-tidal waters of the U.S.)**

Activities required for: (a) The construction, maintenance, relocation, repair, & removal of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for utility lines. This GP includes but is not limited to utility lines such as electric, water, oil, sewer, gas or cable; (b) The construction, maintenance or expansion of utility line substation and other appurtenant facilities associated with an electric line, gas line or other utility line in non-tidal waters; and (c) The construction and maintenance of foundations for overhead utility line towers, poles, and anchors provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where practicable, considering system reliability and other factors. Activities including excavation, bedding and backfill, outfall and intake structures, and associated facilities within USACE jurisdiction. This GP authorizes the construction of access roads to facilitate construction of the above activities provided the activity, in combination with all other activities are included in one single and complete project, does not cause the permanent fill of  $\geq 3$  acres of non-tidal or  $\geq 1$  acre of tidal waters of the U.S. Impacts resulting from mechanized pushing, dragging or other similar activities that redeposit excavated soil material shall be figured into the area limit determination.

**Not authorized under GP 6:** (a) Permanent and temporary fill in  $\geq 3$  acres of non-tidal waters and/or wetlands; (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS or  $\geq 100$  SF SAV and areas containing shellfish; (c) Blasting; (d) Storage of equipment in wetlands; or (e) New tide gates.

**Note:** The Best Management Practices Manual for Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire is to be followed for any utility project.

[https://www.nh.gov/nhdf/documents/new\\_final\\_utility\\_bmp\\_manual\\_3\\_8\\_19.pdf](https://www.nh.gov/nhdf/documents/new_final_utility_bmp_manual_3_8_19.pdf)

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Navigable Waters (Sections 10 &amp; 404)</b></p> <p>No fill in tidal or navigable waters.</p> <p>Removal of previously authorized structures.</p> <p><b>Non-Tidal, Non-Navigable Waters (Section 404)</b></p> <p>&lt; 3,000 SF of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, or activities involving water diversions.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> </ul> <p>Removal of previously authorized structures.</p>	<p>Work not eligible for SV (Minimum).</p> <p><b>Tidal and Non-Tidal Navigable Waters (Section 10 &amp; 404)</b></p> <p>&lt; 1 acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p>Overhead utility lines constructed over Section 10 waters and submarine utility lines that are routed in or under such waters. Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the U.S. must comply with the applicable minimum clearances specified in 33 CFR 322.5 (i).</p> <p>New outfalls or intake structures.</p> <p><b>Non-Tidal, Non-Navigable Waters (Section 404)</b></p> <p>Installation of new, permanent culvert crossings of perennial streams.</p> <p>&lt; 3 acres of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p>

**GP 7. DREDGING (Section 10; navigable waters of the U.S.), TRANSPORT & DISPOSAL OF DREDGED MATERIAL (Sections 10 & 404; tidal waters of the U.S.), BEACH NOURISHMENT (Sections 10 & 404; tidal and non-tidal waters of the U.S.), ROCK REMOVAL (Section 10, navigable waters of the U.S.), and ROCK RELOCATION (Sections 10 & 404; tidal and non-tidal waters of the U.S)** New, maintenance, or improvement dredging, including: a) Disposal of dredged material at a confined aquatic disposal, beach nourishment, near shore, designated open water or ocean water disposal site, provided USACE finds the dredged material to be suitable for such disposal; (b) Beach nourishment not associated with dredging; (c) Rock removal and relocation for navigation.

**Not authorized under GP 7:** (a) New dredging where the primary purpose is sand mining for beach nourishment; (b) Beach scraping; (c) Rock removal and relocation for navigation  $\geq 1/2$  acre; (d) Blasting; or (e) Permanent and temporary fill in  $\geq 1000$  SF in tidal SAS or  $\geq 100$  SF SAV and areas containing shellfish.

**Note:** Improvement is dredging to deeper depths in areas previously dredged after being authorized by USACE. Maintenance dredging includes areas and depths previously dredged after being authorized by USACE.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Navigable Waters (Sections 10 &amp; 404)</b></p> <p>No tidal dredging except for maintenance of intakes/outfalls by divers with suction equipment.</p> <p>Provided:</p> <ul style="list-style-type: none"> <li>• Proper siltation controls are used</li> <li>• No expansion of footprint</li> <li>• No dredging in or within a distance three times the authorized depth of a Federal Navigation Channel.</li> <li>• Dredging occurs between Nov 15 - Mar 15.</li> <li>• No impacts to in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> <li>• No impacts to areas containing shellfish.</li> <li>• No dredging in designated or proposed critical habitat for endangered species.</li> <li>• Upland disposal.</li> </ul> <p>For non-tidal Federally designated navigable waters, maintenance dredging of any area &lt; 3,000 SF. This includes return water from upland contained disposal area.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Activities with &lt; 3000 SF of permanent and/or temporary inland waterway and wetland fill, and associated secondary impacts, provided no stream channelization, relocation, or loss of streambed including impoundments or discharges of tailings into streams.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Non-Tidal Navigable Waters (Sections 10 &amp; 404)</b></p> <p>For tidal waters, maintenance dredging and new dredging &lt; 20,000 SF (may be mechanical or hydraulic dredging).</p> <p>Provided:</p> <ul style="list-style-type: none"> <li>• Dredging &amp; disposal operation limited to Nov 15-Mar 15.</li> <li>• No impacts to tidal SAS including SAV or areas containing shellfish.</li> <li>• Disposal includes:               <ol style="list-style-type: none"> <li>1. Upland disposal;</li> <li>2. Near shore disposal or beach nourishment of any size provided the primary purpose of the dredging is navigation; or</li> <li>3. Open water &amp; confined aquatic disposal cells (CAD cells), if USACE, in consultation with Federal and State agencies, finds the material suitable.</li> </ol> </li> </ul> <p>For non-tidal Federally designated navigable waters, maintenance dredging of any area <math>\geq 3,000</math> SF or new dredging of any area. Includes return water from upland contained disposal area.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3 acres of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p><b>Note:</b> The USACE may waive or adjust the time of year requirement on a case-by-case basis after consultation with the NHDES and NH Fish and Game.</p>

**GP 8. U.S. COAST GUARD APPROVED BRIDGES AND CAUSEWAYS (Sections 10 & 404; navigable waters of the U.S.)** Discharges of dredged or fill material incidental to the construction and modification of bridges across navigable waters of the U.S., including cofferdams abutments, foundation seals, piers, approach fills, and temporary construction and access fills provided the USCG authorizes the construction of the bridge structure under Section 9 of the Rivers and Harbors Act of 1899 or other applicable laws in tidal Section 10 and 404 navigable waters. A USCG Authorization Act Exemption or a STURRA (144h) exemption do not constitute USCG authorization.

**Not authorized under GP 8:** (a) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish; or (b) Permanent and temporary fill in  $\geq 3$  acres in non-tidal waters.

**Notes:** (1) GP 8 is not applicable to bridges over inland waters or wetlands that are not tidally influenced or regulated as navigable under Section 10. (2) See eligibility criteria for GPs 2 & 23 for projects that are not subject to USCG regulations.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal &amp; Navigable Waters (Sections 10 &amp; 404)</b></p> <p>No work in tidal wetlands and waters.</p> <p>&lt; 3,000 SF of temporary and/or permanent fill, excavation, and/or secondary impacts to non-tidal waterways and/or wetlands.</p> <p>Stream crossings conform with the NH Stream Crossing Guidelines and this document's GCs.</p> <ul style="list-style-type: none"> <li>• In-stream work limited to Jul 15 - Oct 1.</li> <li>• Culverts at waterbody crossings preserve hydraulic capacity, at its present level, between the waters on either side of the road.</li> </ul> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Open trench excavation in flowing waters.</li> <li>• Work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> <li>• Work on USACE properties &amp; USACE-controlled.</li> <li>• Easements.</li> <li>• Causeways and approach fills.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Navigable Waters (Sections 10 &amp; 404)</b></p> <p>Causeways and approach fills.</p> <p>&lt; 1 acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p><b>Note:</b> USACE may waive or adjust the time of year requirement on a case-by-case basis after consultation with the NHDES and NH Fish and Game for tidal and non-tidal waters (Section 10 &amp; 404).</p>

**GP 9. SHORELINE AND BANK STABILIZATION PROJECTS (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes, but is not limited to breakwaters, bulkheads, seawalls, riprap, revetments/slope protection and similar structures as well as vegetative planting, soil bioengineering or alternative techniques that are a combination of the two specifically for the purpose of shoreline protection.

**Not authorized under GP 9:** (a) Non-tidal & tidal bank stabilization projects  $\geq 500$  LF in total length including both stream banks; (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS or  $\geq 100$  SF SAV and areas containing shellfish; (c) Stream channelization or relocation activities; (d) Breakwaters, groins, and jetties; or (e) Living shoreline projects.

**Note:** Soft stabilization measures such as bioengineered fiber roll revetments or equivalent, should be used whenever practicable.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>No activities are eligible for SV.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Non-tidal bank stabilization <math>&lt; 100</math> LF and <math>\leq 1</math> CY of fill per linear foot waterward of OHWM and no fill within the streambed beyond the toe of slope of the stream bank.</p> <p>No vertical stone structures or embankments angled steeper than 1H:1V in non-tidal streams or 1V:3H in lakes/ponds. (Slope ratio: H = horizontal distance; V= vertical distance)</p> <p>No new bulkheads.</p> <p>Provided:</p> <ul style="list-style-type: none"> <li>• No open trench excavation in flowing waters.</li> <li>• In-stream work limited to Jul 15 - Oct 1.</li> <li>• No work in EFH habitat and riffle and pool complexes.</li> <li>• Only rough-faced stone or roll revetments allowed.</li> <li>• No work on USACE properties &amp; USACE-controlled easements.</li> </ul>	<p>Work not eligible for SV (Minimum).</p> <p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Shoreline and bank stabilization <math>&lt; 500</math> LF (total length including both stream banks).</p> <p>Permanent or temporary fill in tidal SAS <math>&lt; 1000</math> SF.</p> <p>Permanent or temporary fill in SAV <math>&lt; 100</math> SF.</p> <p><math>&lt; 1/2</math> acre of tidal EFH.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Shoreline and bank stabilization <math>&lt; 500</math> LF (total length including both stream banks).</p> <p>The slope of the structure is steeper than 1V:3H in lakes/ponds; and 1V:1H in non-tidal streams.</p> <p>Non-tidal bank stabilization <math>\geq 100</math> LF or <math>\geq 1</math> CY per linear foot below OHW and no fill within the streambed beyond the toe of slope of the stream bank.</p> <p>Provide a temporary or permanent buffer strip (streamside area where protection promotes growth and sustenance of woody vegetation) along the project length to prove for vegetation stability.</p>

**GP 10. AQUATIC HABITAT RESTORATION, ESTABLISHMENT & ENHANCEMENT ACTIVITIES**

**(Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Activities in waters of the U.S. associated with the restoration, enhancement and establishment of non-tidal and tidal wetlands and riparian areas, including invasive, non-native or nuisance species control; the restoration and enhancement of non-tidal streams and other non-tidal open waters; the relocation of non-tidal waters, including non-tidal streams & associated wetlands for reestablishment of a natural stream morphology and reconnection of the floodplain; the restoration and enhancement of shellfish, finfish and wildlife; and the rehabilitation or enhancement of tidal streams, tidal wetlands and tidal open waters; provided those activities result in net increases in aquatic resource functions and services.

**Not authorized under GP 10:** (a) Artificial reefs or stream channelization activities; or (b) New tide gates.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Pro-active salt marsh restoration impacts ≤ 3,000 SF for the purposes of restoring subsiding marsh surfaces and dieback areas.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• New ditching to eliminate mosquito breeding habitat.</li> <li>• Fill for purposes of converting marsh to upland.</li> <li>• Placement of seed shellfish, spatted shell or cultch for the restoration or enhancement of existing, publicly managed, non-commercial recreational areas containing shellfish.</li> <li>• Work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitat.</li> </ul> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Fill area ≤3,000 SF of inland waterway and/or wetland fill (permanent and temporary) provided the activity is supported in writing by a local, state, or non-USACE Federal environmental resource management agency.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, or activities involving water diversions.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> <li>• Conversions of wetlands to open water.</li> <li>• Stream channelization.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Sections 10)</b></p> <p>Projects with proactive restoration (tidal SAS, anadromous fish runs, areas containing shellfish, etc.) as a primary purpose with fill &gt; 3,000 SF.</p> <p>Placement of seed shellfish, spatted shell or cultch for the restoration or enhancement of existing, publicly managed, non-commercial recreational areas containing shellfish.</p> <p><b>Tidal and Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Aquatic habitat restoration, establishment, and enhancement of tidal wetlands and riparian areas provided those activities are proactive and result in net increases in aquatic resource functions and services as decided by USACE.</p> <p>Integrated Marsh Management for combined wetland enhancement and mosquito control.</p> <p>Dam removals.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Pond or lake reestablishment or restoration.</p> <p>Water impoundments.</p> <p>Projects with proactive restoration as a primary purpose with impacts of any size.</p> <p>Projects may be subject to monitoring for a minimum of 5 years in accordance with an approved restoration plan. The first year of monitoring will be the first year that the site has been through a full growing period after completion of construction and planting.</p>

**GP 11. FISH & WILDLIFE HARVESTING, ENHANCEMENT AND ATTRACTION DEVICES AND ACTIVITIES (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Activities in waters of the U.S. associated with fish and wildlife harvesting devices including pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). Impoundments and semi-impoundments of waters of the U.S. for the culture and holding of motile species such as lobster.

