



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

# PUBLIC NOTICE

**Comment Period Begins:** July 31, 2014  
**Comment Period Ends:** September 15, 2014

**File Number:** NAE-2013-00714  
**In Reply Refer To:** Greg Penta  
**Phone:** (978) 318-8862  
**Email:** gregory.r.penta@usace.army.mil

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## 45-DAY PUBLIC NOTICE

### **Proposed Department of the Army New England General Permits for Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont**

The New England District, U.S. Army Corps of Engineers, is proposing to suspend the existing general permits in each of the six New England States and issue the New England General Permits (NE GPs) to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and/or Section 103 of the Marine Protection, Research and Sanctuaries Act. The NE GPs would authorize activities in waters of the U.S. within the boundaries of and/or off the coasts of the six New England States, including activities occurring within the boundaries of Indian tribal lands that have no more than minimal adverse effects on the aquatic environment. The NE GPs would be issued in accordance with Corps regulations at 33 CFR 320 - 332 [see 33 CFR 325.5(c)(1)].

We issued an initial Public Notice for the proposed NE GPs in June 2013. That Public Notice provided a rationale for replacing the six state general permits in New England with the NE GPs. We do not believe that the proposed NE GPs will result in significant substantive changes to how activities in waters of the U.S. are regulated in the New England states. The NE GPs look quite different from the existing GPs, however, and of particular note, it organizes eligible work into more activity-specific categories. This is intended 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 only minimal individual and cumulative adverse environmental effects. Identifying specific activities will also allow the Corps to adequately assess cumulative impacts of permitted activities, as well as fully assess impacts on threatened and endangered species.

General Permits are encouraged under the Clean Water Act as a way to streamline Federal and state regulatory programs. The New England District has already had success with streamlining these programs with the use of GPs throughout New England. General Permits have been in place since 1990 in Connecticut (CT), 1983 in Maine (ME), 1993 in Massachusetts (MA), 1992 in New Hampshire (NH), 1997 in Rhode Island (RI), and 1997 in Vermont (VT).

#### 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

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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 consults with NMFS regarding the actions permitted under the six existing state GPs and is currently consulting with NMFS over the proposed NE 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).

National Historic Preservation Act

Based on his initial review, the District Engineer has determined that the proposed work may affect properties listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places. As currently proposed, no work authorized under the NE GPs shall cause effects on such properties unless the Corps or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA) on a project-by-project basis.

Endangered Species

It is the Corps preliminary determination that the proposed NE GPs will have no effect on or is not likely to adversely affect any Federally-listed endangered or threatened species or their designated critical habitat. No activity is authorized under the NE GPs which: a) 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; b) “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed; or c) violates the ESA.

Coastal Zone Management Consistency and Water Quality Certification

To increase consistency between this proposed GP and state programs, each state may want to issue Water Quality Certification (WQC) with special conditions or indicate additional conditions in their concurrence with the Corps Coastal Zone Management (CZM) consistency determination for this GP.

Coastal Zone Management Consistency

The States of CT, ME, MA, NH and RI have approved CZM Programs. Section 307(c)(1) of the Federal CZM Act of 1972, as amended, requires the Corps to provide a consistency determination and receive state concurrence prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Management Program when activities that would occur within, or outside, that state’s coastal zone will affect land or water uses or natural resources of the state’s coastal zone. The Corps is working with the following agencies to obtain concurrence with a Corps consistency determination for activities authorized under these NE GPs:

- CT Department of Energy & Environmental Protection, Office of Long Island Sound
- ME Department of Agriculture, Conservation & Forestry, ME Coastal Program
- MA Office of Coastal Zone Management
- NH Department of Environmental Services, Coastal Program
- RI Coastal Resources Management Council
- New York Department of State for work in Long Island Sound.

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States may indicate that additional conditions are necessary for the state to concur with the Corps consistency determination, in which case the Corps will make such conditions regional conditions for the NE GPs in that state, unless the Corps determines that the conditions do not comply with the provisions of 33 CFR 325.4 or believes for some other specific reason it would be inappropriate to include the conditions. In this case, the state's failure to agree with the Corps consistency determination without the conditions will be considered a disagreement with the Corps consistency determination. Applicants may then be required to obtain their own project specific consistency concurrence. Proposed CZM language is provided in the state-specific supplements, Section IX, Part A. This language is subject to change based upon state review and subsequent coastal management program actions.

Water Quality Certification

State certification pursuant to Section 401 of the Clean Water Act, or waiver thereof, is required from the state and authorized tribes, or EPA where applicable, prior to the issuance of GPs authorizing activities that may result in a discharge into waters of the U.S. The Corps is working with the following agencies to issue or waive WQC for activities authorized under the NE GPs:

- The CT Department of Energy & Environmental Protection, Inland Water Resources Division (DEEP IWRD). The CT DEEP IWRD may or may not issue a notice regarding their tentative determination; therefore, please send comments regarding WQC to: Mr. Bob Gilmore, Environmental Analysis and Wetlands Management Sections, Inland Water Resources Division, Connecticut Department of Energy and Environmental Protection, 79 Elm St, Hartford, CT 06106-5127.
- The ME Department of Environmental Protection (DEP) and the Land Use Planning Commission (LUPC). The DEP and/or LUPC may or may not issue a notice regarding their tentative determination. Please send comments regarding WQC to the DEP: Mr. Mike Mullen, Division of Land Resource Regulation, Bureau of Land and Water Quality, Maine DEP, 17 State House Station, Augusta, ME 04333-0017; or to LUPC: Ms. Samantha Horn-Olsen, LUPC, 22 State House Station, Augusta, ME 04333-0022.
- The MA Department of Environmental Protection (MassDEP). The Corps has requested that the MassDEP issue WQC or waive Certification of the NE GPs. The public comment period for submitting comments to the Commonwealth of Massachusetts on the issuance of a WQC will run concurrent with this public notice for the NE GPs. Please send comments regarding WQC to: Mr. Lealdon Langley, MassDEP, Bureau of Resource Protection, Wetlands Regulation Program, One Winter Street, Boston, MA 02108; or Lealdon.Langley@Massmail.state.ma.us.
- The NH Department of Environmental Services (NH DES). The NH DES will issue a notice regarding their tentative determination. Please send comments regarding WQC/Section 401 to the NH DES directly in response to their public notice. For more information, please contact Owen David at owen.david@des.nh.gov or 401 Certification Program (Attention: Owen David), NH DES Watershed Management Bureau, P.O. Box 95, Concord, NH 03301-0095.
- The RI Department of Environmental Management (DEM). The RI DEM will issue a notice regarding their tentative determination. Please send comments regarding WQC/Section 401 to the RI DEM directly in response to their public notice or to Alisa Richardson or Chuck Horbert, c/o RIDEM Office of Water Resources, 235 Promenade Street, Providence, RI 02908.
- The VT Agency of Natural Resources (ANR). The VT ANR will determine whether to issue, deny or waive WQC. The VT ANR will issue a notice regarding their tentative determination. Please send comments regarding WQC/Section 401 to the VT ANR directly in response to their public notice.

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If a state issues a 401 WQC that includes special conditions, the Corps will make these special conditions regional conditions of the NE GPs for activities in that state that may result in a discharge into waters of U.S., unless the Corps determines that such conditions do not comply with the provisions of 33 CFR 325.4. In the latter case, the conditioned 401 WQC will be considered a denial of the certification. Applicants may then be required to obtain their own project specific WQC or waiver.

Proposed 401 WQC language is provided in the state-specific supplements, Section IX, Part A. This language is subject to change based upon state review and subsequent 401 WQC actions.

Comments

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. The Corps will consider all comments received to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed below. Comments are used in the preparation of an Environmental Assessment pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All comments will be considered a matter of public record.

The current draft of the NE GPs is attached to this public notice and located at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> State Programmatic General Permits >> New England General Permit; and [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Public Notices.

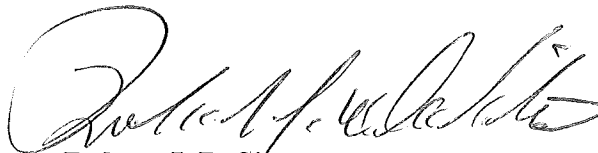
Comments should be submitted in writing by the above date. If you have any questions or would like a copy of the proposed NE GPs, please contact Greg Penta at (978) 318-8862, (800) 343-4789, (800) 362-4367 if calling from within Massachusetts, or [gregory.r.penta@usace.army.mil](mailto:gregory.r.penta@usace.army.mil). Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the 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.

Decision

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation,

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water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.



**Robert J. DeSista**  
**Acting Chief, Regulatory Division**

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If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at [bettina.m.chaisson@usace.army.mil](mailto:bettina.m.chaisson@usace.army.mil). You may also check here ( ) and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PHONE: \_\_\_\_\_

**Department of the Army  
New England General Permits  
With [STATE] Supplement**

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues New England General Permits (NE GPs or GPs) for activities subject to Corps jurisdiction in waters of the U.S. within the boundaries of and off the coasts of the six New England States, and within the boundaries of Indian tribal lands. Certain Indian lands are considered sovereign nations and are therefore acknowledged separately from the states for purposes of these GPs. These GPs are issued in accordance with Corps regulations at 33 CFR 320 - 332 [see 33 CFR 325.5(c)(1)]. The NE GPs will protect the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse effects on the aquatic environment.

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**I. GENERAL CRITERIA**

1. Prospective permittees should:
  - a. Read Section II to determine if the activity requires Corps authorization.
  - b. Read Sections III, IV and IX to determine if the activity may be eligible for authorization under the GP, specifically whether it is eligible for self-verification (SV) or whether preconstruction notification (PCN) is required.
  
2. Permittees must ensure compliance with all applicable general conditions in Section IV. The Corps will consider unauthorized any activity requiring Corps authorization if that activity is under construction or completed and does not comply with all of the terms and conditions.
  
3. Project proponents are encouraged to contact the Corps with questions at any time. Pre-application meetings (see 33 CFR 325.1(b)), whether arranged by the Corps or requested by permit applicants, are encouraged to facilitate the review of projects. Pre-application meetings can help streamline the permit process by alerting the applicant to potentially time-consuming concerns that are likely to arise during the evaluation of their project (e.g., avoidance, minimization and compensatory mitigation requirements (GC 4), historic properties (GC 6), endangered species (GC 8), essential fish habitat, and dredging contaminated sediments).
  
