



**US Army Corps  
of Engineers**®  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

# PUBLIC NOTICE

## 30-DAY PUBLIC NOTICE

**Date: February 1, 2022**

**Comment Due Date: March 2, 2022**

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### **PROPOSED REPLACEMENT AND REVISION OF THE DEPARTMENT OF THE ARMY RHODE ISLAND GENERAL PERMITS (GPs)**

**The New England District, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751** hereby proposes to replace and revise the statewide Rhode Island General Permits (GPs), pursuant to 33 CFR Part 325.5(c) with a series of multiple GPs covering activity-specific categories. The revised GPs will continue to authorize activities in waters of the United States within the State of Rhode Island and Lands Located within the boundaries of an Indian Reservation with minimal individual and cumulative adverse environmental impacts.

The existing GPs expire on March 3, 2022, and we propose to issue the GPs for an additional five years. The revised GPs will continue the expedited review process for activities in Corps jurisdiction under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research and Sanctuaries Act.

General Permits are used as a way to streamline state and Federal regulatory programs. The New England District has had success with streamlining these programs with the use of GPs throughout New England. This public notice is being issued in accordance with 33 CFR 325.3(b) to coordinate reissuance of the GPs with Federal resource agencies, state agencies and the public.

The revised GPs organize eligible work into twenty-one (21) activity-specific categories. This continues to satisfy the requirements of Section 404(e) of the Clean Water Act, which allows the Corps to issue general permits for activities that are similar in nature and will cause no more than minimal individual and cumulative adverse environmental effects. Identifying specific activities allows the Corps to adequately assess cumulative impacts of permitted activities, as well as fully assess impacts on threatened and endangered species.

All GP authorizations would be subject to the applicability requirements, procedures, and conditions contained in the GP documentation. Project eligibility under these GPs will fall into two Categories as more fully described in Appendix A - General Permits For the State of RI and Tribal Lands. Individual GP authorizations are not valid until all other required Federal, state and local permits and/or certifications are obtained.

Projects with minimal individual and cumulative effects on the aquatic environment will be approved administratively under these GPs. Representatives of the Corps, state agencies and the Federal resource agencies (U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and National Marine

Fisheries Service) will continue to review those activities requiring a Pre-Construction Notification (PCN) to the Corps as outlined within the GPs. Projects that do not meet the terms and conditions of the GPs, including those that have the potential for more than minimal effects, will require an Individual Permit. The Individual Permit review process is detailed at 33 CFR 325, Processing of Department of the Army Permits. Reissuance of the GPs will not alter the Individual Permit review procedures.

### **Essential Fish Habitat**

In 1996, the Magnuson-Stevens Fishery Conservation and Management Act was amended to require the Federal fishery management councils (Councils) to designate Essential Fish Habitat (EFH) for all Federally-managed fish species. Essential Fish Habitat is broadly defined as those waters and substrates necessary to fish for spawning, feeding, breeding, and growth to maturity. Section 305 (b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires that Federal agencies proposing to authorize, fund, or to undertake actions which may adversely affect EFH consult with National Marine Fisheries Service (NMFS) regarding the action. Accordingly, the Corps has and continues to consult with NMFS regarding the actions permitted under the GPs. For certain types of actions that will likely result in no more than minimal adverse effects to EFH individually and cumulatively, NMFS may issue a statement of General Concurrence in accordance with the requirements of 50 CFR 600.920(g).

**Endangered Species Consultation (ESA)** It is the District Engineer's preliminary determination that the proposed GPs are not likely to adversely affect any federally-listed endangered or threatened species or their designated critical habitat. The Corps will be consulting with NMFS and the U.S. Fish & Wildlife Service on this determination.

**National Historic Preservation Act** It is the District Engineer's preliminary determination that the proposed work has the potential to cause effects on properties listed in, or eligible for listing in, the National Register of Historic Places. The Corps will be initiating consultation with the RI State Historic Preservation Officer as well as Rhode Island's Tribes pursuant to Section 106 of the National Historic Preservation Act of 1966 as amended.

### **Water Quality Certification (WQC) and Coastal Zone Management (CZM) Consistency**

The Corps is simultaneously requesting that the Rhode Island Department of Environmental Management (RIDEM) and Rhode Island Coastal Resources Management Council (RICRMC) determine whether to issue, deny or waive WQC and CZM Consistency, respectively. RIDEM will issue a notice regarding their tentative determination, therefore, please send comments regarding WQC/Section 401 to that agency.

### **Proposed Changes:**

We propose the changes and improvements listed in **RI GP 2022 Cover Sheet, Section 1** – Review Categories-Application Procedures – Inland, **Section 2** – Review Categories-Application Procedures – Coastal, **Appendix A** – General Permit Activities, **Appendix B** – General Conditions, **Appendix C** – Contacts, **Appendix D** – Definitions, and **Appendix E** – Self Verification Notification Form. The following GPs are Non-Reporting to the Corps if they meet the requirements of self-verification and RI CRMC performs a review; GPs: 1, 2, 3, 4, 5, 7, 8, 14, 15, 16, and 20.

### Comments

We are seeking public comment in order to properly evaluate the proposed GPs in Rhode Island. Anyone wishing to comment is encouraged to do so in writing within the comment period specified in this notice. Comments should be submitted to Mr. Kevin Kotelly, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742-2751. If you have any questions, please contact Mr. Kotelly at (978) 318-8703 or via email at [kevin.r.kotelly@usace.army.mil](mailto:kevin.r.kotelly@usace.army.mil).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.



Tammy R. Turley  
Chief, Regulatory Division