**Not authorized under GP 11:** (a) Artificial reefs; (b) Devices and activities in Federal navigation channels; (c) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish; (d) Shellfish dredging, either mechanical or hydraulic in tidal SAS; (e) New, or expansions of, impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster with an impounded area  $> \frac{1}{2}$  acre; or (f) New fish weirs with an impoundment area  $\geq \frac{1}{2}$  acre.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Waters (Section 10 &amp; 404)</b></p> <p>Activities associated with fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, shellfish seeding, and small fish attraction devices such as open water fish concentrators (sea kites, etc.). Provided there is no hazard to navigation.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Impoundments or semi-impoundment of water, fish aggregating devices, or small fish attraction devices.</li> <li>• Devices or work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> <li>• Devices and activities located in Federal Anchorage Projects.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Non-Tidal Waters (Section 10 &amp; 404)</b></p> <p>Impoundments or semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster and new fish weirs with an impounded area <math>\leq \frac{1}{2}</math>-acre, fish aggregating devices, or small fish attraction devices.</p> <p>Devices and activities located in tidal SAS, including salt marsh and SAV.</p> <p>Devices and activities located in Federal anchorages.</p> <p><math>&lt; 1</math> acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS <math>&lt; 1000</math> SF.</p> <p>Permanent or temporary fill in SAV <math>&lt; 100</math> SF.</p>

**GP 12. OIL SPILL AND HAZARDOUS MATERIAL CLEANUP (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** (a) Activities conducted in response to a discharge or release of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) including containment, cleanup, and mitigation efforts, provided that the activities are done under either: (i) The Spill Control & Countermeasure Plan required by 40 CFR 112.3; (ii) The direction or oversight of the Federal on-site coordinator designated by 40 CFR 300; or (iii) Any approved existing State, regional or local contingency plan provided that the Regional Response Team concurs with the proposed response efforts or does not object to the response effort. (b) Activities required for the cleanup of oil releases in waters of the U.S. from electrical equipment that are governed by EPA’s polychlorinated biphenyl (PCB) spill response regulations at 40 CFR 761. (c) Booms placed in tidal waters. (d) Use of temporary structures & fills for spill response training exercises. SAS must be restored in place to pre-impact elevations.

**Not authorized under GP 12:** Permanent structures or impacts.

Self-Verification (Minimum)	Pre-Construction Notification (Minor / Major)
<p><b>Tidal and Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Activities that are conducted in accordance with (a) or (b) above, provided SAS are restored in place to pre-impact elevations.</p> <p>Booms placed in navigable waters for oil and hazardous substance containment, absorption, and prevention, provided they are removed upon completion of the cleanup.</p> <p>No spill response training exercises requiring structures or fill in tidal waters.</p> <p>&lt; 3,000 SF of temporary and/or permanent fill, excavation, and/or secondary impacts to non-tidal waterways and/or wetlands.</p> <p><b>Note:</b> For the above activities in tidal waters, the applicant must contact USACE at (978) 318-8338 before or immediately after the above-described work commences to allow USACE to address the effects under the Federal Endangered Species Act. This does not apply to clean booms used for spill prevention, or properly contained and cleaned non-emergency oil or hazardous substance discharges.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Fill in tidal waters.</p> <p>Temporary structures or impacts for spill response training exercises.</p> <p>The activity is planned or scheduled, not an emergency response, and will not cause turbidity or sediment resuspension or deposition, within USACE jurisdiction.</p> <p>≥ 3,000 SF of temporary and/or permanent fill, excavation, and/or secondary impacts to non-tidal waterways and/or wetlands.</p> <p><b>Note:</b> Specific activities with impacts of any area or cubic yardage required affecting the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority may be reviewed as a Minor/Major Impact project. SAS and areas containing shellfish must be restored in place. USACE may waive this requirement on a case-by-case basis in consultation with the NHDES.</p>



**GP 13. CLEANUP OF HAZARDOUS AND TOXIC WASTE (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Specific activities required to affect the containment, stabilization, or removal of hazardous or toxic waste materials, including court ordered remedial action plans or related settlements, which are performed, ordered, or sponsored by a government agency with established legal or regulatory authority.

**Not authorized under GP 13:** (a) Establishment of new disposal sites; (b) Expansion of existing sites used for the disposal of hazardous or toxic waste; or (c) Dredging in tidal waters.

**Note:** Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the CWA or Section 10 of the Rivers and Harbors Act.

**Self-Verification (Minimum)**

**Pre-Construction Notification (Minor/Major)**

**Tidal and Non-Tidal Waters (Sections 10 & 404)**

Booms placed in navigable waters for containment, absorption, and prevention, provided they are removed upon completion of the cleanup. The applicant must contact USACE at (978) 318-8338 before or as soon as possible after the work commences so USACE can address the effects under the Federal Endangered Species Act. This does not apply to clean booms used for spill prevention.

< 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts, provided:

- SAS must be restored in place and at pre-impact elevation to maximum extent practicable.
- No stream channelization, relocation or loss of streambed including impoundments.

**Tidal and Non-Tidal Waters (Sections 10 & 404)**

Work not eligible for SV (Minimum)

The activity occurs in tidal waters.

Work in navigable waters of the U.S. other than booms placed for hazardous and toxic waste containment, absorption, and prevention.

≥ 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.

**Note:** Specific activities with impacts of any area or cubic yardage required affecting the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority may be reviewed as a Minor/Major Impact project. SAS and areas containing shellfish must be restored in place. USACE may waive this requirement on a case-by-case basis in consultation with the NHDES.

**GP 14. SCIENTIFIC MEASUREMENT DEVICES (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Scientific devices for measuring and recording scientific data, such as staff gauges, tide and current gauges, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Also eligible are small temporary weirs and flumes constructed primarily to record water quantity and velocity. Upon completion of the use of the device to measure and record scientific data, the measuring device and any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.) must be removed to the maximum extent practicable.

**Not authorized under GP 14:** (a) Permanent and temporary fill in  $\geq 3$  acres in non-tidal waters and wetlands; or (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Permanent or temporary impacts are <math>&lt; 100</math> SF in tidal waters.</p> <p>Temporary, non-biological sampling devices in waters of the U.S. that do not restrict or concentrate movement of aquatic organisms and will not adversely affect the course, condition, or capacity of a waterway for navigation.</p> <p>Scientific measurement devices, and small weirs and flumes constructed primarily to record water quantity and velocity provided the discharge of fill is limited to 25 cubic yards.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Permanent or temporary fill are <math>&lt; 3,000</math> SF in non-tidal waters and wetlands.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Section 10)</b></p> <p><math>&lt; 1</math> acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>Permanent or temporary fill in tidal SAS <math>&lt; 1000</math> SF.</p> <p>Permanent or temporary fill in SAV <math>&lt; 100</math> SF.</p> <p>Biological sampling devices, weirs, or flumes.</p> <p><b>Tidal and Non-Tidal Waters (Section 10 &amp; 404)</b></p> <p>Permanent devices in tidal and non-tidal waters.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p><math>&lt; 3</math> acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p>

**GP 15. SURVEY ACTIVITIES (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory type bore holes, exploratory trenching (mechanical land clearing of the upper soil profile to expose bedrock or substrate for the purpose of mapping or sampling the exposed material) and historic resources surveys.

**Not authorized under GP 15:** (a) Permanent and temporary fill in  $\geq 3$  acres of non-tidal waters and/or wetlands, or (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS, or  $\geq 100$  SF in SAV, or areas containing shellfish.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>No permanent structures or drilling and discharge of excavated material from test wells for oil and gas exploration allowed.</p> <p>No fill in tidal wetlands and waters.</p> <p>No seismic exploratory operations in tidal waters.</p> <p>Temporary structures &lt; 1000 SF removed when survey is concluded.</p> <p>Sampling plots, resource surveys, soil borings, and core sampling.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts, provided:</p> <ul style="list-style-type: none"> <li>• Exploratory trenches are restored in accordance with GC 23.</li> <li>• No discharge of excavated material from test wells for oil and gas exploration (the plugging of such wells is authorized).</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Section 10)</b></p> <p>&lt; 1 acre of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p>Seismic exploratory operations occur in tidal waters.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3 acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p>

**GP 16. ENERGY GENERATION, RENEWABLE ENERGY GENERATION AND HYDROPOWER FACILITIES**

**(Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Structures and work in navigable waters of the U.S. and discharges of dredged or fill material into tidal and non-tidal waters of the U.S. for the construction, expansion, modification or removal of: (a) Land-based energy generation & renewable energy pilot & production facilities, including attendant features; (b) Water-based energy generation, wind or hydrokinetic renewable energy generation pilot & production projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects. Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S. Upon completion of the pilot project, the generation units, transmission lines, and other structures or fills associated with the pilot project must be removed to the maximum extent practicable.

**Not authorized under GP 16:** Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish containing shellfish.

**Note:** For the purposes of this GP, the term “pilot project” means an experimental project where the renewable energy generation units will be monitored to collect information on their performance and environmental effects at the project site.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal and Non-Tidal Navigable Waters (Sections 10 &amp; 404)</b></p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, or activities involving water diversions.</li> <li>• Work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> <li>• Work in tidal waters or navigable waters of the U.S.</li> <li>• Production facilities.</li> </ul> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts, provided:</p> <ul style="list-style-type: none"> <li>• No stream channelization, relocation, or loss of streambed including impoundments.</li> <li>• No new water-based facilities.</li> </ul> <p>Does not authorize discharges into non-tidal wetlands adjacent to tidal waters.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal and Non-Tidal Navigable Waters (Section 10)</b></p> <p>&lt; 1 acre of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p>No new impoundments.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>&lt; 3 acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Mechanical clearing of areas within USACE jurisdiction without grubbing or other soil disturbance <math>\geq 3</math> acres as a secondary impact may still be eligible for PCN at the discretion of USACE.</p>

**GP 17. NEW/EXPANDED RESIDENTIAL & COMMERCIAL DEVELOPMENTS & RECREATIONAL FACILITIES (Sections 10 and 404, navigable waters of the US)** Discharges of dredged or fill material for the construction or expansion of developments and/or recreational facilities. Fill area includes all temporary and permanent fill, and regulated discharges associated with excavation.

**Not authorized under GP 17:** (a) Permanent and temporary fill in  $\geq 3$  acres in non-tidal waters and wetlands; (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish; (c) Subsurface sewerage disposal systems in waters of the U.S.; or (d) New roadway and driveway crossings in non-tidal waters and/or wetlands.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>No activities are eligible for SV.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>&lt; 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts. Fill area includes all temporary and permanent fill, and regulated excavation discharges (except for incidental fallback).</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, stream channelization, stream relocation, loss of streambed or activities involving water diversions.</li> <li>• Work EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> <li>• Stormwater treatment or detention systems.</li> </ul>	<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>&lt; 1 acre of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Permanent or temporary fill in tidal SAS &lt; 1000 SF.</p> <p>Permanent or temporary fill in SAV &lt; 100 SF.</p> <p>Conversions of previously authorized pile-supported buildings over navigable waters to residences, offices, or other non-water dependent uses require a PCN. Floating house boats or businesses on floats require a PCN.</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Work not eligible for SV (Minimum)</p> <p>&lt; 3 acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p>

**GP 18. AQUACULTURE PROJECTS AND FISHERIES (Sections 10 and 404, navigable waters of the US)** No shellfish dredging, including mechanical or hydraulic in tidal SAS, including SAV, no placement of cultch in beds of SAV. Depth of cultch or spatbed shell limited to the minimum necessary for full coverage of the framed bed bottom & must not result in visible degradation of habitat for other aquatic resources. All structures must be marked in conformance with applicable NH State and or U.S. Coast Guard Aids to Navigation.