4. Activities may still qualify for authorization under the NE GPs if they are not regulated by the state.

5. Projects that are not authorized by these NE GPs require an Individual Permit (IP) (33 CFR 325.5) and proponents must submit an application directly to the Corps. These NE GPs do not affect the Corps IP review process or activities exempt from Corps regulation. For general information and application form, see the Corps website or contact the Corps (see Section IX, Part C). The Corps encourages applicants to concurrently apply for a Corps IP and applicable state permits.

The Corps retains discretionary authority on a case-by-case basis to elevate a SV to PCN or IP, or a PCN to IP based on concerns for the aquatic environment or for any other factor of the public interest [33 CFR 320.4(a)]. Whenever the Corps notifies an applicant that a PCN or IP is required, no work in Corps jurisdiction may be conducted until the Corps issues the required authorization in writing indicating that work may proceed.

## 6. How to Obtain/Apply for Authorization

a. Self-Verification: Self-Verification Notification Form (SVNF) required for all work in MA, ME, VT, and work in non-tidal waters in CT and RI. The SVNF is not required for work in NH and work in tidal waters in CT and RI as the Corps may review this work through each state's notification process as applicable. The SVNF is also not required for the work specified in the notes to GPs 19 and 21.

Activities that are eligible for SV are authorized under the NE GPs and may commence without written verification from the Corps provided the prospective permittee has:

i. Confirmed that the activity will meet the terms and conditions of applicable GPs.

Consultation with the Corps and/or other relevant Federal and state agencies may be necessary to ensure compliance with the applicable general conditions (Section IV and Section IX, Part A) and related Federal laws such as the National Historic Preservation Act [see General Condition (GC) 6], the Endangered Species Act (see GC 8) and the Wild and Scenic Rivers Act (see GC 9). Prospective permittees are encouraged to contact the Corps with SV eligibility questions. Activities not meeting the SV criteria must submit a PCN to the Corps.

ii. Submitted the SVNF (Section VII) to the Corps.

b. Pre-Construction Notification (PCN): Application and written verification required. For activities that do not qualify for SV or where otherwise required by the terms of the GPs, the permittee must submit a PCN and obtain written verification before starting work in Corps jurisdiction. Refer to the state-specific procedures in Section IX, Part B for information, including appropriate forms, content, and whether PCNs are submitted to the Corps or the state.

i. The Corps will coordinate review of all activities requiring PCN with Federal and state agencies and Federally recognized tribes, as appropriate. To be eligible and subsequently authorized, an activity must result in no more than minimal individual and cumulative effects on the aquatic environment as determined by the Corps in accordance with the criteria listed within these GPs. This may require project modifications involving avoidance, minimization, or compensatory mitigation for unavoidable impacts to ensure that the net adverse effects of a project are no more than minimal.

ii. Emergency Situations: Contact the Corps and the state (see Section IX, Part C) in the event of an emergency situation for information on the application and approval process. Emergency situations are limited to sudden, unexpected occurrences that could potentially 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 an application under standard procedures. Emergency work is subject to the same

terms and conditions of this GP as non-emergency work, and similarly, must qualify for authorization under the GP; otherwise an Individual Permit (IP) is required (see below). The Corps will work with all applicable agencies to expedite verification according to established procedures in emergency situations.

## **II. JURISDICTION/AUTHORITIES TO ISSUE PERMITS**

1. The following regulated activities require authorization under the Corps Regulatory Program:
  - a. The construction of any structure in, over or under any navigable water of the United States (U.S.)<sup>1</sup>, the excavating or dredging from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters. The Corps regulates these activities under Section 10 of the Rivers and Harbors Act of 1899. See 33 CFR 322;
  - b. The discharge of dredged or fill material and discharges associated with excavation into waters of the U.S. The Corps regulates these activities under Section 404 of the Clean Water Act (CWA). See 33 CFR 323; and
  - c. The transportation of dredged material for the purpose of disposal in the ocean. The Corps regulates these activities under Section 103 of the Marine Protection, Research and Sanctuaries Act. See 33 CFR 324.
  
2. Related laws:  
33 CFR 320.3 includes a list of related laws, including: Section 401 of the CWA, Section 402 of the CWA, Section 307(c) of the Coastal Zone Management (CZM) Act of 1972, The National Historic Preservation Act of 1966, the Endangered Species Act, the Fish and Wildlife Act of 1956, the Marine Mammal Protection Act of 1972, Magnuson-Stevens Act, and Section 7(a) of the Wild and Scenic Rivers Act.

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<sup>1</sup> Defined in Section VI, Definitions and at 33 CFR 328.  
NE GP, Section I



### III. ELIGIBLE ACTIVITIES

NE GPs 1 - 23 below authorize certain activities provided that the activities meet the terms and conditions of the applicable NE GPs and state-specific requirements in Section IX.

The following area limits apply when a) there is a discharge of dredged or fill material or a discharge associated with excavation into waters of the U.S., and b) referenced in GPs 1, 6, 8-14, 16, 17, 19, 20 and 22. The area limits do not apply to GPs 2-5, 7, 15,18, 21 and 23. Unless otherwise stated (e.g., temporary construction mats in GP 14), the total temporary and permanent impact<sup>2</sup> area is used to determine if a single and complete project is eligible for SV or requires a PCN. However, the total permanent impact area (along with considerations of temporary impacts and secondary and cumulative effects) is used to determine whether a single and complete project exceeds the PCN limits and requires an IP.

#### Area Limits

Resource	State	SV Limits (SV Eligible)	PCN Limits (PCN Required)	IP Limits (IP Required)
Non-tidal waters of the U.S.	CT, MA, RI & VT <sup>a</sup>	0 to 5,000 SF	>5,000 SF to 1 acre	>1 acre
	ME	0 to 15,000 SF	>15,000 SF to 3 acres	>3 acres
	NH	0 to 3,000 SF	>3,000 SF to 3 acres	>3 acres
	VT <sup>b</sup>	not eligible	all discharges require PCN	>1 acre
Tidal waters of the U.S.	CT, ME, MA, NH & RI	not eligible	all discharges require PCN	>1/2 acre
SAS <sup>c</sup> in tidal waters of the U.S.	CT, MA, NH & RI	not eligible	all discharges require PCN	>1000 SF
SAS <sup>c</sup> in tidal waters of the U.S. excluding vegetated shallows	ME	not eligible	all discharges require PCN	>1/10 acre
SAS <sup>c</sup> in tidal waters of the U.S. consisting of vegetated shallows only	ME	not eligible	all discharges require PCN	>1000 SF

<sup>a</sup> Non-tidal waters of the U.S. in VT except for Lake Champlain, Lake Memphremagog and Wallace Pond and their adjacent wetlands.

<sup>b</sup> Non-tidal waters of the U.S. in VT that are Lake Champlain, Lake Memphremagog and Wallace Pond and their adjacent wetlands.

<sup>c</sup> Special Aquatic Sites (SAS) consist of inland and saltmarsh wetlands, mud flats, vegetated shallows, sanctuaries and refuges, coral reefs, and riffle and pool complexes. These are defined at 40 CFR 230 Subpart E.

<sup>2</sup> Permanent impacts include, but are not limited to, waters of the U.S. that are permanently affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent impacts include, but are not limited to, permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. Temporary impacts include, but are not limited to, waters of the U.S. that are temporarily filled, flooded, excavated, drained or mechanically cleared because of the regulated activity. Impacts resulting from activities eligible for exemptions under Section 404(f) of the CWA are not considered when calculating the impact area.

## **New England General Permits**

1. Repair, Replacement and Maintenance of Authorized Structures and Fills
2. Moorings
3. Pile-Supported Structures, Floats and Lifts
4. Aids to Navigation, and Temporary Recreational Structures
5. Dredging, Disposal of Dredged Material, Beach Nourishment, and Rock Removal and Relocation
6. Discharges of Dredged or Fill Material Incidental to the Construction of Bridges and Structural Discharges
7. Bank and Shoreline Stabilization
8. Residential, Commercial and Institutional Developments, and Recreational Facilities
9. Utility Line Activities
10. Linear Transportation Projects Including Stream Crossings
11. Mining Activities
12. Boat Ramps and Marine Railways
13. Land and Water-Based Renewable Energy Generation Facilities and Hydropower Projects
14. Temporary Construction, Access, and Dewatering
15. Reshaping Existing Drainage Ditches and Mosquito Management
16. Oil Spill and Hazardous Material Cleanup
17. Cleanup of Hazardous and Toxic Waste
18. Scientific Measurement Devices
19. Survey Activities
20. Agricultural Activities
21. Fish and Wildlife Harvesting, Enhancement and Attraction Devices and Activities
22. Habitat Restoration, Establishment and Enhancement Activities
23. Previously Authorized Activities

**GP 1. Repair, Replacement and Maintenance of Authorized Structures and Fills (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

The repair, rehabilitation, or replacement of any previously authorized, currently serviceable<sup>3</sup>, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 provided that the structure or fill is not to be put to uses differing from those uses specified in the original permit or the most recently authorized modification.<sup>4</sup> 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 also eligible. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. Also eligible is the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, 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. Existing conditions are those that existed on previously serviceable structures or fill immediately prior to the event. In cases of catastrophic events, such as hurricanes or tornadoes, the Corps may waive the two-year limit in writing provided the permittee can demonstrate funding, contract, or other similar delays.