**Not authorized under GP 18:** Permanent and temporary fill in tidal SAS  $\geq 1000$  SF,  $\geq 100$  SF SAV, or areas containing shellfish.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/ Major)
<p><b>Tidal Waters (Section 10)</b></p> <p>Suspended cages or nets located wholly below and within the footprint of an existing authorized fixed or floating structure provided there is a vertical clearance of at least 2 feet between the bottom of the gear and the sea floor at MLW.</p> <p>Shellfish and marine algae installations &lt; 1000 SF in area provided:</p> <ul style="list-style-type: none"> <li>• No enclosures or impoundments.</li> <li>• Not located in or within a distance of three times the authorized depth of a Federal. Navigation Project.</li> <li>• Not located in or impinge upon the value of any National Lands or Federal Properties.</li> <li>• No work in tidal SAS or EFH habitat including SAV, intertidal areas, or natural rocky habitats.</li> <li>• No structures, cages, gear, or shell hash located in/within 25 feet of SAV.</li> <li>• All gear, except for mooring tackle, when not in use on the site is stored in an upland location above the mean high water line (MHW) and not on wetlands (including salt marsh).</li> <li>• Culture only indigenous species.</li> <li>• Have a copy of their signed and approved NH State application and NH Fish and Game license number.</li> <li>• Documentation that the applicant has coordinated with the U.S. Coast Guard specifically regarding USCG Private Aids to Navigation standards.</li> <li>• Documentation that they contacted their local harbormaster and/or the Pease Development Authority, Division of Ports and Harbors (<a href="http://www.portofnh.org">www.portofnh.org</a>) for authorization of their facility.</li> </ul> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>In the case of proposed aquaculture operations occupying bottom substrate (Section 404), USACE and/or NHDES may require additional review.</p>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Section 10)</b></p> <p>Vertical drop longlines for the culture of shellfish or other marine organisms, such as kelp and seaweed.</p> <p>Cages, trays, racks, netting or other structures on the ocean bottom or floating on the water surface for the rearing or depuration of cultured shellfish.</p> <p>Research, educational or experimental aquaculture gear for indigenous species that exceed &gt;1,000 SF.</p> <p>Activities that involve a change from authorized gear for bottom culture to floating or suspended gear.</p> <p><b>Tidal &amp; Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Installation of intake and discharge structures for a land-based hatchery.</p>

<p><b>GP 19. MINING ACTIVITIES (Sections 10 &amp; 404; non-tidal waters of the U.S.)</b> Discharges of dredged or fill material into non-tidal waters and wetlands for mining activities.</p> <p><b>Not authorized under GP 19:</b> (a) Permanent and temporary fill <math>\geq</math> 3 acres of non-tidal waters and/or wetlands; or (b) No permanent and temporary impacts in tidal waters.</p>	
Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p>&lt; 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, or activities involving water diversions.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Activities in streams.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> <li>• Stream channelization, relocation or loss of streambed including impoundments, or discharge of tailings into streams.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p>&lt; 3 acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Activities in streams including stream channelization, relocation or loss of streambed including impoundments, or discharge of tailings into streams.</p>

**GP 20. LIVING SHORELINE PROJECTS (Sections 10 & 404; tidal waters of the U.S.)** Construction and maintenance of living shorelines to stabilize banks and shores in coastal waters. A living shoreline shall have a footprint that is made up of mostly native material. It shall incorporate vegetation or other living, natural “soft” elements alone or in combination with some type of harder shoreline structure (e.g., rock sills) for added protection and stability. Living shorelines should maintain the natural continuity of the land-water interface and retain or enhance shoreline ecological processes. Living shorelines must have a substantial biological component.

**Not authorized under GP 20:** (a) Living shoreline projects  $\geq$  500 LF in total length; (b) Permanent and temporary fill  $\geq$  1 acre in tidal waters; (c) Breakwaters, groins, and jetties; (d) Permanent and temporary fill to tidal SAV; (e) Beach nourishment; or (f) Land reclamation activities.

**Note:** In waters outside of coastal water nature-based bank stabilization techniques such as bioengineering and vegetative stabilization may be authorized under GP 9. This GP also authorizes maintenance and repair activities, including any minor deviations necessary to address changing environmental conditions. NHDES resources and references used to guide living shoreline work can be found here: <https://www.nhcaw.org/wp-content/uploads/2022/05/Living-Shorelines-Resources-References.pdf>.

Self-Verification (Minimum)	Pre-Construction Notification (Minor/Major)
<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair, replacement in-kind, or maintenance of existing and authorized structure or fill provided:</p> <ul style="list-style-type: none"> <li>• In compliance with the terms and conditions of the original authorization.</li> <li>• No expansion.</li> <li>• Maintenance and repair must be in the same footprint.</li> <li>• The repair, rehabilitation or replacement of living shorelines destroyed by or damaged by storms, floods, fire, or other discrete events is authorized, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of date of their destruction.</li> <li>• No new fill in tidal waters.</li> </ul>	<p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>&lt; 1 acre of temporary and/or permanent fill, excavation, and/or secondary impacts to waterways and/or wetlands.</p> <p>&lt; 1/2 acre of tidal EFH.</p> <p>Structures and fill area, including sand fills, sills, breakwaters, or reefs cannot extend into the waterbody more than 30 feet from MHW.</p> <p>Coir logs, coir mats, stone, native oyster shell, native wood debris, and other structural materials must be adequately anchored, or be of sufficient weight, or installed in a manner that prevents relocation in most wave action or water flow conditions, except for extremely severe storms.</p> <p>Projects shall be maintained monitored for a minimum of 5 years in accordance with an approved restoration plan. The first year of monitoring will be the first year that the site has been through a full growing period after completion of construction and planting.</p>



**GP 21. AGRICULTURAL ACTIVITIES (Sections 10 & 404; non-tidal waters of the U.S.)** Discharges of dredged or fill material in non-tidal waters of the U.S. for agricultural activities with impact to non-tidal waters and wetlands such as pads for barn/greenhouse, mechanized land clearing, land leveling and installation of drainage tiles for irrigation. Also, includes the relocation or modification of existing, serviceable drainage ditches in wetlands and farm ponds not meeting the exemption found in 33 CFR 323.4.

**Not authorized under GP 21:** (a) Aquaculture fishponds in waters of the U.S; or (b) Permanent and/or temporary fill in tidal waters of the U.S.

**Note:** Some discharges for agricultural activities may qualify for an exemption under Section 404(f)(1) of the Clean Water Act (see 33 CFR 323.4). GP 21 is intended to cover those agricultural discharges that do not qualify for agricultural exemption and/or are subject to the recapture provision under section 404(f)(2) of the Act.

<b>Self-Verification (Minimum)</b>	<b>Pre-Construction Notification (Minor/Major)</b>
<p>&lt; 3,000 SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Dams, dikes, stream channelization, stream relocation, loss of streambed or activities involving water diversions.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> <li>• Construction of farm ponds in perennial streams.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p>Work that does not qualify for exemption under Section 404(f) of the Clean Water Act.</p> <p>&lt; 3 acres of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>New drainage ditches in wetlands that involve side casting within non-tidal wetlands.</p> <p>Stream channelization, relocation, impoundments, loss of streambed or farm ponds in streams.</p>

**GP 22. REPAIR OR MAINTENANCE OF EXISTING, CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED DAMS (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Repair, rehabilitation, or replacement of any previously authorized, currently serviceable dam. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

**Not authorized by GP 22:** Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish.

**Notes:** (1) Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2). (2) The State's maintenance provisions differ from USACE and may require written authorization from the State, even though it's not required from USACE. For example, the State does not grandfather wetland fill.

Self-Verification (Minimum)	Pre-Construction Notification (Minor / Major)
<p><b>Tidal &amp; Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair, replacement in-kind, or maintenance of existing, currently serviceable, authorized dams provided:</p> <ul style="list-style-type: none"> <li>• In compliance with the terms and conditions of original authorization.</li> <li>• No substantial expansion or change in use.</li> <li>• Must be rebuilt in same footprint, however minor deviations in structure design allowed.</li> <li>• The repair, rehabilitation, or replacement of those dams destroyed or damaged by storms, floods, or other discrete events is authorized, provided the repair, rehabilitation, or replacement has commenced, or is under contract to commence, within two years of the date of their destruction or damage.</li> </ul> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Work in EFH habitat, tidal SAS including SAV, intertidal habitats or natural rocky tidal habitats.</li> <li>• Work in areas containing shellfish.</li> </ul> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Repair/maintenance of existing, currently serviceable, authorized dams with an expansion or a change in use <math>&lt; 3000</math> SF provided:</p> <ul style="list-style-type: none"> <li>• In compliance with the terms and conditions of the original authorization.</li> <li>• Must be rebuilt in same footprint, however minor deviations in structure design allowed.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Sections 10 &amp; 404)</b></p> <p>Repair/maintenance of currently serviceable authorized dams with expansion or a change in use <math>&lt; 1</math> acre.</p> <p>Repair/maintenance of currently serviceable authorized dams' w/expansion where the structure (existing + expansion) qualifies as a PCN (Minor/Major) Impact.</p> <p>Replacement of non-serviceable authorized dams' w/expansion where the structure (existing + expansion) qualifies as a PCN (Minor/Major) Impact.</p> <p>Permanent or temporary fill in tidal SAS <math>&lt; 1000</math> SF.</p> <p>Permanent or temporary fill in SAV <math>&lt; 100</math> SF.</p> <p>Dam and flood control or levee repairs that will alter water levels or flood elevations.</p> <p>Discharges of more than de minimis quantities of accumulated bottom sediments from or through a dam.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p>Repair/maintenance of existing, currently serviceable, authorized dams, with an expansion or a change in use <math>&lt; 3</math> acres.</p> <p>Replacement of non-serviceable authorized dams <math>&lt; 3</math> acres.</p>

**GP 23. WETLAND, STREAM, RIVER & BROOK CROSSINGS (Sections 10 & 404; tidal and non-tidal waters of the U.S.)** Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, bridges, railways, trails, airport runways, pipelines, and taxiways) and attendant features, provided that work is performed in accordance with New Hampshire Stream Crossing Best Management Practices to the maximum extent practicable.

**Not authorized under GP 23:** (a) Permanent and temporary fill in  $\geq 3$  acres of non-tidal waters and/or wetland; or (b) Permanent and temporary fill in  $\geq 1$  acre in tidal waters,  $\geq 1000$  SF in tidal SAS,  $\geq 100$  SF SAV, or areas containing shellfish.

Self-Verification (Minimum)	Pre-Construction Notification (Minor / Major)
<p><b>Tidal Waters (Section 10 &amp; 404)</b></p> <p>No work in tidal waters</p> <p><b>Non-Tidal Waters (Sections 10 &amp; 404)</b></p> <p><math>&lt; 3,000</math> SF of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Stream crossings conform with the NH Stream Crossing Guidelines and GCs of this document. This includes but is not limited to GC 26 &amp; 31.</p> <p>Existing crossings (e.g., culverts, elliptical or arch pipes, etc.) are not modified by (a) decreasing the diameter of the crossing or (b) changing the friction coefficient, such as through slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining.</p> <p>Not Eligible for SV (Minimum):</p> <ul style="list-style-type: none"> <li>• Open trench excavation in flowing waters.</li> <li>• Work in EFH habitat and riffle and pool complexes.</li> <li>• Work on USACE properties &amp; USACE-controlled easements.</li> </ul>	<p>Work not eligible for SV (Minimum)</p> <p><b>Tidal Waters (Section 10)</b></p> <p><math>&lt; 1</math> acre of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p> <p>Permanent or temporary fill in tidal SAS <math>&lt; 1000</math> SF.</p> <p>Permanent or temporary fill in SAV <math>&lt; 100</math> SF.</p> <p><b>Non-Tidal Waters (Section 404)</b></p> <p><math>&lt; 3</math> of permanent and/or temporary waterway and/or wetland fill and associated secondary impacts.</p>

## **SECTION IV. GENERAL PERMIT CONDITIONS**

An activity is authorized under the GPs only if that activity and the applicant satisfy all the applicable GP's terms and following GCs.

**1. Other Permits.** Applicants must obtain other Federal, State, or local authorizations required by law. Applicants are responsible for applying for and obtaining all required State or local approvals. Work that is not regulated by the State, but is subject to USACE jurisdiction, may still be eligible for these GPs.