Self-Verification Eligible	PCN Required	Not authorized under GP 1 /IP Required
<p>1. The removal of accumulated sediments and debris in the vicinity of existing structures (limited to bridges, culverted road crossings, water intake structures and dams), provided a) removal is the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built; b) removal extends no farther than 50 feet in any direction from the structure; c) all dredged or excavated materials are deposited and retained in an upland area; and</p> <p>2. No expansion (e.g., structures) or new discharges of dredged or fill material (i.e., outside of the previously authorized footprint); and</p> <p>3. Modifications to existing crossings (e.g., culverts, elliptical or arch pipes, etc.) that do not a) increase velocity, b) decrease the diameter of the crossing or c) change the friction coefficient. No sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining. GC 19 is particularly relevant; and</p> <p>4. Dam and flood control or levee repair, rehabilitation, or replacement:</p> <p style="padding-left: 20px;">a. No change in the flood elevation or permanent water surface elevation of the impoundment; and</p> <p style="padding-left: 20px;">b. Drawdown of impoundment for construction does not exceed one growing season; and</p> <p>5. The discharge of de minimis (i.e., inconsequential) quantities of accumulated bottom sediment occur from or through a dam into downstream waters<sup>5</sup>; and</p>	<p>1. The removal of accumulated sediments and debris in the vicinity of existing structures does not meet the requirements of #1 in the SV column; or</p> <p>2. Expansions or new discharges of dredged or fill material (i.e., outside of the previously authorized footprint), including the creation of new berms, that do not exceed the PCN limits on page 4; or</p> <p>3. Modifications to existing crossings (e.g., culverts, elliptical or arch pipes, etc.) that a) increase velocity, b) decrease the diameter of the crossing, c) change the friction coefficient, or d) involve sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining. These are not considered minor deviations. GC 19 is particularly relevant; or</p> <p>4. Dam and flood control or levee repair, rehabilitation, or replacement involves:</p> <p style="padding-left: 20px;">a. Change in the flood elevation or permanent water surface elevation of the impoundment; or</p> <p style="padding-left: 20px;">b. Drawdown of impoundment for construction exceeding one growing season; or</p> <p>5. The discharge of more than de minimis (i.e., inconsequential) quantities of accumulated bottom sediment occur from or through a dam into downstream waters<sup>5</sup>; or</p>	<p>1. New stream channelization or stream relocation projects (e.g., those in response to storm or flood events); or</p> <p>2. Stream crossings replacements (see GP 10).</p>

<sup>3</sup> Currently serviceable is defined as useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

<sup>4</sup> This authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the CWA Section 404(f) exemption for maintenance. See 33 CFR 323.4(a)(2).

<sup>5</sup> See Corps Regulatory Guidance Letter No. 05-04 for more information.

6. Work to tide gates done in accordance with a state permitting agency or Corps-approved operation and maintenance plan.	6. Work to previously approved tide gates without a state permitting agency or Corps-approved operation and maintenance plan.	
Notes: 1. Applicants are encouraged to contact the Corps with questions on whether or not an activity qualifies for GP 1. 2. The TOY windows/restrictions in GC 18 are particularly relevant.		

<b>GP 2. Moorings (Section 10; navigable waters of the U.S.)</b>		
Moorings; the relocation of authorized moorings; mooring fields; and expansions, boundary reconfigurations or modifications of authorized mooring fields.		
Self-Verification Eligible	PCN Required	Not authorized under GP 2/IP Required
1. Single-point moorings authorized by a local harbormaster/town including those in a Federal anchorage (local harbormaster/town authorization does not apply in VT); and 2. New or relocated, single-point moorings are not located in tidal SAS; and 3. Authorized, single-point moorings (i.e., bottom contacting anchors, chains or tackle) in tidal SAS are replaced or upgraded and use low impact mooring technology <sup>6</sup> ; and 4. No new mooring fields; or no expansions, boundary reconfigurations or modifications of existing, authorized mooring fields; and 5. No authorized boating facilities with: a) existing moorings relocated to an unauthorized area, or b) new moorings; and 6. No town mooring fields or boating facilities in a Federal anchorage; and 7. No moorings in a Federal channel.	1. Moorings not authorized by a local harbormaster/town (local harbormaster/town authorization does not apply in VT) or moorings other than single-point moorings (e.g., double-point moorings, spread mooring arrangements, etc.); or 2. New or relocated moorings are located in tidal SAS (see Note 3 below); or 3. Authorized moorings with bottom contacting anchors, chains or tackle in tidal SAS are replaced or upgraded and do not use low impact mooring technology <sup>6</sup> (see Note 3 below); or 4. New mooring fields; or expansions, boundary reconfigurations or modifications of existing, authorized mooring fields; or 5. Authorized boating facilities with: a) existing moorings relocated to an unauthorized area, or b) new moorings; or 6. Town mooring fields in a Federal anchorage. No boating facilities in a Federal anchorage; or 7. No moorings in a Federal channel.	1. Moorings or mooring fields classified as or associated with a new boating facility <sup>7</sup> ; or 2. Moorings in a Federal anchorage that are classified as a boating facility.
Notes: 1. GCs 7(c) and 10 are particularly relevant. 2. GC 18(a) states that there is no TOY restriction for GP 2 provided certain requirements stated in GC 18(a) are met. 3. Applicants must consider the following avoidance and minimization sequence and submit that justification to the Corps along with the PCN: a) avoid SAS, b) helical anchor with floating/buoyant tackle, c) non-helical anchor (e.g., block, mushroom, etc.) with floating/buoyant tackle. See Footnote 6.		

<sup>6</sup> Low impact mooring technology eliminates or minimizes contact with the bottom substrate at all tides and during all seasons. This consists of helical anchors instead of traditional anchors (e.g., concrete block) and floating/buoyant tackle (e.g., elastic) instead of chains that drag on the bottom and impact SAS and the substrate. The PCN review process could authorize a traditional anchor with floating/buoyant tackle if substrate conditions make helical anchors impractical.

<sup>7</sup> Boating facilities provide, rent or sell mooring or docking space, such as marinas, yacht clubs, boat yards, dockminiums, town facilities, land/home owners associations, etc. Not classified as boating facilities are piers shared between two abutting properties or town moorings or mooring fields that charge an equitable user fee based on the actual costs incurred.

**GP 3. Pile-Supported Structures, Floats and Lifts (Section 10; navigable waters of the U.S.)**

- a. New, expansions<sup>8</sup>, reconfigurations or modifications of private: i) poles, piles, or pole-supported or pile-supported structures (hereinafter referred to as “structures”) for navigational access; ii) floats; and iii) boat and float lifts (hereinafter referred to as “lifts”); and
- b. New, expansions, reconfigurations, reconfiguration zones, or modifications of structures, floats and lifts that provide public, community or government recreational uses such as boating, fishing, swimming, access, etc.; and
- c. Expansions, reconfigurations, reconfiguration zones, or modifications of existing, authorized boating facilities<sup>7</sup>.

Self-Verification Eligible	PCN Required	Not authorized under GP 3/IP Required
<p>1. No new or expanded private structures, floats or lifts, including floatways/skidways (seasonal and permanent). (ME only).</p> <p>2. Structures are <math>\leq 4</math> feet in total width. (tidal waters only); and</p> <p>3. Structures have <math>\geq 1:1</math> height/width ratio.<sup>9</sup> (tidal waters only); and</p> <p>4. Floats are <math>\leq 200</math> SF in area. (tidal waters only); and</p> <p>5. Structures and floats are <math>&lt; 500</math> SF combined. (non-tidal navigable waters only); and</p> <p>6. Floats are <math>\geq 18</math> inches above the substrate at any time. Note: To be eligible for SV (work in ME is not eligible for SV as stated in 1 above), skids may only be used in areas where piles are not feasible and only on sandy or hard bottom substrates. (tidal waters only); and</p> <p>7. Structures, floats, their moored vessels, or lifts are located <math>\geq 25</math> feet from areas that have been mapped or that currently contain vegetated shallows. (tidal waters only); and</p> <p>8. Floats, vessels moored at structures or floats, or lifts are not located over SAS. (tidal waters only); and</p> <p>9. Structures, floats or lifts extend <math>\leq 75</math> feet waterward from MHW, or from ordinary high water (OHW) in non-tidal navigable waters; and</p> <p>10. Structures, floats or lifts extend <math>\leq 25\%</math> of the waterway width at mean low water (MLW) or OHW. See <a href="http://www.nae.usace.army.mil/missions/regulatory">www.nae.usace.army.mil/missions/regulatory</a> &gt;&gt; Forms and Publications &gt;&gt; Structure Placement in Navigable Waterways; and</p> <p>11. Construction activities related to structures, floats or lifts extend <math>\leq 25\%</math> of the waterway width at OHW or MLW during the TOY work restriction specified in GC 18. The purpose is to avoid impeding fish migration; and</p> <p>12. Structures, floats or lifts are located <math>\geq 25</math> feet from property lines. The Corps may require a letter of no objection from the abutter(s).</p>	<p>1. New or expanded private structures, floats or lifts, including floatways/skidways (seasonal and permanent). (ME only) Note: Designing projects in accordance with 2 - 12 in the Self-Verification Eligible column is required in the other five states as applicable, but recommended in Maine to ensure an efficient Corps review; or</p> <p>2. Structures, floats and lifts that are not eligible for self-verification; or</p> <p>3. Expansions, reconfigurations, reconfiguration zones, or modifications at any authorized boating facility; or</p> <p>4. New, expansions, reconfigurations, reconfiguration zones, or modifications of structures, floats or lifts that provide public, community or government recreational uses such as boating, fishing, swimming, access, etc</p>	<p>1. New boating facilities<sup>7</sup>, including any change that converts a private structure, float or lift to a boating facility; or</p> <p>2. Structures, floats or ancillary portions of structures or floats over tidal waters for the purpose of activities usually associated with land, including but not limited to benches, decks, sunbathing and picnicking.</p>

Notes:

- 1. GCs 7(c) and 10 are particularly relevant.
- 2. GC 18(a) states that there is no TOY restriction for GP 3 unless required by the pile-driving requirements of GC 12, the work causes turbidity or sediment resuspension in streams or tidal waters, or as specified here in GP 3. See SV Eligible #11 above for the specification here.
- 3. The term pile-supported also refers to wheel-supported structures.

<sup>8</sup> Expansions are defined as work that increases the footprint of structures or floats or slip capacity.

<sup>9</sup> 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.