**2. Federal Jurisdictional Boundaries.**

a. Applicability of these GPs shall be evaluated with reference to federal jurisdictional boundaries (e.g., MHW, high tide line, OHWM, and wetland boundary). Activities shall be evaluated with reference to "waters of the U.S." under the Clean Water Act (33 CFR 328) and "navigable waters of the U.S." under Section 10 of the Rivers and Harbors Act of 1899 (33 CFR 329). Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice, and procedures to be used in determining the extent of USACE jurisdiction. Note: Waters of the U.S. includes all waters pursuant to

33 CFR 328.3(a), and adjacent wetlands as that term is defined in 33 CFR 328.3(c).

b. Applicants shall identify on project plans all aquatic resources including wetlands, other SAS including vegetated shallows (or SAV) and mudflats, and other waters, such as lakes and ponds, perennial and intermittent streams, and vernal pools on the project site. They are all presumed to be waters of the U.S. unless an approved jurisdictional determination has been obtained from USACE that determines otherwise. Wetlands shall be delineated in accordance with the Corps of Engineers Wetlands Delineation Manual and the most recent Northcentral/Northeast Regional Supplement. For activities located on Essential Fish Habitat (GC 11), applicant shall also identify on project plans natural rocky habitats and shellfish areas to satisfy the Magnuson-Stevens Fishery Conservation and Management Act.

**3. Single and Complete Projects.**

a. The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. These GPs shall not be used for piecemeal work and shall be applied to single and complete projects.

b. For non-linear projects, a single and complete project must have independent utility. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed, even if the other phases were not built, can be considered a single and complete project with independent utility.

c. Unless USACE determines the activity has independent utility, all components of a single project and/or all planned phases of a multi-phased project (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be treated together as constituting one single and complete project.

d. For linear projects such as power lines or pipelines with multiple crossings, a "single and complete project" is all crossings of a single water of the U.S. (i.e., single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate

and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately. If any crossing requires a PCN (Minor/Major) review or an individual permit review, then the entire linear project shall be reviewed as one project as a PCN (Minor/Major) or the individual permit procedures.

**4. Use of Multiple General Permits.** When a single and complete project requires the use of multiple GPs, the project review category, SV (Minimum), PCN (Minor/Major) or individual permit will be determined by adding the impacts to wetland and/or waters of the U.S. for each applicable GP together. The project review thresholds for each category SV (Minimum), PCN (Minor/Major), and individual permit) are specified on page 3.

**5. Discharge of Pollutants.** All activities involving any discharge into waters of the U.S. authorized under these GPs shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within six months from the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the EPA. Unless monitoring data indicates otherwise, applicants may presume that their activity complies with state water quality standards provided they are in compliance with the Section 401 WQC (Applicable only to the Section 404 activity).

**6. Environmental Functions and Values.** The applicant shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner that minimizes any adverse impacts on existing fish, wildlife, and the environmental functions to the extent practicable. The applicant will discourage the establishment or spread of plant species identified as non-native invasive species by any federal or state agency.

**7. Mitigation (Avoidance, Minimization, and Compensatory Mitigation).**

- a. Activities shall be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable to ensure that adverse effects to the aquatic environment are no more than minimal.
- b. Compensatory mitigation for unavoidable impacts to waters of the U.S., including direct, indirect, secondary, and temporal loss, will generally be required for permanent impacts that exceed the SV (Minimum) limits, and may be required for temporary impacts, to offset unavoidable impacts which remain after all appropriate and practicable avoidance and minimization has been achieved and to ensure that the adverse effects to the aquatic environment are no more than minimal. Proactive restoration projects or temporary impact work with no secondary effects may generally be excluded from this requirement.
- c. Mitigation proposals shall follow the guidelines found in the Compensatory Mitigation for Losses of Aquatic Resources; Final Rule April 10, 2008; 33 CFR 332. Applicants may purchase mitigation credits in-lieu of applicant-responsible mitigation as compensation for unavoidable impacts to waters of the U.S. in the State of New Hampshire may utilize the New Hampshire In-Lieu Fee Program.

d. Compensatory mitigation at a minimum one-for-one will be required for all wetland losses >5,000 SF of non-tidal wetlands, impacts to tidal wetlands, stream work >200 linear FT, and other circumstances, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. Information is provided at <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>.

**8. Minimal Direct, Indirect, Secondary and Cumulative Effects.** To be eligible and subsequently authorized by these GPs, an activity shall result in no more than minimal individual and cumulative effects on the aquatic environment as determined by USACE in accordance with the criteria listed within these GPs and GCs. This may require project modifications involving avoidance, minimization, or compensatory mitigation for unavoidable impacts to ensure that the net adverse effects of an activity are no more than minimal.

**9. Water Quality and Coastal Zone Management.**

a. Applicants shall satisfy any conditions imposed by the State of New Hampshire and EPA, where applicable, in their Clean Water Act Section 401 Water Quality Certification (WQC) for these GPs, or in any Individual Section 401 WQC. See Section V. for state-specific contact information and to determine if any action is required to obtain a 401 WQC. USACE may require additional water quality management measures to ensure that the authorized activity does not cause or contribute to a violation of water quality standards. All projects authorized by these GPs shall be designed, constructed, and operated to minimize or eliminate the discharge of pollutants.

b. Applicants shall satisfy any additional conditions imposed by the State of New Hampshire in their CZMA of 1972 consistency concurrences for these GPs, or in any Individual CZM consistency concurrences. USACE may require additional measures to ensure that the authorized activity is consistent with state CZM requirements.

**10. Federal Threatened and Endangered Species.**

a. No activity is authorized under any GP which:

i. 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 the critical habitat of such species;

ii. “May affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed;

iii. Is “likely to adversely affect” a listed species or critical habitat unless Section 7 consultation has been completed by USACE or another lead action agency in coordination with USACE; or

iv. Violates the ESA.

b. All applicants shall attach to their SV or PCN an Official Species List obtained from the USFWS’s Information for Planning and Consultation (IPAC) found at:

<https://ecos.fws.gov/ipac/> and provide the email address of the person who generated the list.

c. For proposed activities in tidal waters, applicants should also refer to the National Oceanic and Atmospheric Administration (NOAA) Fisheries’ Section 7 Mapper for federally-listed species found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater>.

d. Non-federal permittees must submit a PCN if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, **or** if the activity is located in designated critical habitat and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized.

An activity may remain eligible for SV if the only listed species affected is the northern long-eared bat (*Myotis septentrionalis*), and the activity:

- i. Will not remove trees  $\geq 3$  inches dbh at any time of the year; or  $\leq 10$  trees  $\geq 3$  inches dbh between November 1 – March 31;
  - ii. Is not within the “buffer” of a NLEB hibernacula or maternity roost tree; and
  - iii. Does not involve work on bridges or existing riprap associated with dams; or only after Section 7 consultation has been completed by USACE under the 4(d) Rule Streamlined Consultation.
- e. Federal agencies shall follow their own procedures for complying with the requirements of the ESA while ensuring that USACE and any other federal action agencies are included in the consultation process.
- f. Non-federal representatives designated by USACE to conduct informal consultation or prepare a biological assessment shall follow the requirements in the designation document(s) and the ESA. Non-federal representatives shall also provide USACE with the appropriate documentation to demonstrate compliance with those requirements. USACE will review the documentation and determine whether it is sufficient to address ESA compliance for the GP activity, or whether additional ESA consultation is necessary.
- g. The requirements to comply with Section 7 of the ESA may be satisfied by a Programmatic Agreement (PA) or Programmatic Consultation (PC) with USACE, the New England District, or another federal agency.

#### **11. Essential Fish Habitat (EFH).**

- a. Temporary or permanent adverse effects to EFH, SAV, tidal SAS, intertidal habitats, and natural rocky habitats are not SV eligible.
- b. PCN activities in tidal waters and rivers and streams listed in Appendix C, including all tributaries to the extent that they are currently or were historically accessible for salmon migration, will be reviewed for the potential to adversely affect EFH (activities meeting SV criteria have been determined to result in no more than minimal adverse effects to EFH and therefore need no additional review). All projects that have an adverse effect to EFH will be subject to programmatic consultation conservation recommendations.
- c. For all activities, all tidal SAS, natural rocky habitats, and areas containing shellfish in the project area must be delineated in the field, remotely or using online tools, as appropriate, and identified on the project plans. A vegetated shallow survey or SAV survey, is required for activities within 100 feet of currently or historically mapped eelgrass beds if the area has not been surveyed in the last 3 years. Information on the historical or current presence of eelgrass can be determined with <https://www.northeastoceandata.org/updated-map-of-eelgrass-meadows-and-new-map-of-historical-eelgrass-areas/>. The USACE may waive this requirement on a case-by-case basis after coordination with NMFS has been conducted. For areas containing shellfish, projects proposed to fill or dredge in NH Fish and Game designated areas used for recreation harvest (open or closed), whether directly or indirectly, do not qualify *for* authorization under these GPs and applicants must submit an individual permit application. Applicants must ensure that all projects proposed in or

adjacent to any areas containing shellfish identified on these maps are designed to avoid and minimize adverse effects. Maps of designated areas containing shellfish used for recreation harvest are located at: <https://www4.des.state.nh.us/CoastalAtlas/Atlas.html>.

d. Applicants may be required to describe and identify potential adverse effects to EFH and should refer to NOAA Fisheries' EFH Mapper found at:

<http://www.fisheries.noaa.gov/resource/map/essential-fish-habitat-mapper>.

e. The requirements to comply with the Magnuson-Stevens Fishery Conservation and Management Act may be satisfied by a programmatic agreement (PA) or programmatic consultation (PC) between USACE or another federal agency and NMFS.

**12. National Lands.** Activities that impinge upon the value of any National Lands or Federal Properties including but not limited to a National Wildlife Refuge, National Forest, National Marine Sanctuary, or any area administered by the National Park Service, USFWS U.S. Forest Service are not eligible for SV (Minimum) and require either a PCN (Minor/Major) or individual permit.

### **13. Wild and Scenic Rivers.**

a. The following activities in designated rivers of the National Wild and Scenic River (WSR) System, or in a river designated by Congress as a "study river" for possible inclusion in the system, require a PCN unless the appropriate Federal agency with direct management responsibility for such river has determined in writing to the applicant that the proposed work will not adversely affect the WSR designation or study status:

- i. Activities that occur in WSR segments, in and 0.25 miles upstream or downstream of WSR segments, or in tributaries within 0.25 miles of WSR segments;
- ii. Activities that occur in wetlands within 0.25 miles of WSR segments;
- iii. Activities that have the potential to alter free-flowing characteristics in WSR segments.

b. As of August 18, 2022, affected rivers in New Hampshire include: Wildcat Brook from its headwaters (Little Wildcat Brook, Bog Brook, and Great Brook) to the confluence with the Ellis River (administered by the U.S. Forest Service, White Mountain National Forest); the Lamprey River from the former Bunker Pond Dam in Epping to the confluence with the Piscassic River (administered by the National Park Service, Interior Region 1); and the Nissitissit River from its headwaters in Brookline, NH to the Massachusetts-New Hampshire border (administered by the National Park Service, Interior Region 1).

### **14. Historic Properties.**

a. No undertaking authorized by these GPs shall cause effects (defined in 33 CFR 325 Appendix C and 36 CFR 800) on properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unknown historic properties within the permit area, unless USACE or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA). Many historic properties are not listed on the National Register of Historic Places and may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with USACE and the SHPO and/or

b. Historic Preservation Officer (THPO). The SHPO, THPO and the National Register of Historic Places can assist with locating information on:

- i. Previously identified historic properties; and
- ii. Areas with potential for the presence of historic resources, which may require



- identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with USACE and the SHPO and/or THPO(s).
- c. For activities eligible for SV (Minimum) projects, applicants must ensure and document that the activity will not cause effects as stated in 16(a).
  - d. Applicants must submit a PCN (Minor/Major) application to USACE as soon as possible if the authorized activity may cause effects as stated in 16(a) to ensure that USACE is aware of any potential effects of the proposed activity on any historic property to ensure all Section 106 requirements are met.
  - e. All SV (Minimum) and PCN (Minor/Major) impact projects shall:
    - i. Show notification to the SHPO (including your NHDES file number) for their identification of historic properties,
    - ii. State which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties, and
    - iii. Include any available documentation from the SHPO indicating that there are or are not historic properties affected.
  - f. If the applicant discovers any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this permit, the applicant must immediately notify the District Engineer of what was found and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination is complete. The District Engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
  - g. Federal agencies should follow their own procedures for complying with the requirements of Section 106 NHPA. Along with the application, Federal applicants shall provide USACE with the appropriate documentation to demonstrate compliance with those requirements.
  - h. Federal and non-federal applicants should coordinate with USACE before conducting any onsite archeological work (reconnaissance, surveys, recovery, etc.) requested by the SHPO or the THPO, as USACE will determine the permit area for the consideration of historic properties based on 33 CFR 325 Appendix C. This is to ensure that work done is in accordance with USACE requirements.

## **15. USACE Property and Federal Projects.**

- a. USACE projects and property can be found at: <https://www.nae.usace.army.mil/Missions/Civil-Works/>.
- b. In addition to any authorization under one or more of these GPs, applicants must contact the USACE Real Estate Division at (978) 318-8585 for work occurring on or potentially affecting USACE properties and/or USACE-controlled easements to initiate reviews and determine what real estate instruments are necessary to perform work. Applicants may not commence work on USACE properties and/or USACE-controlled easements until they have received any required USACE real estate documents evidencing site-specific permission to work.
- c. Any proposed temporary or permanent modification or use of a Federal project (including but not limited to a levee, dike, floodwall, channel, anchorage, breakwater, seawall, bulkhead, jetty, wharf, pier or other work built but not necessarily owned by the United States), or any use which could obstruct or impair the usefulness of the Federal project in any manner, and/or would involve changes to the authorized Federal project's scope, purpose, and/or functioning, is not eligible for an SV(Minimum) and will also require

review and approval by USACE pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) (Section 408).

d. A PCN is required for all work in, over, under, or within a distance of three times the authorized depth of a USACE FNP and may also require permission under Section 408.

e. Any structure or work that extends closer than a distance of three times the project's authorized depth to the horizontal limits of any FNP shall be subject to removal at the owner's expense prior to any future USACE dredging or the performance of periodic hydrographic surveys.

f. Where a Section 408 permission is required, written verification for the PCN will not be issued prior to the decision on the Section 408 permission request.

## **16. Navigation.**

a. No activity may cause more than a minimal adverse effect on navigation.

b. Any safety lights and signals prescribed by the U.S. Coast Guard, must be installed, and maintained at the applicant's expense on authorized facilities in navigable waters of the U.S.

c. Any structure or work that extends closer to the horizontal limits of any USACE FNP than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future USACE dredging or the performance of periodic hydrographic surveys. This is applicable to SV (Minimum) and PCN (Minor/Major).

d. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the applicant to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

e. The applicant understands and agrees that if future U.S. operations require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the applicant will be required, upon due notice from USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

f. A PCN is required for all work in, over or under an FNP or its buffer zone unless otherwise indicated in Appendix A as the work may also require a Section 408 permit.

g. Where a Section 408 permission is applicable, written verification for the PCN will not be issued prior to the decision on the Section 408 permission request.

**17. Permit/Authorization Letter On-Site.** For PCN (Minor/Major) projects, the applicant shall ensure that a copy of these GPs and the accompanying authorization letter are at the work site (and the project office) whenever work is being performed, and that all personnel with operational control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affects areas of USACE jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means these GPs, including GCs and the authorization letter (including its drawings, plans, appendices, and other attachments), and any permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract as a change order.

Although the applicant may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire authorization letter, and no contract or sub-contract shall require or allow unauthorized work in areas of USACE jurisdiction.

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

**19. Pile Driving and Pile Removal in Navigable Waters.**

a. Derelict, degraded or abandoned piles and sheet piles in navigable waters of the U.S., except for those inside existing work footprints for piers, must be completely removed, cut and/or driven to 3 feet below the substrate to prevent interference with navigation, and existing creosote piles that are affected by project activities shall be completely removed if practicable. In areas of fine-grained substrates, piles must be removed by the direct, vibratory or clamshell pull method to minimize sedimentation and turbidity impacts and prevent interference with navigation from cut piles. Removed piles shall be disposed of in an upland location landward of MHW or OHW and not in wetlands, tidal wetlands, their substrate, or mudflats.

b. A PCN is required for the installation of structures with jetting techniques.

c. A PCN is required for the installation of >12 inch-diameter piles or steel piles in tidal waters unless they are installed in the dry. If they are not installed in the dry, installation of these piles must use a soft start each day of pile driving, building up power slowly from a low energy start-up over a period of 20-40 minutes to provide adequate time for fish and marine mammals to leave the vicinity. The buildup of power should occur in uniform stages to provide a constant increase in output. Bubble curtains can be used to reduce sound pressure levels during vibratory or impact hammer pile driving.

**20. Time-of-Year Work Windows/Restrictions.** In-water work shall be conducted during the following TOY work windows (work allowed) under SV and any in-water work proposed during the following TOY restrictions (no work) shall be received under PCN (and shall contain written justification for deviation from the work allowed windows). The term “in-water work” does not include conditions where the work site is “in-the-dry” (e.g., intertidal areas exposed at low tide). The term does not include work contained in a cofferdam so long as the cofferdam was installed and subsequently removed within the work allowed window.

	<b>TOY Restriction (No work)</b>	<b>TOY Work Window (Work allowed)</b>
<b>Non-tidal waters</b>	October 1 <sup>st</sup> - July 5 <sup>th</sup>	July 5 <sup>th</sup> – October 1 <sup>st</sup>
<b>Tidal waters</b>	March 15 <sup>th</sup> - November 15 <sup>th</sup>	November 15 <sup>th</sup> – March 15 <sup>th</sup>

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

## **21. Heavy Equipment in Wetlands.**

a. Operating heavy equipment (drill rigs, fixed cranes, etc.) within wetlands shall be minimized, and such equipment shall not be stored, maintained, or repaired in wetlands, to the maximum extent practicable. Where construction requires heavy equipment operation in wetlands, the equipment shall:

- i. Have low ground pressure (typically <4 psi);
- ii. Be placed on swamp/construction/timber mats (herein referred to as “construction mats” or “mats”) that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation; or
- iii. Be operated on adequately dry or frozen wetlands such that shear pressure does not cause subsidence of the wetlands immediately beneath the equipment and upheaval of adjacent wetlands. Construction mats are to be placed in the wetland from the upland or from equipment positioned on mats if working within a wetland. Dragging construction mats into position is prohibited. Other support structures that are capable of safely supporting equipment may be used with written USACE authorization. Similarly, the applicant may request written authorization from USACE to waive use of mats during frozen or dry conditions. An adequate supply of spill containment equipment shall be maintained on site. At a minimum, construction mats should be managed in accordance with the following construction mat best management practices:

1. Mats should be in good condition to ensure proper installation, use and removal.
2. Where feasible, place mats in a location that would minimize the amount needed for the wetlands crossing.
3. To prevent the spread of invasive plant species construction mats are to be thoroughly cleaned before re-use.
4. Minimize impacts to wetland areas during installation, use, and removal.
5. Install adequate erosion & sediment controls at approaches to mats to promote a smooth transition to, and minimize sediment tracking onto, mats.
6. In most cases, mats should be placed along the travel area so that the individual boards are resting perpendicular to the direction of traffic. No gaps should exist between mats. Place mats far enough on either side of the resource area to rest on firm ground.
7. Provide standard construction mat BMP details to work crews.

b. Construction equipment such as barges in tidal waters shall provide clearance above the substrate to avoid impacts to SAS during all tides.

## **22. Temporary Fill.**

a. Construction mats of any area are authorized as SV in non-tidal waters to conduct activities provided mats are removed as soon as the work is completed and in place for no longer than one growing season. The growing season is from May 1 to October 1 for the purposes of these GPs. A PCN will be required if the mats are in for more than one growing season. USACE retains the authority to make the determination that construction mats count toward the threshold after evaluating site-specific and activity-specific circumstances.

b. Temporary construction mats in tidal SAS or >1000 SF in tidal waters require a PCN.

c. Temporary fill, construction mats and corduroy roads shall be entirely removed as soon as they are no longer needed to construct the authorized work. Temporary fill shall be replaced in its original location or disposed of at an upland site and suitably contained to prevent its subsequent erosion into waters of the U.S.

d. All temporary fill and disturbed soils shall be stabilized to prevent its eroding into waters of the U.S. where it is not authorized. Work shall include phased or staged development to ensure only areas under active development are exposed and to allow for stabilization

practices as soon as practicable. Temporary fill must be placed in a manner that will prevent it from being eroded by expected high flows.

e. Unconfined temporary impact authorized for discharge into waters of the U.S. shall consist of material that minimizes impacts to water quality (e.g., washed stone, stone, etc.).

f. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Materials shall be placed in a location and manner that does not adversely impact surface or subsurface water flow into or out of the wetland. Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric or other appropriate material laid on the pre-construction wetland grade where practicable to minimize impacts and to facilitate restoration to the original grade. Construction mats are excluded from this requirement. A PCN is required for construction mats and corduroy roads that involve underlying fill.

g. Construction debris nor deteriorated materials shall not be located in waters of the U.S.

### **23. Restoration of Wetland Areas.**

a. Upon completion of construction, all disturbed wetland areas shall be stabilized with a wetland seed mix containing only plant species native to New England and shall not contain any species listed in the "Invasive and Other Unacceptable Plant Species" Appendix K in the New England District "Compensatory Mitigation Standard Operating Procedures" found at <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>.

b. The introduction or spread of invasive plant species in disturbed areas shall be controlled. If swamp or Construction mats are to be used, they shall be thoroughly cleaned before re-use.

c. In areas of authorized temporary disturbance, if trees are cut, they shall be cut at or above ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.

d. Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

### **24. Bank Stabilization.**

a. Projects involving construction or reconstruction/maintenance of bank stabilization structures within USACE jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. Where possible, bank stabilization projects shall optimize the natural function of the shoreline, including self-sustaining stability to attenuate flood flows, fishery, wildlife habitat and water quality protection, while protecting upland infrastructure from storm events that can cause erosion as well as impacts to public and private property.

b. Applicants must use the least intrusive method to stabilize the bank, follow the details in NHDES administrative rules and the following sequential minimization process: diversion of water, vegetative stabilization, stone-sloped surfaces, and walls. Vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates bodies of water where the reflected wave energy may interfere with or impact

harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife.

## **25. Soil Erosion and Sediment Controls.**

- a. Appropriate soil erosion and sediment controls<sup>2</sup> (hereinafter referred to as “controls”) must be installed prior to earth disturbance and maintained in effective operating condition during construction. Biodegradable wildlife friendly erosion controls should be used whenever practicable. Activities in streams (rivers, streams, brooks, etc.) and tidal waters that are capable of producing sedimentation or turbidity should be done during periods of low-flow or no-flow, when the stream or tide is waterward of the work, or when controls are used to obtain dry work conditions. A PCN is required for an activity that causes greater than minimal sedimentation or turbidity in streams or tidal waters.
- b. No dewatering shall occur with direct discharge to waters or wetlands without coverage of an EPA Construction General Permit. Excess water in isolated work areas shall be pumped or directed to a sedimentation basin, tank or other dewatering structures in an upland area adequately separated from waters or wetlands. Suspended solids shall be removed prior to discharge back into waters or wetlands from these dewatering structures. All discharge points back into waters and wetlands shall use appropriate energy dissipaters and erosion and sedimentation control BMPs.
- c. Temporary controls shall be removed upon completion of work, but not until all exposed soil and other fills, as well as any work waterward of OHW or the HTL, are permanently stabilized at the earliest practicable date. Sediment and debris collected by these devices shall be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland. Controls may be left in place if they are biodegradable and flows and aquatic life movements are not disrupted.

## **26. Aquatic Life Movements and Management of Water Flows.**

- a. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity’s primary purpose is to impound water. Unless otherwise stated, activities permanently impounding water in a stream require a PCN to ensure impacts to aquatic life species are avoided and minimized. All permanent and temporary crossings of waterbodies and wetlands shall be:
  - i. Suitably spanned, bridged, culverted, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species; and
  - ii. Properly aligned and constructed to prevent bank erosion or streambed scour both adjacent to and inside the crossing.
- b. To avoid adverse impacts on aquatic organisms, the low flow channel/thalweg shall remain unobstructed during periods of low flow, except when necessary to perform the authorized work.

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<sup>2</sup> Appropriate soil erosion, sediment and turbidity controls include cofferdams, bypass pumping around barriers immediately up and downstream of the work footprint (i.e., dam and pump), installation of sediment control barriers (i.e., silt fence, vegetated filter strips, geotextile silt fences, filter tubes, erosion control mixes, hay bales or other devices) downhill of all exposed areas, stream fords, retention of existing vegetated buffers, application of temporary mulching during construction, phased construction, and permanent seeding and stabilization, etc.

- c. For work in tidal waters, in-stream controls (e.g., cofferdams) should be installed in such a way as to not obstruct fish passage.
- d. Riprap and other stream bed materials shall be installed in a manner that avoids organism entrapment in rock voids or water displaced to subterranean flow with crushed stone and riprap.
- e. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity shall not restrict or impede the passage of normal or high flows unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- f. Activities that temporarily or permanently adversely impact upstream or downstream flood conditions require a PC.