<b>GP 4. Aids to Navigation and Temporary Recreational Structures (Section 10; navigable waters of the U.S.)</b>		
<p>a. Aids to navigation and regulatory markers that are approved by and installed in accordance with the requirements of the U.S. Coast Guard (USCG). (See 33 CFR 66, Chapter I, subchapter C); and</p> <p>b. Temporary buoys, markers, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use.</p>		
Self-Verification Eligible	PCN Required	Not authorized under GP 4/IP Required
<p>1. Aids to navigation and regulatory markers that are approved by and installed in accordance with the requirements of the USCG; and</p> <p>2. Temporary buoys, markers and similar structures: a) placed for recreational use during specific events and removed within 30 days after event, b) placed during winter events on frozen ice and removed before spring thaw, and c) authorized by the local harbor master if in a <u>Federal Navigation Projects (FNP)</u><sup>21</sup>.</p>	<p>1. Aids to navigation and regulatory markers that are not approved by and installed in accordance with the requirements of the USCG; or</p> <p>2. Temporary buoys, markers and similar structures: a) placed for recreational use during specific events but not removed within 30 days after event, b) placed during winter events on frozen ice, but not removed before spring thaw, or c) not authorized by the local harbor master if in an FNP<sup>21</sup>.</p>	
<p>Note:</p> <p>1. GCs 7(c) and 18 are particularly relevant. GP 18(a) states that there is no TOY restriction for GP 4 provided certain requirements stated in GC 18(a) are met.</p>		

<b>GP 5. Dredging (Section 10; navigable waters of the U.S.), Disposal of Dredged Material (Sections 10, 404 &amp; 103; tidal waters of the U.S.), and Beach Nourishment (Sections 10 &amp; 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 &amp; 404; tidal and non-tidal waters of the U.S.)</b>		
<p>New dredging and maintenance dredging, including: a) Return water from an upland contained dredged material disposal area where the quality of the return water is controlled by the state through the CWA Section 401 WQC procedures; b) Disposal of dredged material at a confined aquatic disposal site, beach nourishment site, or designated open water or ocean water disposal site, provided the Corps finds the dredged material to be suitable for such disposal and EPA concurs; and c) <u>Beach nourishment. Rock removal and relocation for navigation.</u></p>		
Self-Verification Eligible	PCN Required	Not authorized under GP 5/IP Required
<p>1. No new dredging; and</p> <p>2. No maintenance dredging in VT. Maintenance dredging in CT, NH, MA, ME and RI with/when:</p> <p>a. Upland disposal only; and</p> <p>b. Dredge area <math>\leq 1/2</math> acre; and</p> <p>c. No impacts to tidal SAS or intertidal areas. No work in the main stem of the Connecticut River in CT; and</p> <p>d. Dredging or disposal does not occur within 100 feet of vegetated shallows or shellfish beds; and</p> <p>e. Dredging does not occur in areas considered occupied by Atlantic salmon (see GC 8); and</p> <p>f. Dredging does not occur in shortnose sturgeon</p>	<p>1. New dredging:</p> <p>a. <math>\leq 1</math> acre in CT; <math>\leq 25,000</math> cubic yards (CY) in ME or RI; <math>\leq 1/2</math> acre and <math>&lt; 10,000</math> CY in MA; <math>\leq 20,000</math> SF in NH; or <math>\leq 1/2</math> acre in VT; or</p> <p>b. <math>\leq 1000</math> SF of impacts to SAS, or <math>\leq 1000</math> SF of impacts to intertidal areas (see Note 2 below); (CT, ME, MA, NH &amp; RI only); or</p> <p>c. Disposal of any area and type (e.g., upland, confined aquatic disposal, beach nourishment, nearshore disposal, designated open water or ocean water disposal, etc.); or</p> <p>2. Maintenance dredging <math>\leq 1/2</math> acre in VT. Maintenance dredging in CT, ME, MA, NH &amp; RI with/when:</p> <p>a. Disposal of any area and type (i.e., upland, confined aquatic disposal, beach nourishment, designated open water or ocean water disposal, etc.);</p> <p>b. Dredge area <math>&gt; 1/2</math> acre; or</p>	<p>1. New dredging that does not meet the PCN requirements; or</p> <p>2. Maintenance dredging with:</p> <p>a. <math>&gt; 1/2</math> acre of impacts to SAS or intertidal areas in CT, ME, MA, NH &amp; RI; or</p> <p>b. Dredge area <math>&gt; 1/2</math> acre in VT; or</p> <p>3. Rock removal and relocation for</p>

<p>wintering areas shown at <a href="http://www.nero.noaa.gov/prot_res/shortnosesturgeon/dpsmaps.html">www.nero.noaa.gov/prot_res/shortnosesturgeon/dpsmaps.html</a>. (ME only) [NOTE: SITE UNDER CONSTRUCTION]; and</p> <p>3. No dredging where the primary purpose is sand mining for beach nourishment; and</p> <p>4. No blasting associated with rock removal; and</p> <p>5. Rock removal and relocation for navigation <math>\leq 500</math> SF.</p>	<p>c. <math>\leq \frac{1}{2}</math> acre of impacts to tidal SAS or intertidal areas. Work in the main stem of the Connecticut River in CT; or</p> <p>d. Dredging or disposal occurs within 100 feet of vegetated shallows or shellfish beds; or</p> <p>e. Dredging in areas considered occupied by Atlantic salmon (see GC 8); or</p> <p>f. Dredging in areas outside those considered occupied by Atlantic salmon but within shortnose sturgeon wintering areas shown at <a href="http://www.nero.noaa.gov/prot_res/shortnosesturgeon/dpsmaps.html">www.nero.noaa.gov/prot_res/shortnosesturgeon/dpsmaps.html</a>. (ME only) [NOTE: SITE UNDER CONSTRUCTION]; or</p> <p>3. Dredging where the primary purpose is sand mining for beach nourishment (the thresholds and requirements in (1) and (2) above apply); or</p> <p>4. Blasting associated with rock removal; or</p> <p>5. Rock removal and relocation for navigation <math>&gt; 500</math> SF to 5000 SF.</p>	<p>navigation <math>&gt; 5,000</math> SF.</p> <p>4. Disposal of dredged material at an open water or confined aquatic disposal site in VT.</p>
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Notes:

1. See Section VI for the definitions of new and maintenance dredging. The Corps may review a maintenance dredging activity as new dredging if sufficient time has elapsed to allow for the colonization of SAS, shellfish, etc.
2. The mitigation requirements in GC 4(c) are particularly relevant for impacts to tidal SAS or intertidal areas.
3. Upland disposal does not involve beach nourishment, nearshore, open water, ocean, or confined aquatic disposal. Nearshore is defined in the USACE Coastal Engineering Manual as “(1) In beach terminology an indefinite zone extending seaward from the shoreline well beyond the breaker zone. (2) The zone which extends from the swash zone to the position marking the start of the offshore zone, typically at water depths of the order of 20m.” A nearshore berm is an artificial berm built in shallow water using dredged material. Often, the berm is intended to renourish the adjacent and downdrift shore over time under the influence of waves and currents.
4. GCs 8 and 17(f) are particularly relevant for beach nourishment. The time of year windows and restrictions in GC 18 are particularly relevant.

<b>GP 6. Discharges of Dredged or Fill Material Incidental to the Construction of Bridges (Section 404; navigable waters of the U.S.)</b>		
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, and temporary construction and access fills provided that the USCG authorizes the construction of the bridge structure under Section 9 of the Rivers and Harbors Act of 1899 or other applicable laws. A USCG Authorization Act Exemption or a STURRA (144h) exemption do not constitute USCG authorization.		
Self-Verification Eligible	PCN Required	Not authorized under GP 6/IP Required
1. All discharges of dredged or fill material incidental to the construction of bridges,		1. Causeways and approach fills. These may be eligible for authorization under GP 10.
<p>Note:</p> <p>1. GCs 1-41 apply to this and the other GPs unless otherwise stated. Particularly relevant are the PCN requirements in GC 10, which requires a PCN for work in, over or under an FNP or its buffer zone <sup>21</sup></p>		

**GP 7. Bank and Shoreline Stabilization (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. Also eligible are non-structural living shoreline activities. Sill with tide marsh living shoreline systems in tidal waters and traditional shoreline stabilization activities (e.g., breakwaters, groins, jetties) are not authorized under this GP. Activities must meet the following criteria: a) Minimize impacts to aquatic resources, including wetland vegetation, diversion of overland flow, and impacts on and scour of neighboring properties.<sup>10</sup> b) No material is placed in excess of the minimum needed for erosion protection; c) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the U.S.; or d) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas).

Self-Verification Eligible	PCN Required	Not authorized under GP 7/IP Required
<ol style="list-style-type: none"> <li>1. The bank disturbance is:                             <ol style="list-style-type: none"> <li>a. ≤100 feet in total length, and</li> <li>b. ≤1 cubic yard of fill per linear foot average along the bank waterward of the plane of OHW or high tide line (HTL); and</li> </ol> </li> <li>2. The slope of the structure is more gradual than 1V:3H in lakes/ponds; and 1V:1H in non-tidal streams and tidal waters and streams; and</li> <li>3. The activity does not occur in SAS other than a) non-tidal wetlands or b) non-tidal vegetated shallows; and</li> <li>4. The activity does not occur in Lake Champlain, Lake Memphremagog or Wallace Pond. (VT only); and</li> <li>5. No living shorelines.</li> </ol>	<ol style="list-style-type: none"> <li>1. The bank disturbance is:                             <ol style="list-style-type: none"> <li>a. &gt;100 feet to ≤500 feet in total length, or</li> <li>b. &gt;1 cubic yard of fill per linear foot average along the bank waterward of the plane of OHW or high tide line (HTL); or</li> </ol> </li> <li>2. The slope of the structure is steeper than 1V:3H in lakes/ponds; and 1V:1H in non-tidal streams and tidal waters and streams; or</li> <li>3. The activity occurs in SAS other than a) non-tidal wetlands or b) non-tidal vegetated shallows; or</li> <li>4. The activity occurs in Lake Champlain, Lake Memphremagog or Wallace Pond (VT only); or</li> <li>5. Non-structural living shoreline activities.</li> </ol>	<ol style="list-style-type: none"> <li>1. The activity is &gt;500 feet in total length unless the Corps waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse effects; or</li> <li>2. Stream channelization or relocation activities; or</li> <li>3. Sill with tide marsh living shoreline systems; or</li> <li>4. Traditional shoreline stabilization activities.</li> </ol>

Notes:

1. See GP 1 for the replacement of existing, currently serviceable structures.
2. Bank stabilization structures should be designed to minimize environmental effects, effects to neighboring properties, etc. to the maximum extent practicable. This means using the appropriate, least intrusive method to stabilize the bank following this sequential minimization process: avoidance, diversion of overland flow, vegetative stabilization, stone-sloped surfaces, and walls. Vertical walls/bulkheads must 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 on harbors, marinas, or other developed shore areas.
3. See the VT state-specific supplement (Section IX, Part A) for information on state protections for banks and fluvial geomorphic processes.
4. Non-structural living shoreline activities provide substrate necessary to support wetland vegetation and are associated with existing tidal marsh improvements and/or new marsh creation that may include the placement of sand fill, coir logs, coir mats, and/or native oyster shell. Sill with tide marsh systems consist of a line of rock placed just offshore of an eroding shoreline/coast with a sand fill placed between the sill and the eroding bank upon which marsh grasses are planted to create a protective marsh fringe.