## **27. Spawning, Breeding, and Migratory Areas.**

- a. Jurisdictional activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities in jurisdictional waters that provide value as fish migratory areas, fish and shellfish spawning or nursery areas, or amphibian and migratory bird breeding areas, during spawning or breeding seasons shall be avoided and minimized to the maximum extent practicable.
- b. Jurisdictional activities in waters of the U.S. that provide value as breeding areas for migratory birds must be avoided to the maximum extent practicable. The applicant is responsible for obtaining any “take” permits required under the USFWS’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The applicant should contact the appropriate local office of the USFWS to determine if such “take” permits are required for a particular activity. Information on spawning habitat for species managed under the Magnuson-Stevens Fishery Conservation and Management Act (i.e., EFH for spawning adults) can be obtained from the NMFS website at: <https://www.fisheries.noaa.gov/region/new-england-mid-atlantic#habitat>.

## **28. Vernal Pools.**

- a. A PCN is required if a discharge of dredged or fill material is proposed within a vernal pool depression located within waters of the U.S.
- b. On projects requiring a PCN, vernal pools must be identified on the plan showing aquatic resource delineations
- c. Adverse impacts to vernal pools should be avoided and minimized to the maximum extent practicable.

## **29. Invasive Species.**

- a. The introduction, spread or the increased risk of invasion of invasive plant or animal species on the project site, into new or disturbed areas, or areas adjacent to the project site caused by the site work shall be avoided. Hence, swamp and construction mats shall be thoroughly cleaned before reuse.
- b. Unless otherwise directed by USACE, all applications for PCN inland projects proposing fill in USACE jurisdiction shall include an Invasive Species Control Plan. Additional

information can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/Invasive-Species/>, <https://extension.unh.edu/natural-resources/forests-trees/invasivespecies>, and <https://www.nrcs.usda.gov/wps/portal/nrcs/main/nh/technical/ecoscience/invasive/>.

**30. Fills Within 100-Year Floodplains.** The activity shall comply with applicable Federal Emergency Management Agency (FEMA) approved, State of New Hampshire or local floodplain management requirements. Applicants should contact FEMA and/or the State of New Hampshire regarding floodplain management requirements.

**31. Stream Work and Crossings, and Wetland Crossings.**

a. All temporary and permanent crossings of waterbodies and wetlands shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and not obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction.

b. All temporary and permanent crossings of rivers, streams, brooks, etc. (hereafter referred to as “streams”) shall conform to the “New Hampshire Stream Crossing Guidelines” located at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/New-Hampshire-General-Permit/>. The USACE shall review projects under the PCN (Minor/Major) impact or IP review procedures if conforming to the Guidelines is impractical. The Guidelines typically require bridge spans, open bottom arches, or embedded culverts. Bridge spans are generally preferred.

c. The requirements to comply with the Guidelines in order to proceed as SV (Minimum) as stated in (c) above does not apply to constructed drainage systems designed primarily for the conveyance of storm water or irrigation. Also, non-tidal drainage and irrigation ditches excavated on dry land are not Federally regulated.

d. Only maintenance or replacement of serviceable crossings with an exact replica crossing (no change in size, character, and scope) in the same footprint with no expansion or change in use/circumstances is considered as a maintenance project. Maintenance meeting these criteria are exempt from USACE regulation. Any deviation deems the crossing as “new”, potentially requiring a new USACE authorization.

**Note:** The State of New Hampshire’s maintenance provisions differ from USACE and will likely require reporting to and written authorization from the State.

e. Road crossings at wetland and waterbody crossings shall be installed in such a manner as to preserve hydraulic capacity, sediment transport, and organism passage at its present level, between the wetlands on either side of the road. The applicant shall take necessary measures to correct any wetland damage resulting from deficiencies in hydraulic capacity, sediment transport and organism passage.

f. Activities involving open trench excavation in flowing waters require a PCN (Minor/Major). Work should not occur in flowing waters (requires using management techniques such as temporary flume pipes, culverts, cofferdams, etc.). Normal flows should be maintained within the stream boundary’s confines when practicable. Projects utilizing these management techniques must meet the other SV (Minimum) requirements and all the applicable GP terms and GCs.

g. Construction equipment crossing or accessing streams without using temporary bridges, spans, Construction mats, culverts or cofferdams are not eligible as an SV (Minimum). (Note: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of these GPs.

h. Projects which meet the definition of an SV (Minimum), in-stream (e.g., rivers, streams, brooks, etc.) construction work shall be conducted only during the low flow period of



July 5<sup>th</sup> – October 1<sup>st</sup> in any year. Projects conducted outside of that time period are ineligible as an SV (Minimum) and shall be reviewed pursuant to PCN (Minor/Major) procedures, regardless of the waterway and wetland fill and/or impact area. Any work that impacts upstream or downstream flooding or wetlands must be reviewed under the PCN (Minor/Major) procedures.

**32. Inspections.** The applicant shall allow USACE to make periodic inspections at any time deemed necessary to ensure that the work is being or has been performed in accordance with the terms and conditions of this permit. To facilitate these inspections, the applicant shall complete and return the Compliance Certification Form when it is provided with a verification letter. The USACE may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

**33. Maintenance.** The applicant shall maintain the activity authorized by these GPs in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in GP #7 as well as any conditions included in a written USACE authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to federal regulation under Section 404 in accordance with 33 CFR 323.4(a) (2).

**34. Property Rights.** Per 33 CFR 320.4 (g)(6), these GPs do not convey any property rights, either in real estate or material, or any exclusive privileges, nor do they authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

**35. Transfer of GP Verifications.** When the work authorized by these GPs is still in existence at the time the property is transferred, the terms and conditions of these GPs, including any special conditions, will continue to be binding on the entity or individual who received the GP authorizations, as well as the new owner(s) of the property. If the applicant sells the property associated with a GP authorization, the applicant may transfer the GP authorization to the new owner by submitting a letter to USACE to validate the transfer. A copy of the GP authorization letter must be attached to the letter, and the letter must include the following statement: "The terms and conditions of these general permits, including any special conditions, will continue to be binding on the new owner(s) of the property." This letter shall be signed by both the seller and new property owner(s).

**36. Modification, Suspension, and Revocation.** These GPs and any individual authorization issued thereof may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; and any such action shall not be the basis for any claim for damages against the U.S.

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

**38. False or Incomplete Information.** If USACE makes a determination regarding the eligibility of a project under these GPs, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the applicant, the authorization will not be valid, and the U.S. Government may institute appropriate legal proceedings.

**39. Abandonment.** If the applicant decides to abandon the activity authorized under these GPs, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of USACE.

**40. Enforcement cases.** These GPs do not apply to any existing or proposed activity in USACE jurisdiction associated with an on-going USACE or EPA enforcement action, until such time as the enforcement action is resolved or USACE or EPA determines that the activity may proceed independently without compromising the enforcement action.

**41. Previously Authorized Activities.**

a. Completed projects that received prior authorization from USACE (SV or PCN), shall remain authorized in accordance with the original terms and conditions of those authorizations, including their terms, GCs, and any special conditions provided in a written verification.

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

**42. Duration of Authorization.**

a. These GPs expire five years from the date issued as listed at the top of the cover sheet. Activities authorized by these GPs that have either commenced (i.e., are under construction) or are under contract to commence in reliance upon this authorization will have an additional year from the expiration date to complete the work. The applicant must be able to document to USACE's satisfaction that the project was under construction or under contract by the expiration date of these GPs. If work is not completed within the one-year extended timeframe, the applicant must contact USACE. The USACE may issue a new authorization provided the project meets the terms and conditions of the NH GPs in effect at the time.

b. Activities authorized under these GPs will remain authorized until the GPs expire, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2(e)(2). Activities completed under the SV (Minimum) or PCN (Minor/Major) authorizations of these GPs will continue to be authorized after their expiration date.

**SECTION V. FEDERAL & STATE AGENCY CONTACTS &  
ORGANIZATIONAL WEBSITES**

**FEDERAL AGENCY CONTACTS**

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

U.S. Environmental Protection Agency  
Region 1, Wetlands Protection Section, Water Division  
5 Post Office Square  
Mail Code OEP06-3  
Boston, MA 02109-3912  
(617) 918-1536

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

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

National Marine Fisheries Service  
Greater Atlantic Regional Fisheries Office  
Habitat Conservation Division  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 or 9130

NOAA Restoration Center  
55 Great Republic Drive  
Gloucester, Massachusetts 01930  
(978) 281 9313

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

## **STATE OF NEW HAMPSHIRE CONTACTS**

NHDES Wetlands Bureau  
29 Hazen Drive  
Concord, NH 03302  
(603) 271-2147, (603) 271-6588 (fax)

NHDES Dam Bureau  
29 Hazen Drive  
Concord, NH 03302  
(603) 271-3406, (603) 271-6120 (fax)

New Hampshire Coastal Program  
222 International Drive, Suite 175  
Portsmouth, NH 03801  
(603) 559-1500, (603) 559-1510 (fax)

NH Division of Historical Resources  
State Historic Preservation Office  
19 Pillsbury Street Concord, NH 03301-3570  
(603) 271-3483

Natural Heritage Bureau (State Endangered Species)  
172 Pembroke Road  
P.O. Box 1856  
Concord, NH 03302  
(603) 271-2215, x323

NH Fish and Game Department (State Endangered Species)  
Non-Game Endangered Wildlife Program  
11 Hazen Drive  
Concord, NH 03302-0095  
(603) 271-3421

Pease Development Authority, Division of Ports and Harbors  
555 Market Street  
Portsmouth, NH 03801  
(603) 436-8500

## ORGANIZATIONAL WEBSITES

U.S Army Corps of Engineers New England District:

- <https://www.nae.usace.army.mil/Missions/Regulatory.aspx>
- <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/JurisdictionalLimitsBrochure.pdf>

SAV Guidance: [https://www.nae.usace.army.mil/portals/74/docs/regulatory/JurisdictionalLimits/Submerged Aquatic Vegetation Survey Guidance\(11-Aug-2016\).pdf](https://www.nae.usace.army.mil/portals/74/docs/regulatory/JurisdictionalLimits/SubmergedAquaticVegetationSurveyGuidance(11-Aug-2016).pdf)

Environmental Protection Agency: [www.epa.gov/owow/wetlands](http://www.epa.gov/owow/wetlands)

National Marine Fisheries Service, Northeast Region: [www.greateratlantic.fisheries.noaa.gov/habitat](http://www.greateratlantic.fisheries.noaa.gov/habitat)

National Marine Fisheries Service, National Headquarters: <https://www.fisheries.noaa.gov/contact/national-headquarters>

U.S. Fish and Wildlife Service: [www.fws.gov](http://www.fws.gov)

National Park Service: [www.nps.gov/rivers/index.html](http://www.nps.gov/rivers/index.html)

NH DES Wetlands Bureau: <https://www.des.nh.gov/water/wetlands>

NH Wetlands Rules: <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/wetlands-project-specific-info.pdf>

NH Fish and Game: [www.wildlife.state.nh.us](http://www.wildlife.state.nh.us)

Coastal NH – Marine Resources: [www.wildlife.state.nh.us/marine](http://www.wildlife.state.nh.us/marine)

NH Coastal Program: <https://www.des.nh.gov/water/coastal-waters>

NH Division of Historical Resources: [www.nh.gov/nhdhr](http://www.nh.gov/nhdhr)

NH GIS: [www.granit.unh.edu](http://www.granit.unh.edu)

NH Water Quality Certification Program: <https://www.des.nh.gov/water/rivers-and-lakes/water-quality-certification>

NH Coastal Viewer: <https://www.nhcoastalviewer.org/>

NMFS Habitat Conservation Division (EFH): <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-consultations-greater-atlantic-region>

Natural Heritage Bureau (NHB): <https://www.nh.gov/nhdf/>

NHB DataCheck Tool (rare species information): [https://www2.des.state.nh.us/nhb\\_datacheck/](https://www2.des.state.nh.us/nhb_datacheck/)

Pease Development Authority, Division of Ports and Harbors: <http://www.portofnh.org>

**Appendix A**  
**New Hampshire General Permits**  
**Definitions / Terminology**

**Areas Containing Shellfish:** Areas containing shellfish (open or closed) used for recreation harvest as designated by the NH Fish and Game Department. Maps of these areas containing shellfish are located at:

[https://www4.des.state.nh.us/CoastalAtlas/Shellfish\\_Map.html](https://www4.des.state.nh.us/CoastalAtlas/Shellfish_Map.html)

**Boating Facilities:** Facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominiums, etc.

**Compensatory Mitigation:** The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Must comply with the applicable provisions of 33 CFR 332. See also the New England District Compensatory Mitigation Guidance at <http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

**Construction Mats:** Construction, swamp, and timber mats (herein referred to as “construction mats”) are generic terms used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from variety of materials in various sizes. A timber mat consists of large timbers bolted or cabled together. Corduroy roads, which are not considered construction mats, are cut tress and/or saplings with the crowns and branches removed, and the trunks lined up next to one another. Corduroy roads are typically installed as permanent structures. Like construction mats, they are considered as fill whether they are installed temporarily or permanently.