<sup>10</sup> Materials such as angular stone, subangular stone or fiber roll revetments are effective at dissipating wave energy. Vertical walls/bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates waterbodies where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and typically absorbs 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. For more information, see the Corps Coastal Engineering Manual, located at <http://chl.erdc.usace.army.mil>. Select “Products/ Services” and then “Publications.” Part 5, Chapter 7-8, a(2)c is particularly relevant.



**GP 8. Residential, Commercial and Institutional Developments (Sections 10 & 404, non-tidal waters of the U.S.); Recreational Facilities (Section 404, non-tidal waters of the U.S.).**

Discharges of dredged or fill material for the construction or expansion of a) residences and residential subdivisions; b) residential, commercial and institutional building foundations and building pads; and c) recreational facilities. This GP authorizes attendant features that are necessary for the use such as parking lots, garages, and yards. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. Examples of recreational facilities include playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, golf courses, ski areas, nature centers, and campgrounds. Associated utilities are eligible for authorization under Activity 9. Associated roads, hiking trails, bike, cart and horse paths are eligible for authorization under Activity 10.

Self-Verification Eligible	PCN Required	Not authorized under GP 8/IP Required
1. Impacts meet the SV limits on page 4; and 2. The activity does not occur in navigable waters of the U.S.; and 3. Stream channelization, relocation or loss of stream bed including impoundments does not occur; and 4. A stormwater treatment or detention system does not occur in tidal or non-tidal waters of the U.S. See Note 2.; and 5. A subsurface sewerage disposal system does not occur in tidal or non-tidal waters of the U.S. See Note 2.	1. Impacts meet the PCN limits on page 4; or 2. The activity occurs in non-tidal navigable waters of the U.S.; or 3. Stream channelization, relocation or loss of stream bed including impoundments occurs; or 4. A stormwater treatment or detention system occurs in tidal or non-tidal waters of the U.S. See Note 2.; or 5. A subsurface sewerage disposal system occurring in tidal or non-tidal waters of the U.S. is not eligible for authorization and requires an IP. See Note 2.	1. Impacts require an IP as stated on page 4; or 2. The activity occurs in tidal waters of the U.S.; or 3. A subsurface sewerage disposal system occurs in tidal or non-tidal waters of the U.S. See Note 2.
Notes: 1. Impacts include the aggregate total impact area for subdivisions and associated individual lots. 2. Stormwater conveyance components and non-porous, septic effluent pipes that transmit effluent to or between components may be eligible for authorization under GP 9.		

**GP 9. Utility Line Activities<sup>11</sup> (Sections 10 & 404; tidal and non-tidal waters of the U.S.)**

Eligible for authorization are the activities in (a) - (c) below. Access roads are eligible for authorization under GP 10. For a(1), b(1) and c(1) below, and any other associated activities (e.g., GP 14), if the total impact area for all single and complete projects requires a PCN, then a PCN is required for the overall project. The PCN must describe the locations of the starting point, end point, and all proposed impacts to aquatic resources in between in order to assess the cumulative effects of the overall project.

Self-Verification Eligible	PCN Required	Not authorized under GP 9/IP Required
(a) The construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines in tidal and non-tidal waters of the U.S.		
1. Impacts for the overall project meet the SV limits on page 4; and	1. Impacts for the overall project meet or exceed the PCN limits on page 4 provided no single and	1. The overall project will require an IP if any single and complete project requires an IP as

<sup>11</sup> A utility line is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, data, and telegraph messages, and radio and television communication. The term utility line does not include activities that drain a water of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.

<p>2. The activity does not occur in, over or under navigable waters of the U.S.; and  3. Intake structures that are dry hydrants used exclusively for firefighting activities with no stream impoundments; and  4. There is no permanent change in pre-construction contours in waters of the U.S.; and  5. Material resulting from trench excavation is temporarily sidecast into waters of the U.S. for <math>\leq 3</math> months and is placed in such a manner that it is not dispersed by currents or other forces; and  6. The utility line is placed within and does not run a) parallel to, or b) along a stream bed; and  7. Stream channelization, relocation or loss of stream bed including impoundments does not occur; and  8. There is no discharge in SAS other than wetlands.</p>	<p>complete project exceeds the PCN limits on page 4; or  2. The activity occurs in, over or under navigable waters of the U.S.; or  3. Intake structure other than dry hydrants used exclusively for firefighting activities with no stream impoundments; or  4. There is a permanent change in pre-construction contours in waters of the U.S.; or  5. Material resulting from trench excavation is temporarily sidecast into waters of the U.S. for <math>&gt;3</math> months or is placed in such a manner that it is dispersed by currents or other forces; or  6. The utility line is placed within and runs parallel to or along a stream bed; or  7. Stream channelization, relocation or loss of stream bed including impoundments occurs; or  8. There is a discharge in SAS other than wetlands.</p>	<p>stated on page 4.</p>
<p>See notes below.</p>		
<p>Self-Verification Eligible</p>	<p>PCN Required</p>	<p>Not authorized/IP Required</p>
<p>(b) The construction, maintenance, or expansion of utility line substation facilities associated with a power line or utility line in non-tidal waters of the U.S.</p>		
<p>1. Impacts for the overall project meet the SV limits on page 4; and  2. Stream channelization, relocation or loss of stream bed including impoundments does not occur.</p>	<p>1. Impacts for the overall project meet or exceed the PCN limits on page 4 provided no single and complete project exceeds the PCN limits on page 4; or  2. Stream channelization, relocation or loss of stream bed including impoundments occurs.</p>	<p>1. The overall project requires an IP if any single and complete project requires an IP as stated on page 4.</p>
<p>See notes below.</p>		
<p>Self-Verification Eligible</p>	<p>PCN Required</p>	<p>Not authorized/IP Required</p>
<p>(c) The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in tidal and non-tidal waters of the U.S. provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.</p>		
<p>1. Impacts for the overall project meet the SV limits stated on page 4.</p>	<p>1. Impacts for the overall project meet or exceed the PCN limits on page 4 provided no single and complete project exceeds the PCN limits on page 4.</p>	<p>1. The overall project requires an IP if any single and complete project requires an IP as stated on page 4.</p>
<p>Notes for (a) - (c) above:  1. Where the proposed utility line is temporarily or permanently constructed or installed in tidal or non-tidal navigable waters of the U.S. (i.e., Section 10 waters), the Corps will send the application and any written verification to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service for</p>		

- charting the utility line to protect navigation. Permittees should refer to the special conditions in the Corps written verification for requirements.
2. For overhead utility lines authorized by this GP, the Corps will send the application and any written verification to the Department of Defense Siting Clearinghouse<sup>12</sup>, which will evaluate potential effects on military activities.
  3. GC 13 and 17(f) are particularly relevant.
  4. Impacts resulting from mechanized pushing, dragging, or other similar activities that redeposit excavated soil material shall be figured into the area limit determination on page 4.

**GP 10. Linear Transportation Projects** including Stream 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., roads, highways, railways, trails, airport runways, and taxiways) and attendant features. Any stream channel modification is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project. For the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, the minimization requirement in GC 4 is particularly relevant and access roads shall be constructed as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the U.S. must be properly bridged or culverted to maintain surface flows. For GP 10 and any other associated activities (e.g., GP 14), if the total impact area for all single and complete projects requires a PCN, then a PCN is required for the overall project. The PCN must describe the locations of the starting point, end point, and all proposed impacts to aquatic resources in between in order to assess the cumulative effects of the overall project.

Self-Verification Eligible	PCN Required	Not authorized under GP 10/IP Required
<ol style="list-style-type: none"> <li>1. Impacts for the overall project meet the SV limits on page 4; and</li> <li>2. Stream channelization, relocation or loss of stream bed including impoundments does not occur; and</li> <li>3. The activity does not occur in navigable waters of the U.S. This includes temporary or permanent stream crossings, for which PCN review process guidelines are provided in the “Permanent Crossings in Tidal Streams” section of the Stream Crossing BMP document<sup>13</sup>; and</li> <li>4. Permanent stream crossings [new crossings, replacement crossings and expansions of existing crossings (e.g., culvert extensions)] in non-tidal streams comply with the “Permanent Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document<sup>13</sup> and are constructed in dry conditions [GC 17(f) is particularly relevant]; and</li> <li>5. Temporary stream crossings in non-tidal streams comply with the “Temporary Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document<sup>14</sup>; and</li> </ol>	<ol style="list-style-type: none"> <li>1. Impacts for the overall project meet or exceed the PCN limits on page 4 provided no single and complete project exceeds the PCN limits on page 4; or</li> <li>2. Stream channelization, relocation or loss of stream bed including impoundments occurs; or</li> <li>3. Temporary or permanent stream crossings occur in navigable waters of the U.S (see note 2 below). PCN review process guidelines for crossings in tidal streams are provided in the “Permanent Crossings in Tidal Streams” section of the Stream Crossing BMP document<sup>13</sup>; or</li> <li>4. Permanent stream crossings [new crossings, replacement crossings and expansions of existing crossings (e.g., culvert extensions)] in non-tidal streams (see note 2 below) do not comply with the “Permanent Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document<sup>14</sup> or are not constructed in dry conditions [GC 17(f) is particularly relevant]; or</li> <li>5. Temporary stream crossings in non-tidal streams do not comply with the “Temporary Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document<sup>14</sup>; or</li> </ol>	<ol style="list-style-type: none"> <li>1. The overall project requires an IP if any single and complete project requires an IP as stated on page 4; or</li> <li>2. Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.</li> </ol>

<sup>12</sup> Via hard copy: Department of Defense Clearinghouse, Attn: Mr. Marshal Williams and Mr. David Blalock, 101 Marietta St, NW, Suite 3120, Atlanta, GA 30303; or via e-mail: [frederick.m.williams28.civ@mail.mil](mailto:frederick.m.williams28.civ@mail.mil) and [david.c.blalock2.civ@mail.mil](mailto:david.c.blalock2.civ@mail.mil).

<sup>13</sup> [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources.

<p>6. 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 sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining; and</p> <p>7. There is no discharge in SAS other than wetlands; and</p> <p>8. Bank stabilization conducted by Federal or state transportation agencies necessary to protect the transportation infrastructure when done in accordance with GP 7, but may be <math>\leq 100</math> feet in total length on each side of the stream bank.</p>	<p>6. Existing crossings (e.g., culverts, elliptical or arch pipes, etc.) are modified by a) decreasing the diameter of the crossing or b) changing the friction coefficient, such as through sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining; or</p> <p>7. There is a discharge in SAS other than wetlands.</p> <p>8. Bank stabilization conducted by Federal or state transportation agencies necessary to protect the transportation infrastructure is done in accordance with GP 7 and is <math>&gt;100</math> feet in total length on each side of the stream bank.</p>	
<p>Notes:</p> <p>1. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters may be authorized under GP 6.</p> <p>2. GP 10 cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars. These may eligible for authorization under GP 8.</p> <p>3. a) GC 1 is particularly relevant. The states' stream crossing requirements may be different than the Corps requirements and are located at: <a href="http://www.nae.usace.army.mil/Missions/Regulatory.aspx">www.nae.usace.army.mil/Missions/Regulatory.aspx</a> &gt;&gt; <a href="#">Stream and River Continuity</a>; b) GC 19 is particularly relevant.</p>		

<p><b>GP 11. Mining Activities (Sections 10 and 404; non-tidal waters of the U.S.)</b></p>		
<p>Discharges of dredged or fill material into non-tidal waters of the U.S. for mining activities, except for coal mining and mechanical metallic mineral activities. If reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with any PCN.</p>		
Self-Verification Eligible	PCN Required	Not authorized under GP 11/IP Required
<p>1. Impacts meet the SV limits on page 4; and</p> <p>2. The activity does not occur in navigable waters of the U.S.; and</p> <p>3. Stream channelization, relocation or loss of streambed including impoundments does not occur.</p>	<p>1. Impacts meet the PCN limits on page 4; or</p> <p>2. The activity occurs in non-tidal navigable waters of the U.S.; or</p> <p>3. Stream channelization, relocation or loss of streambed including impoundments occurs.</p>	<p>1. Impacts require an IP as stated on page 4; or</p> <p>2. The activity occurs in tidal waters of the U.S.</p>

<p><b>GP 12. Boat Ramps and Marine Railways (Sections 10 and 404; tidal and non-tidal waters of the U.S.)</b></p>		
<p>Activities required for the construction of boat ramps and marine railways. If dredging in navigable waters of the U.S. is necessary to provide access to the boat ramp, the dredging must be authorized by another GP 5.</p>		
Self-Verification Eligible	PCN Required	Not authorized under GP 12/IP Required
<p>1. Impacts meet the SV limits on page 4; and</p> <p>2. The activity does not occur in navigable waters of the U.S.; and</p> <p>3. Boat ramps are not located within 25 feet of property lines. The Corps may require a letter of no objection from the abutter(s).</p>	<p>1. Impacts meet the PCN limits on page 4; or</p> <p>2. The activity occurs in navigable waters of the U.S.; or</p> <p>3. Boat ramps are located within 25 feet of property lines. The Corps may require a letter of no objection from the abutter(s).</p>	<p>1. Base material other than crushed stone, gravel or other suitable and structurally stable material; or</p> <p>2. Excavation beyond that limited to the area necessary for site preparation; or</p> <p>3. Excavated material that is removed to an area that has waters of the U.S.</p>

**GP 13. Land and Water-Based Renewable Energy Generation Facilities (Sections 10 and 404; tidal and non-tidal waters of the U.S.), and Hydropower Projects (Section 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 renewable energy production facilities, including attendant features;
- (b) Water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features; and
- (c) Discharges of dredged or fill material associated with hydropower projects: i) at existing reservoirs, where the project, including the fill, is licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended, or the appropriate state or local permitting agency; or ii) with a licensing exemption granted by the FERC pursuant to Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and Section 30 of the Federal Power Act, as amended.

For (a) and (b) above, such facilities include water-based wind or hydrokinetic renewable energy generation projects and infrastructure to collect solar (concentrating solar power and photovoltaic), wind, biomass, or geothermal energy. 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.

Self-Verification Eligible	PCN Required	Not authorized under GP 13/IP Required
<p>For land-based facilities:                      1. Impacts in non-tidal waters meet the SV limits on page 4; and                      2. The activity does not occur in tidal waters of the U.S.; and                      3. Stream channelization, relocation or loss of streambed including impoundments does not occur.</p> <p>For water-based facilities and hydropower projects:                      1. No activities are eligible.</p>	<p>For land-based facilities:                      1. Impacts in non-tidal waters meet the PCN limits on page 4; or                      2. The activity occurs in tidal waters of the U.S.; or                      3. Stream channelization, relocation or loss of streambed including impoundments occurs.</p> <p>For water-based facilities and hydropower projects:                      1. All work eligible for authorization under this activity provided any discharges do not exceed the PCN limits on page 4.</p>	<p>1. Impacts require an IP as stated on page 4.</p>

Notes:

1. Utility lines constructed to transfer the energy from the land-based renewable generation or collection facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and those utility lines may be authorized by GP 9 or another Corps authorization. If the only activities associated with the construction, expansion, or modification of a land-based renewable energy generation facility that require Corps authorization are discharges of dredged or fill material into waters of the U.S. to construct, maintain, repair, and/or remove utility lines, then GP 9 shall be used if those activities meet the terms and conditions of GP 9, including any case-specific conditions imposed by the Corps.
2. For temporary or permanent projects authorized under GP 14, including any transmission lines, placed in navigable waters of the U.S. (i.e., section 10 waters) the Corps will send copies of the PCN and verification to NOAA, National Ocean Service, for charting the generation units and associated transmission line(s) to protect navigation. Permittees should refer to the special conditions in the Corps written verification for requirements.
3. For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, the Corps will provide a copy of the PCN and verification to the Department of Defense Siting Clearinghouse<sup>12</sup>, which will evaluate potential effects on military activities.
4. Structures in an anchorage area established by the USCG must comply with the requirements in 33 CFR 322.5(1)(2). Structures may not be placed in established danger zones or restricted areas as designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(1)(1)), or EPA or Corps designated open water dredged material disposal areas.

**GP 14. Temporary Construction, Access, and Dewatering (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps or the USCG. This also authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities not otherwise subject to the Corps or USCG permit requirements.

Self-Verification Eligible	PCN Required	Not authorized under GP 14/ IP Required
<p>1. Temporary discharges (except for temporary construction mats) in non-tidal waters of the U.S.:</p> <ul style="list-style-type: none"> <li>a. Impacts meet or exceed the SV limits on page 4; and</li> <li>b. Are in place in wetlands for no portion of more than one growing period, and</li> <li>c. Are in place for <math>\leq 6</math> months in streams or open water or <math>\leq 24</math> months for stream crossings that are done in accordance with the Stream Crossing BMPs; and</li> </ul> <p>2. Temporary construction mats in non-tidal waters of the U.S.:</p> <ul style="list-style-type: none"> <li>a. Impacts meet or exceed the SV limits on page 4; and</li> <li>b. In place in wetlands for: i) <math>&lt; 1</math> year when installed during the growing period, and ii) no portion of more than one growing period when installed outside the growing period (See Note 3 below), and</li> <li>c. In place for <math>\leq 6</math> months in streams or open water; and</li> <li>d. Do not involve underlying fill; and</li> </ul> <p>3. Temporary structures in navigable waters are not eligible for SV; and</p> <p>4. There is no discharge in SAS other than wetlands; and</p> <p>5. No temporary fill, including construction mats, in tidal waters.</p>	<p>1. Temporary discharges (except for temporary construction mats) in non-tidal waters of the U.S.:</p> <ul style="list-style-type: none"> <li>a. Impacts meet or exceed the PCN limits on page 4; or</li> <li>b. Are in place in wetlands for any portion of more than one growing period, or</li> <li>c. Are in place for <math>&gt; 6</math> months in streams or open water or <math>&gt; 24</math> months for stream crossings that are done in accordance with the Stream Crossing BMP; or</li> </ul> <p>2. Temporary construction mats in non-tidal waters of the U.S.:</p> <ul style="list-style-type: none"> <li>a. Impacts meet or exceed the PCN limits on page 4; or</li> <li>b. In place in wetlands for: i) <math>&gt; 1</math> year when installed during the growing period, or ii) any portion of more than one growing period when installed outside the growing period, or</li> <li>c. In place for <math>&gt; 6</math> months in streams or open water; or</li> <li>d. Involve underlying fill; or</li> </ul> <p>3. Temporary structures in navigable waters; or</p> <p>4. There is a discharge in SAS other than wetlands; or</p> <p>5. Temporary fill, including construction mats, in tidal waters.</p>	<p>1. The use of cofferdams to dewater wetlands or other aquatic areas to change their use; or</p> <p>2. Structures or fill left in place after construction is completed.</p>
<p>Notes:</p> <ul style="list-style-type: none"> <li>1. The growing period is from May 1 to Oct 1 for the purposes of this GP.</li> <li>2. GCs 14 - 17 are particularly relevant.</li> <li>3. See the related condition for WQC in Section IX, State-Specific Supplement, Part A.</li> </ul>		

**GP 15. Reshaping Existing Drainage Ditches (Section 404; non-tidal waters of the U.S), New Ditches (Section 404; non-tidal waters of the U.S), and Mosquito Management (Sections 10 & 404, tidal waters)**

Discharges to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the U.S., for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. Compensatory mitigation is not required because the work is designed to improve water quality. Also authorized is open marsh water management (OMWM) in tidal waters for mosquito reduction.

Self-Verification Eligible	PCN Required	Not authorized under GP 15/IP Required
1. ≤500 linear feet of drainage ditch will be reshaped; or 2. No new ditches; or 3. No state-approved OMWM.	1. >500 linear feet of drainage ditch will be reshaped; or 2. New ditches; or 3. State-approved OMWM.	1. The relocation of drainage ditches constructed in waters of the U.S.; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch; or 2. Stream channelization or stream relocation projects; or 3. The reshaping of ditches that increases drainage capacity beyond the original as-built capacity or that expands the area drained by the ditch as originally constructed (i.e., the capacity of the ditch must be the same as originally constructed and it cannot drain additional wetlands or other waters of the U.S.).

Note:  
 1. GCs 14 - 16 are particularly relevant.