**Cumulative Impacts:** The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).

**Currently serviceable:** Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

**Direct Impacts:** Effect caused by the proposed action and occurring at the same time and place. (40 CFR 1508.7)

**Dredged Material & Discharge of Dredged Material:** These are defined at 33 CFR 323.2 (c) and (d). The term dredged material means material that is excavated or dredged from waters of the U.S.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area (33 CFR 332.2).

**Establishment (creation):** The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions (33 CFR 332.2).

**Federal Navigation Projects (FNPs):** These areas are maintained by USACE; authorized, constructed and maintained on the premise that they will be accessible and available to all on equal terms; and are comprised of USACE Federal anchorages, Federal navigation channels and Federal turning basins. Information, including the limits, is provided at <http://www.nae.usace.army.mil/Missions/Navigation.aspx>

**FNP Buffer Zone:** The buffer zone of a USACE FNP is equal to three times the authorized depth of the FNP.

**Floodplain:** Shall mean the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. (Executive Order 11988)

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

**High Tide Line:** The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds (33 CFR 328).

**Historic Resources:** Any prehistoric or historic district site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Incidental Fallback:** Incidental fallback is the redeposit of small volumes of dredged material that is incidental to excavation activity in waters of the United States when such material falls back to substantially the same place as the initial removal. (33 CFR 323.2(d)(2)(ii))

**Independent Utility:** A test to determine what constitutes a single and complete non-linear project in the USACE Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility 86 F.R. 2876 (January 13, 2021).

**Indirect Impacts (NEPA):** Effects which are caused by the action that are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems (40 CFR 1508.8).

**Individual Permit:** A Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of 33 CFR 322, or a specific project involving the proposed discharge(s) in accordance with the procedures of 33 CFR 323, and in accordance with the procedures of 33 CFR 325 and a

determination that the proposed discharge is in the public interest pursuant to 33 CFR 320.

**Living Shoreline:** A term used to describe a combination of mostly naturally derived materials including plants, shell and rock or manufactured rock-like surfaces that are used along a shoreline exhibiting erosion to dissipate wave energy and to collect naturally deposited sediment.

**Maintenance:** Maintenance does not include any modification that changes the character, scope, or size of the original fill design.

**Maintenance Dredging:** Includes areas and depths previously dredged and authorized by USACE. Proof of authorization is required. Maintenance dredging typically refers to the routine removal of accumulated sediment from channel beds to maintain the design depths of navigation channels, harbors, marinas, boat launches and port facilities. Maintenance dredging is conducted regularly for navigational purposes (typically at least every ten years) and does not include any expansion of the previously dredged area or depth. The USACE may review a maintenance dredging activity as new dredging if sufficient time has elapsed to allow for the colonization of SAS, shellfish, etc. **New Dredging:** Includes dredging proposed in previously un-dredged areas and/or in areas exceeding previously authorized dimensions (deeper or wider than previously authorized) excluding normal over dredge.

**Mechanized Land Clearing:** Land clearing activities using mechanized equipment such as backhoes or bulldozers with sheer blades, rakes or discs constitute point source discharges and are subject to section 404 jurisdiction when they take place in wetlands or waters of the U.S (Regulatory Guidance Letter 90-05).

**Natural Rocky Habitats:** Intertidal and subtidal substrates of pebble-gravel, cobble, boulder, or rock ledge and outcrops. Manufactured stone (e.g., cur or engineered riprap) is not considered a natural rocky habitat. Natural rocky habitats are either found as pavement (consolidated pebble-gravel, cobble, or boulder areas) or as a mixture with fines (i.e., clay and sand) and other substrates. Rocky habitats as EFH are defined as follows: (1) All pebble-gravel, cobble, or boulder pavements; (2) Pebble-gravel mixed with fines: mixed substrate of pebble-gravel and fines where pebble-gravel is an evident component of the substrate (either through visual observation or within sediment samples). Sediment samples with a content of 10% or more of pebble-gravel in the top layer (6-12 inches) should be delineated; (3) Scattered cobble, scattered boulder, scattered cobble/boulder: mixed substrate of cobble and/or boulder and other substrates. The aerial extent of cobbles and/or boulders should be delineated; and (4) All rock ledge outcrops: area should be delineated along the edge of the ledge/outcrop (as defined by NMFS Habitat and Ecosystems Services Branch, Gloucester, MA).

**Navigable Waters:** Waters subject to Section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR 329 and identify waters where permits are required for work or structures pursuant to Section 9 and 10 of the Rivers and Harbors Act of 1899. They are generally defined as those waters that are subject to the ebb and flow of the tide and/or are presently used or have been used in the past or may be susceptible for use to transport interstate or foreign commerce (33 CFR 329.4). Non-tidal navigable waters in NH include the Merrimack River from the Massachusetts/New Hampshire state line to Concord, NH, Lake Umbagog within the State of NH, and the Connecticut River to Pittsburg, NH.

**Ordinary High Water Mark (OHWM):** A line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (33 CFR 328.3 (e)).

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.



**Pre-Construction Notification (PCN):** A request submitted by the project proponent to USACE for confirmation that a particular activity is authorized by any of these GPs. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of these GPs. A PCN may be voluntarily submitted in cases where PCN is not required, and the project proponent wants confirmation that the activity is authorized under one or more of the GPs.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. The term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms, Preservation does not result in a gain of aquatic resource area or functions (33 CFR 332.2).

**Priority Resource Area:** Defined by NHDES as a jurisdictional area that (a) has documented occurrences of protected species or habitat; (b) is a bog; (c) is a floodplain wetland contiguous to a tier 3 or higher watercourse; (d) is a designated prime wetlands or a duly established 100-foot buffer; (e) is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or (f) is any combination of (a) through (e), above.

**Reconfiguration Zone:** A USACE authorized area in which applicants may rearrange pile-supported structures and floats without additional authorizations. A reconfiguration zone does not grant exclusive privileges to an area or an increase in structure or float area.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area (33 CFR 332.2).

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area (33 CFR 332.2).

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in an aquatic resource area restoration is divided into two categories: reestablishment and rehabilitation (33 CFR 332.2).

**Secondary Effects:** These are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. Information about secondary effects on aquatic ecosystems shall be considered prior to the time final Section 404 action is taken by permitting authorities. Some examples of secondary effects on an aquatic ecosystem are a) aquatic areas drained, flooded, fragmented, or mechanically cleared, b) fluctuating water levels in an impoundment and downstream associated with the operation of a dam, c) septic tank leaching and surface runoff from residential or commercial developments on fill, and d) leachate and runoff from a sanitary landfill located in waters of the U.S. See 40 CFR 230.11(h).

**Special Aquatic Sites (SAS):** These include inland and saltmarsh wetlands, mud flats, vegetated shallows (SAV), sanctuaries and refuges, coral reefs, and riffle and pool complexes. These are defined at 40 CFR 230.3 and listed in 40 CFR 230 Subpart E.

**Tide gate:** Structures such as duckbills, flap gates, manual and self-regulating tide gates, etc. that regulate or prevent upstream tidal flows.

**Temporal loss:** The time lag between the losses of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site(s) (33 CFR 332.2).

**Terms:** The “terms” of the NHGP are the limitations and provisions included in the description of the GP activity itself.

**Vegetated Shallows:** Permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation, such as eelgrass and widgeon grass (*Rupia maritima*) in marine systems (doesn't include salt marsh) as well as several freshwater species in rivers and lakes. Note: These areas are also commonly referred to as submerged aquatic vegetation (SAV).

**Waters of the United States:** Waters of the United States are defined in 33 CFR 328.3. These waters include more than navigable waters of the U.S. and are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act. Waters of the U.S. include jurisdiction wetlands.



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**Required Information**

In order for USACE to properly evaluate your application, applicants must submit the following information for all projects along with the NHDES Wetlands Bureau application or permit notification forms. Some projects may require more information. Check with USACE at (978) 318-8832 for project-specific requirements. For your convenience, this Appendix B is also attached to the NHDES Wetlands Bureau application and Permit by Notification forms.

- NHDES Wetlands Permit Application.
- Request for Project Review Form by the NH DHR: <https://www.nh.gov/nhdhr/review/rpr.htm>.
- Photographs of wetland/waterway to be impacted.
- Purpose of the project.
- Legible, reproducible plans no larger than 11"x17" with bar scale. Provide locus map and plan views of the entire property.
- Typical cross-section views of all wetland and waterway fill areas and wetland replication areas.
- In navigable waters, show MLW and MHW elevations. Show the HTL elevations when fill is involved. In other waters, show the OHW elevation.
- On each plan, show the following for the project:
  - Vertical datum and the NAVD 1988 equivalent with the vertical units as U.S. feet. In coastal waters this may be mean higher high water (MHHW), MHW, MLW, mean lower low water (MLLW) or other tidal datum with the vertical units as U.S. feet. MLLW and MHHW are preferred. Provide the correction factor detailing how the vertical datum (e.g., MLLW) was derived using the latest National Tidal Datum Epoch for that area, typically 1983 - 2001.
  - Horizontal state plane coordinates in U.S. survey feet based on the Traverse Mercator Grid system for the State of New Hampshire (Zone 2800) NAD 83.
  - Project limits with existing and proposed conditions.
  - Limits of any FNP in the vicinity of the project area and horizontal State Plane Coordinates in U.S. survey feet for the limits of the proposed work closest to the FNP.
  - Volume, type, and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below the OHW in inland waters and below the HTL in coastal waters.
  - Delineation of all waterways and wetlands on the project site.
- Use Federal delineation methods and include USACE wetland delineation data sheets (GC 2).
- For activities involving discharges of dredged or fill material into waters of the U.S., include a statement describing how impacts to waters of the U.S. are to be avoided and minimized, and either a statement describing how impacts to waters of the U.S. are to be compensated for (or a conceptual or detailed mitigation plan) or a statement explaining why compensatory mitigation should not be required for the proposed impacts. Please contact USACE for guidance.



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**USACE Section 404 Checklist**

1. Attach any explanations to this checklist. Lack of information could delay a USACE permit determination.
2. All references to “work” include all work associated with the project construction and operation. Work includes filling, clearing, flooding, draining, excavation, dozing, stumping, etc.
3. See GC 3 for information on single and complete projects.
4. Contact USACE at (978) 318-8832 with any questions.
5. The information requested below is generally required in the NHDES Wetland Application. See page 61 for NHDES references and Admin Rules as they relate to the information below.

<b>1. Impaired Waters</b>	Yes	No
1.1 Will any work occur within 1 mile upstream in the watershed of an impaired water? See the following to determine if there is an impaired water in the vicinity of your work area. * <a href="https://nhdes-surface-water-quality-assessment-site-nhdes.hub.arcgis.com/">https://nhdes-surface-water-quality-assessment-site-nhdes.hub.arcgis.com/</a> <a href="https://www.des.nh.gov/water/rivers-and-lakes/water-quality-assessment">https://www.des.nh.gov/water/rivers-and-lakes/water-quality-assessment</a> <a href="https://www4.des.state.nh.us/onestopdatamapper/onestopmapper.aspx">https://www4.des.state.nh.us/onestopdatamapper/onestopmapper.aspx</a>		
<b>2. Wetlands</b>	Yes	No
2.1 Are there are streams, brooks, rivers, ponds, or lakes within 200 feet of any proposed work?		
2.2 Are there proposed impacts to tidal SAS, prime wetlands, or priority resource areas? Applicants may obtain information from the NH Department of Resources and Economic Development Natural Heritage Bureau (NHB) DataCheck Tool for information about resources located on the property at <a href="https://www4.des.state.nh.us/NHB-DataCheck/">https://www4.des.state.nh.us/NHB-DataCheck/</a> .		
2.3 If wetland crossings are proposed, are they adequately designed to maintain hydrology, sediment transport & wildlife passage?		
2.4 Would the project remove part or all of a riparian buffer? (Riparian buffers are lands adjacent to streams where vegetation is strongly influenced by the presence of water. They are often thin lines of vegetation containing native grasses, flowers, shrubs and/or trees that line the stream banks. They are also called vegetated buffer zones.)		
2.5 The overall project site is more than 40 acres?		
2.6 What is the area of the previously filled wetlands?		
2.7 What is the area of the proposed fill in wetlands?		
2.8 What % of the overall project sire will be previously and proposed filled wetlands?		
<b>3. Wildlife</b>	Yes	No
3.1 Has the NHB & USFWS determined that there are known occurrences of rare species, exemplary natural communities, Federal and State threatened and endangered species and habitat, in the vicinity of the proposed project? (All projects require an NHB ID number & a USFWS IPAC determination.) NHB DataCheck Tool: <a href="https://www4.des.state.nh.us/NHB-DataCheck/">https://www4.des.state.nh.us/NHB-DataCheck/</a> . USFWS IPAC website: <a href="https://ipac.ecosphere.fws.gov/">https://ipac.ecosphere.fws.gov/</a>		