**GP 16. Response Operations for Oil and Hazardous Substances (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Eligible for authorization are the activities (a) - (c). SAS should be restored in place at the same elevation.

(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 and Countermeasure Plan required by 40 CFR 112.3;
- ii. The direction or oversight of the Federal on-scene 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. Applicable PCB cleanup is regulated under this GP 16, not GP 17.

(c) The use of structures and fills for spill response training exercises.

Self-Verification Eligible	PCN Required	Not authorized under GP 16/IP Required
1. Activities are conducted in accordance with (a) or (b) above regardless of whether impacts meet the SV limits on page 4. 2. For (c) above, no permanent impacts and no permanent structures are proposed.	1. Activities are not conducted in accordance with (a) or (b) above. Impacts may meet or exceed the PCN limits on page 4. 2. For (c) above, permanent impacts meet the SV or PCN limits on page 4, or permanent structures are proposed.	For (c) above, permanent impacts require an IP as stated on page 4.

Notes:  
 1. Permittees have until two weeks following commencement of the activities in GP 16 (a) and (b) to submit the SVNF.  
 2. GCs 15 and 16 are particularly relevant. Also, GC 18(a) states that there is no TOY restriction for GP 16 provided certain requirements stated in GC 18(a) are met or as specified here in GP 16. The specification here is the TOY restrictions do not apply if the work is an emergency response, but they do apply if the work is planned or scheduled.

**GP 17. Cleanup of Hazardous and Toxic Waste (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Specific activities to effect 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. SAS should be restored in place at the same elevation.

Self-Verification Eligible	PCN Required	Not authorized under GP 17/ IP Required
1. Impacts meet the SV limits on page 4; and 2. The activity does not occur in navigable waters of the U.S.; and 3. Stream channelization, relocation or loss of streambed does not occur; and 4. The project does not involve establishing new disposal sites or expanding existing sites used for the disposal of hazardous or toxic waste.	1. Impacts meet or exceed the PCN limits on page 4; or 2. The activity occurs in navigable waters of the U.S.; or 3. Stream channelization, relocation or loss of streambed occurs; or 4. The project involves establishing new disposal sites or expanding existing sites used for the disposal of hazardous or toxic waste.	

Notes:

1. 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.
2. Permittees have until two weeks following commencement of the activities in GP 17 to submit the SVNF.

**GP 18. Scientific Measurement Devices (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Scientific measurement 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 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.

Self-Verification Eligible	PCN Required	Not authorized under GP 18/IP Required
1. The discharge is $\leq 100$ SF in a) tidal waters; or b) Lake Champlain, Lake Memphremagog or Wallace Pond in VT; and 2. The activity does not involve permanent biological sampling devices in non-navigable waters, biological sampling devices in navigable waters; or weirs and flumes.	1. The discharge is $> 100$ SF in a) tidal waters; or b) Lake Champlain, Lake Memphremagog or Wallace Pond in VT; or 2. The activity involves permanent biological sampling devices in non-navigable waters, biological sampling devices in navigable waters; or weirs and flumes are installed.	

Notes:

1. GCs 16 and 19 are particularly relevant.
2. GC 18(a) states that there is no TOY restriction for GP 18 provided certain requirements stated in GC 18(a) are met or as specified here in GP 18. The specification here is the TOY restrictions apply to GP 18 if weirs and flumes are installed.



**GP 19. Survey Activities (Sections 10 and 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, and historic resources surveys.

Self-Verification Eligible	PCN Required	Not authorized under GP 19/IP Required
1. Impacts in non-tidal waters meet the SV limits on page 4; and 2. The discharge is $\leq 500$ SF in a) tidal waters; or b) Lake Champlain, Lake Memphremagog or Wallace Pond in VT; and 3. Exploratory trenching does not occur in waterways (e.g., streams, tidal waters). Exploratory trenching in non-tidal wetlands is eligible for SV.	1. Impacts in non-tidal waters meet the PCN limits on page 4; or 2. The discharge is between 500 SF and the PCN limits on page 4 in: a) tidal waters, or b) Lake Champlain, Lake Memphremagog or Wallace Pond in VT; or 3. Exploratory trenching occurs in waterways (e.g., streams, tidal waters).	1. Impacts in non-tidal waters require an IP as stated on page 4; or 2. The discharge in a) tidal waters, or b) Lake Champlain, Lake Memphremagog or Wallace Pond in VT, requires an IP as stated on page 4; or 3. Discharges and structures associated with the recovery of historic resources, and the drilling and the discharge of excavated material from test wells for oil and gas exploration. However, the plugging of such wells is authorized.

Notes:

- GC 18(a) states that there is no TOY restriction for GP 19 provided certain requirements stated in GC 18(a) are met. Trenching is typically a sediment producing activity.
- For the purposes of this GP, the term “exploratory trenching” means mechanical land or underwater clearing of the upper soil profile to expose bedrock or substrate for the purpose of mapping or sampling the exposed material. The area in which the exploratory trench is dug must be restored to its pre-construction elevation upon completion of the work and must not drain a water of the U.S.
- The discharge of drilling mud and cuttings may require a permit under Section 402 of the CWA.
- A SVNF is not required for wetland delineations, core sampling conducted for preliminary evaluation of dredge project analysis, and historic resource surveys.

**GP 20. Agricultural Activities (Section 404; non-tidal waters of the U.S.)**

Discharges of dredged or fill material for agricultural activities, including the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the U.S.; and similar activities. This also authorizes the construction of farm ponds in non-tidal waters of the U.S., excluding perennial streams, provided the farm pond is used solely for agricultural purposes. This also authorizes discharges of dredged or fill material into non-tidal waters of the U.S. to relocate existing serviceable drainage ditches constructed in non-tidal streams.

Self-Verification Eligible	PCN Required	Not authorized under GP 20/IP Required
1. Impacts meet the SV limits on page 4; and 2. Stream channelization, relocation, loss of stream bed, or farm ponds in streams does not occur.	1. Impacts meet the PCN limits on page 4; or 2. Stream channelization, relocation, loss of stream bed, or farm ponds in non-perennial streams occurs.	1. Impacts require an IP as stated on page 4; or 2. The construction of farm ponds in perennial streams or aquaculture ponds.

Notes:

- Permanently impacts as defined in Section VI includes waters of the U.S. that are permanently adversely affected by drainage because of the regulated activity, and shall therefore be figured into the area limit determination on page 4. This is particularly relevant to GP 20.
- This NWP authorizes the construction of farm ponds that do not qualify for the CWA Section 404(f)(1)(C) exemption because of the recapture provision at Section 404(f)(2).

**GP 21. Fish and wildlife harvesting, devices and activities (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Fish and wildlife harvesting devices and activities such as lobster pound nets, crab traps, shellfish (includes crab) dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, shellfish seeding including brushing the flats, fish aggregating devices, aquaculture, and small fish attraction devices such as open-water fish concentrators (sea kites, etc.). See Section IX, Part D for aquaculture activities and PCN requirements.

Self-Verification Eligible	PCN Required	Not authorized under GP 21/IP Required
1. No pound nets other than those a) traditionally used for lobster or b) installed by a state fishery agency; 2. Structures, devices, etc. that are not located in SAS in tidal waters. Crab and lobster traps in SAS in tidal waters are eligible for self-verification; and 3. No crab dredging in intertidal SAS or mussel dredging in SAV	1. Pound nets other than those a) traditionally used for lobster or b) installed by a state fishery agency; or 2. Structures, devices, etc. that are located in SAS in tidal waters. A PCN is not required for crab or lobster traps; or 3. Crab dredging in intertidal SAS or mussel dredging in SAV.	1. Artificial reefs or impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks.

Notes:  
1. GC 18(a) states that there is no TOY restriction for GP 21 provided certain requirements stated in GC 18(a) are met.  
2. A SVNf is not required for work authorized under GP 21.

**GP 22. Habitat Restoration, Establishment and Enhancement Activities (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Activities 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 wetlands and streams, on the project site; 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. This is limited to restoration, enhancement and establishment activities that are proactive and all compensatory mitigation projects (permittee responsible, in lieu fee & mitigation banks).

Self-Verification Eligible	PCN Required	Not authorized under GP 22/IP Required
1. Impacts meet the SV limits on page 4; and 2. SAS planting and transplanting ≤100 SF in tidal waters and the work does not involve living reefs; and 3. The activity is authorized in writing by a local, state or non-Corps Federal environmental agency. Water impoundments require a PCN; and 4. No conversion of: i) a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa, wetland to pond, dam removal, etc.) or uplands, and ii) one wetland type to another (e.g., forested wetland to an emergent wetland). (See Note 3.)	1. Impacts meet or exceed the PCN limits on page 4; or 2. SAS planting and transplanting >100 SF in tidal waters or the work involves living reefs; or 3. The activity a) is not authorized in writing by a local, state or non-Corps Federal environmental agency, or b) involves water impoundments; or 4. The conversion of: i) a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa, wetland to pond, dam removal, etc.) or uplands, ii) one wetland type to another (e.g., forested wetland to an emergent wetland). (See Note 3.)	1. Stream channelization.

Notes:  
1. GC 8 states PCN is required for any activity that might affect listed species or habitat. This includes beneficial effects.  
2. Nationwide Permit 27, published in the 2/21/12 Federal Register, provides a limited list of activities that may be eligible for authorization under GP 22.  
3. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type.  
4. A PCN is required if the total impacts of the project and/or the mitigation exceed the PCN limits on page 4 or any other PCN limits in this GP.

**GP 23. Previously Authorized Activities (Sections 10 and 404; tidal and non-tidal waters of the U.S.)**

Activities not commenced, not under contract to commence, nor completed, that were authorized in a written verification letter under the state GPs for CT, ME, MA, NH, RI and VT that were in effect at the time these NE GPs were issued. These activities are subject to any special conditions in the written verification letter along with the general conditions of these NE GPs.

Self-Verification Eligible	PCN Required	Not authorized under GP 23/ IP Required
<u>1.</u> Activities not commenced, not under contract to commence, nor completed that were authorized in a written verification letter under the state GPs that were in effect at the time these NE GPs were issued.		1. Disposal at the Cape Arundel Disposal Site, Massachusetts Bay Disposal Site, Portland Disposal Site, or Rhode Island Sound Disposal Site. This work may be eligible for authorization under GP 5.

#### IV. GENERAL CONDITIONS:

GPs must comply with the following general conditions (GCs), as applicable, to be eligible for authorization under this GP.