3.2 Would work occur in any area identified as either “Highest Ranked Habitat in N.H.” or “Highest Ranked Habitat in Ecological Region”? (These areas are colored magenta and green, respectively, on NH Fish and Game’s map, “2010 Highest Ranked Wildlife Habitat by Ecological Condition.”) Map information can be found at: <ul style="list-style-type: none"> <li>• PDF: <a href="https://wildlife.state.nh.us/wildlife/wap-high-rank.html">https://wildlife.state.nh.us/wildlife/wap-high-rank.html</a>.</li> <li>• Data Mapper: <a href="http://www.granit.unh.edu">www.granit.unh.edu</a>.</li> <li>• GIS: <a href="http://www.granit.unh.edu/data/downloadfreedata/category/databycategory.html">www.granit.unh.edu/data/downloadfreedata/category/databycategory.html</a>.</li> </ul>		
3.3 Would the project impact more than 20 acres of an undeveloped land block (upland, wetland/waterway) on the entire project site and/or on an adjoining property(s)?		
3.4 Does the project propose more than a 10-lot residential subdivision, or a commercial or industrial development?		
3.5 Are stream crossings designed in accordance with the GC 31?		
<b>4. Flooding/Floodplain Values</b>	Yes	No
4.1 Is the proposed project within the 100-year floodplain of an adjacent river or stream?		
4.2 If 4.1 is yes, will compensatory flood storage be provided if the project results in a loss of flood storage?		
<b>5. Historic/Archaeological Resources</b>		
For a minimum, minor or major impact project - a copy of the RPR Form ( <a href="http://www.nh.gov/nhdhr/review">www.nh.gov/nhdhr/review</a> ) with your DES file number shall be sent to the NH Division of Historical Resources as required on Page 37 GC 14(d) of the GP document**		
<b>6. Minimal Impact Determination (for projects that exceed 1 acre of permanent impact)</b>	Yes	No
Projects with greater than 1 acre of permanent impact must include the following: <ul style="list-style-type: none"> <li>• Functional assessment for aquatic resources in the project area.</li> <li>• On and off-site alternative analysis.</li> <li>• Provide additional information and description for how the below criteria are met.</li> </ul>		
6.1 Will there be complete loss of aquatic resources on site?		
6.2 Have the impacts to the aquatic resources been avoided and minimized to the greatest extent practicable?		
6.3 Will all aquatic resource function be lost?		
6.4 Does the aquatic resource (s) have regional significance (watershed or ecoregion)?		
6.5 Is there an on-site alternative with less impact?		
6.6 Is there an off-site alternative with less impact?		
6.7 Will there be a loss to a resource dependent species?		
6.8 Are indirect impacts greater than 1 acre within and adjacent to the project area?		
6.9 Does the proposed mitigation replace aquatic resource function for direct, indirect, and cumulative impacts?		

\*Although this checklist utilizes state information, its submittal to USACE is a federal requirement.

\*\* If your project is not within Federal jurisdiction, coordination with NH DHR is not required under Federal law.



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**NHDES Rule Citations**

<b>Appendix B Requirements</b>	<b>NHDES Citation</b>	<b>NHDES Resource, Form &amp; BMP</b>
<b>1. Impaired Waters</b>		
1.1	See Env-Wt 307.03 Protection of Water Quality Required & Env-Wt 306.05 a) 7	<a href="https://nhdes-surface-water-quality-assessment-site-nhdes.hub.arcgis.com/">https://nhdes-surface-water-quality-assessment-site-nhdes.hub.arcgis.com/</a> <a href="https://www.des.nh.gov/water/rivers-and-lakes/water-quality-assessment">https://www.des.nh.gov/water/rivers-and-lakes/water-quality-assessment</a> <a href="https://www4.des.state.nh.us/onestopdatamapper/onestopmapper.aspx">https://www4.des.state.nh.us/onestopdatamapper/onestopmapper.aspx</a>
<b>2. Wetlands</b>		
2.1	N/A	N/A
2.2	Env 307.06; Env- Wt 311.01(a)(b) (c)	<a href="#">NH Online Forms System - Coastal Resource Worksheet. Version 2.0</a> <a href="#">Wetlands Permitting: Protected Species and Habitat (nh.gov)</a> <a href="#">Wetlands Permitting: Priority Resource Area (nh.gov)</a> <a href="https://www4.des.state.nh.us/NHB-DataCheck/">https://www4.des.state.nh.us/NHB-DataCheck/</a> .
2.3	Env-Wt 313.03(b)(3); Env-Wt 313.03(b)(4)(7); Env-Wt 307.06	See Chapter 7, Stream & Wetland Crossings: <a href="#">Wetlands Best Management Practice Techniques for Avoidance and Minimiz</a> <a href="#">Wetlands-BMP-Manual-2019.pdf (neiwppcc.org)</a> (& Env-Wt 900 for Stream Crossings)
2.4	Env-Wt 604.02 (Tidal buffer zone); Env-Wt 704 (prime buffers)	
2.5	N/A	N/A
2.6	N/A	N/A
2.7	Env-Wt 311.04(g)	Standard application Section 11- <a href="#">NH Online Forms System - Standard Dredge and Fill Wetlands Permit Application . Version 3.5</a>
2.8	N/A	N/A
<b>3. Wildlife</b>		
3.1	Env-Wt 103.69 "Protected species or habitat"; Env-Wt 307.06, 311.01	NHB DataCheck Tool: <a href="https://www4.des.state.nh.us/NHB-DataCheck/">https://www4.des.state.nh.us/NHB-DataCheck/</a> . <a href="#">Wetlands Permitting: Protected Species and Habitat (nh.gov)</a> <a href="#">Wetlands Permitting: Priority Resource Area (nh.gov)</a>
3.2	Env-Wt 311.02; 313.03(b)(2), (4), (7)(16); Env-Wt 313.03(b)(6) & See Env-Wt 808.19(g), Env-Wt 808.20	<a href="#">Wetlands Permitting: Protected Species and Habitat (nh.gov)</a> <a href="#">Wetlands Permitting: Priority Resource Area (nh.gov)</a>
3.3	N/A	N/A
3.4	NA	N/A
3.5	(Env-Wt 900) <a href="#">Microsoft Word - Env-Wt 900 as of 10-2020.docx (nh.gov)</a>	<a href="#">New Hampshire Stream Crossing Guidelines (nh.gov) (2009 UNH)</a> <a href="#">NH Online Forms System - Wetland Permit Application Stream Crossing Worksheet. Version 1.8</a> <a href="#">Stream Crossing Design (nh.gov) :</a> <a href="https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf">https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf</a> Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire. 2019. New Hampshire Department of Transportation.
<b>4. Flooding/Floodplain Values</b>		
4.1	Env-Wt 311.05; Env-Wt 103.66 517.03(b); 517.06(a)(6);	<a href="#">Wetlands Permitting: Priority Resource Area (nh.gov)</a> <a href="#">NH Online Forms System - Coastal Resource Worksheet. Version 2.0</a> <a href="#">New Hampshire Coastal Flood Risk Summary   NH Department of</a>

	527.02(e); 527.04(d); Env-Wt 600 Env-Wt 900	<a href="#">Environmental Services</a> (cited in Env-Wt 603.05) <a href="#">NH Online Forms System - Wetland Permit Application Stream Crossing Worksheet. Version 1.8</a> <a href="#">hydraulic-vulnerability-handout.pdf (nh.gov)</a>
4.2	Env-Wt 527.02 & 527.04 & 313.04 & Env-Wt 800; Wt 605.03 & 605.04	Yes, for permanent impacts to a PRA, impacts from public highway projects, & those projects where flood storage functions are lost when the mitigation threshold is reached. <a href="#">Wetlands Mitigation   NH Department of Environmental Services</a>
<b>5. Historical/Archeological Resources</b>		
5.0	Env-Wt 311.02(f)(6)	
<b>6. Minimal Impact Determination</b>		
6.0	F/V assessment: (Env-Wt 311.10); Env-Wt 603.04 (Coastal Functional Assessment) Alternatives: (Env-Wt 311.07(b)(2))	<a href="#">NH Online Forms System - Wetlands Functional Assessment Worksheet. Version 1.3</a> <a href="#">NH Online Forms System - Coastal Resource Worksheet. Version 2.0</a>
6.1		<a href="#">Wetlands Permitting: Avoidance, Minimization, and Mitigation (nh.gov)</a>
6.2	Env-Wt 102.12 ("Avoidance"), Env-Wt 102.13 ("Avoidance, minimization, mitigation"), Env-Wt 102.14 ("Avoid and minimize"), Env-Wt 311.01, Env-Wt 313.03 ("Avoidance & Minimization") Env-Wt 311.07	See <i>Wetlands Best Management Practice Techniques for Avoidance and Minimization</i> - <a href="#">Wetlands-BMP-Manual-2019.pdf (neiwppc.org)</a> referenced in Env-Wt 313.03(a); A/M written narrative ( <a href="#">NH Online Forms System - Avoidance and Minimization Written Narrative. Version 2.0</a> ); Avoidance and Minimization Checklist: <a href="#">NH Online Forms System - Avoidance and Minimization Checklist. Version 3.1</a>
6.3	Env-Wt 311.10, 603.04	See Functional Assessment worksheets above
6.4	Env-Wt 311.02, Env-Wt 312.04. Env-Wt 306.05, 307.06, 311.01	See Protected Species or Habitat (including exemplary natural communities)
6.5	Env-Wt 311.01, Env-Wt 311.07, Env-Wt 311.10 & 313.01 c1)	See Avoidance & Minimization cites above & BMPs
6.6	(Env-Wt 313.01c) (1) & Env-Wt 311.07(b)(2))	
6.7	Env-Wt 311.10, Env-Wt 103.69, Env-307.06, see Avoidance & minimization cites	<a href="#">NH Online Forms System - Wetlands Functional Assessment Worksheet. Version 1.3</a> ; <a href="#">Wetlands Permitting: Priority Resource Area (nh.gov)</a> <a href="#">NH Online Forms System - Coastal Resource Worksheet. Version 2.0</a>
6.8	Env-Wt 102.05 (Water quality BMPs)	Practices to minimize or prevent direct or indirect discharge of sediment or other pollutants into surface waters and wetlands, listed in Env-Wt 307
6.9	Env-Wt 800	

**Appendix C**  
**New Hampshire General Permits**  
**EFH Rivers for Atlantic Salmon**

**MERRIMACK RIVER AND TRIBUTARIES**

Allen Brook	Baker Brook	Bennett Brook
Bow Bog Brook	Bow Brook	Bowman Brook
Bradleys Island	Brickyard Brook	Browns Brook
Bryant Brook	Burnham Brook	Cate Brook
Chandler Brook	Chase Brook	Cohas Brook
Cold Brook	Contoocook River	Cross Brook
Dalton Brook	Giles Pond - Salmon Brook	Glines Brook
Hayward Brook	Horseshoe Island	Horseshoe Pond - Naticook Brook
Knox Brook	Little Cohas Brook	Messer Brook
Millstone Brook	<b>Nashua River</b>	Needle Shop Brook
Nesenkeag Brook	<b>Pemigewasset River</b>	Penacook Lake
<b>Piscataquog River</b>	Pointer Club Brook	Punch Brook
Ray Brook	Riddle Brook	Sawmill Brook
Second Brook	Shaw Brook	<b>Soucook River</b>
<b>Souhegan River</b>	<b>South Branch River</b>	Stirrup Iron Brook
<b>Suncook River</b>	Tannery Brook	Turkey River
Watts Brook	Weeks Brook	Woods Brook

**SACO RIVER AND TRIBUTARIES**

Albany Brook	Artist Brook	Avalanche Brook
Bartlett Brook	<b>Bearcamp River</b>	<b>Beech River</b>
Bemis Brook	Conway Lake	Davis Brook
E.Branch Saco River	Echo Lake	<b>Ellis River</b>
Flume Cascade	Kearsarge Brook	Kendron Brook
Lucy Brook	Mason Brook	Meadow Brook
<b>Mountain Brook</b>	<b>Nancy Brook</b>	<b>Ossipee River</b>
Razor Brook	Rocky Branch	Sawyer River
Sleeper Brook	Swift River	Willey Brook

**COCHECO RIVER & LAMPREY RIVER**

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