1. Other Permits
2. Federal Jurisdictional Boundaries
3. Minimal Direct, Secondary, and Cumulative Impacts
4. Mitigation (Avoidance, Minimization, and Compensatory Mitigation)
5. Single and Complete Projects
6. Historic Properties
7. Corps Projects and Property
8. Federal and State Threatened and Endangered Species
9. Wild and Scenic Rivers
10. Navigation
11. Federal Liability
12. Pile Driving and Removal
13. Utility Line Installation and Monitoring
14. Heavy Equipment in Wetlands
15. Temporary Fill
16. Restoration of Special Aquatic Sites (including wetland areas).
17. Soil Erosion, Sediment and Turbidity Controls
18. Time of Year Work Windows and Restrictions.
19. Aquatic Life Movements & Management of Water Flows
20. Water Quality and Coastal Zone Management
21. Floodplains and Floodways
22. Storage of Seasonal Structures
23. Spawning, Breeding, and Migratory Areas
24. Vernal Pools
25. Invasive and Other Unacceptable Plant Species
26. St. John/St. Croix Rivers (ME only)
27. Cape Cod Canal Review Area (MA only)
28. Programmatic Agreements
29. Permit On-Site
30. Self-Verification Notification Form
31. Inspections
32. Maintenance
33. Property Rights
34. Transfer of GP Verifications
35. Modification, Suspension, and Revocation
36. Special Conditions
37. False or Incomplete Information
38. Abandonment
39. Enforcement Cases
40. Previously Authorized Activities
41. Duration of Authorization

**1. Other Permits.** Permittees 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 Corps jurisdiction, may be eligible for self-verification or PCN under this GP.

## **2. Federal Jurisdictional Boundaries**

Activities shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries depicted on permit drawings satisfy the Federal criteria defined at 33 CFR 328-329. See [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Jurisdictional Limits and Wetlands for more information on delineating jurisdictional areas.

## **3. Minimal Direct, Secondary, and Cumulative Effects<sup>14</sup>**

Projects shall have no more than minimal direct, secondary and cumulative adverse environmental effects. Project proponents shall predict secondary and cumulative effects to the extent reasonable and practicable. All PCNs should include this information.

## **4. Mitigation (Avoidance, Minimization, and Compensatory Mitigation)**

a. Activities must 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 at the project site (i.e., on site). Consideration of mitigation (avoiding, minimizing, rectifying, reducing, or compensating) is required to the extent necessary to ensure that the adverse effects to the aquatic environment are no more than minimal.<sup>15</sup>

b. Applicants shall consider riparian/forested buffers for stormwater management and low impact development (LID) best management practices (BMPs) to reduce impervious cover and manage stormwater to minimize impacts to the maximum extent practicable.<sup>15</sup>

c. Compensatory mitigation<sup>16</sup>:

i. Compensatory mitigation for effects on waters of the U.S., including direct, secondary and temporal effects<sup>17</sup>, will generally be required for activities requiring PCN to offset unavoidable impacts 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.

ii. For impacts to streams or other open waters that require PCN, the Corps will typically require compensatory mitigation to ensure that the activity results in no more than minimal adverse effects on the aquatic environment.

## **5. Single and Complete Projects<sup>18</sup>**

a. The use of more than one GP for a single and complete project is prohibited, except when the impact area of waters of the U.S. authorized by the GPs does not exceed the area limit of the GP with

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<sup>14</sup> Direct, secondary and cumulative effects are defined at Section VI, Definitions and Acronyms.

<sup>15</sup> See: [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources >> Mitigation for this additional information: a) “Wetland BMP Manual - Techniques for Avoidance & Minimization,” b) riparian/forested buffer BMPs, and c) LID BMPs. LID BMPs include, but are not limited to: replacing curbs and gutters with swales; using an open space design for subdivisions; using permeable, pervious or porous pavements; constructing bio-retention systems; and/or, adding a green roof or rain garden.

<sup>16</sup> See the New England District Compensatory Mitigation Guidance at [www.nae.usace.army.mil/regulatory/missions/regulatory.aspx](http://www.nae.usace.army.mil/regulatory/missions/regulatory.aspx) >> Mitigation.

<sup>17</sup> Temporal loss: The time lag between the loss 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).

<sup>18</sup> This is defined in Section VI - Definitions and Acronyms.  
NE GP, Section IV

the highest specified area limit. For example, if a road crossing over tidal waters is constructed under GP 10, with associated bank stabilization authorized by GP 7, Bank and Shoreline Stabilization, the maximum impact area of waters of the U.S. for the total project cannot exceed 1/2 acre.

The same GP cannot be used more than once for the same single and complete project.

b. A non-linear single and complete project<sup>18</sup> must have independent utility and may not be “piecemealed” to avoid the limits in a GP authorization. Proponents must quantify any historic permanent fill associated with the single and complete project and provide that information in the PCN.

c. Activities are not eligible for SV if they are part of an overall project for which an IP is required unless the Corps determines that the activity is a single and complete project based upon its analysis of the entire overall project.

## **6. Historic Properties**

a. No activity shall cause effects (defined at 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<sup>19</sup>, including identification of previously unknown historic properties within the permit area, unless the Corps or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA). The State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO) and the National Register of Historic Places can assist with locating information on: a) previously identified historic properties; and b) 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 the Corps and the SHPO and/or THPO(s).

b. For activities eligible for SV, proponents must ensure and document that the activity will not cause effects as stated in 6(a). Proponents must submit a PCN if the authorized activity may cause effects as stated in 6(a) as soon as possible to ensure that the Corps is aware of any potential effects of the permitted activity on any historic property to ensure all Section 106 requirements.

c. All PCNs shall: i) show notification to the SHPO and applicable THPO(s)<sup>20</sup> as specified in Section IX, Part B(2) 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, MA Board of Underwater Archaeological Resources (MA only) or THPO(s) indicating that there are or are not historic properties affected. Starting consultation early in project planning can save proponents time and money.

d. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. 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.

## **7. Corps Projects and Property**

a. In addition to any authorization under these GPs, proponents must contact the Corps Real Estate Division at (978) 318-8585 for work occurring on or potentially affecting Corps properties and/or Corps-controlled easements to initiate reviews and determine what real estate instruments are

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<sup>19</sup> The majority of 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 the Corps and the SHPO and/or THPO(s).

<sup>20</sup> Section IX, Part C, 3. Historic Resources, provides contact information and each tribe’s “area of concern.”

necessary to perform work. Permittees may not commence work on Corps properties and/or Corps-controlled easements until they have received any required Corps real estate documents evidencing site-specific permission to work.

b. Any proposed temporary or permanent modification or use of a Federal project (including but not limited to a levee, dike, floodwall, channel, anchorage, seawall, bulkhead, jetty, wharf, pier or other work built but not necessarily owned by the United States), which would 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 that go beyond minor modifications required for normal operations and maintenance, is not eligible for SV and requires review and approval by the Corps pursuant to 33 USC 408.

c. Any structure or work within any Corps Federal Navigation Project (FNP) or its buffer zone<sup>21</sup>, shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys. See GC 10 for more requirements related to FNPs.

## **8. Federal Threatened and Endangered Species**

a. No activity is authorized which: a) 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; b) "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed; or c) violates the ESA.

b. A PCN is required if a threatened or endangered species, a species proposed for listing as threatened or endangered, or designated or proposed critical habitat (all hereinafter referred to as "listed species or habitat"), as identified under the ESA, is present in the action area<sup>22</sup>. Applicants must check the following NMFS and USFWS websites to ensure that listed species or habitat are not present in the action area or to provide information on Federally-listed species or habitat to allow the Corps to conduct any required consultation under Section 7 of the ESA.

i. For tidal and non-tidal waters in CT, MA, NH, RI & VT, go to:

1. <http://ecos.fws.gov/ipac/>, select "Initial Project Scoping," and follow Step 1 - 3 to determine if listed species or habitat are present in the action area; and

2. <http://www.nero.noaa.gov/protected/section7>.

ii. For tidal and non-tidal waters in ME, go to:

1. [www.fws.gov/mainefieldoffice/Project%20reviews.html](http://www.fws.gov/mainefieldoffice/Project%20reviews.html); and

2. [www.nero.noaa.gov/prot\\_res/altsalmon/dpsmaps.html](http://www.nero.noaa.gov/prot_res/altsalmon/dpsmaps.html).

c. Federal agencies should follow their own procedures for complying with the requirements of the ESA. Work may be eligible for SV if another Federal agency has satisfied the requirements of Section 7 of the ESA. Upon request, permittees must provide the Corps with the appropriate documentation to demonstrate compliance with those requirements.

## **9. Wild and Scenic Rivers<sup>23</sup>**

a. The following activities in designated rivers or study rivers in the National Wild and Scenic River (WSR) System are not eligible for self-verification unless the National Park Service (NPS), or the White Mountain National Forest for the Wildcat Brook in NH (see Section IX, Part C for contact

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<sup>21</sup> See Section VI for a list of FNPs. The buffer zone is equal to three times the authorized depth of the FNP.

<sup>22</sup> The "Endangered Species Consultation Handbook – Procedures for Conducting Consultation and Conference Activities Under Section 7 of the ESA," defines action area as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. [50 CFR 402.02]."

<sup>23</sup> Additional information can be found at: <http://www.rivers.gov>.

information), has determined in writing to the proponent that the proposed work will not adversely affect the WSR designation or study status:

- i. Activities that occur in designated rivers or study rivers, in and 0.25 miles up or downstream of designated rivers or study rivers, or in tributaries within 0.25 miles of designated rivers or study rivers;
  - ii. Activities that occur in wetlands adjacent to the segments in 9(a)(i) above;
  - iii. Activities that have the potential to alter the free-flowing characteristics in designated rivers or study rivers.
- b. The designated rivers and study rivers in New England as of the issuance date of this GP are:
- i. CT: West Branch of the Farmington River from Colebrook to Canton; the Eightmile River and tributaries in Salem, Lyme and East Haddam; and the Lower Farmington River from Canton to Windsor (study river – including its tributary Salmon Brook).
  - ii. ME: Allagash River beginning at Telos Dam continuing to Allagash checkpoint at Eliza Hole Rapids, approximately 3 miles upstream of the confluence with the St. John River (length = 92 miles).
  - iii. MA:
    1. Sudbury/Assabet/Concord Rivers: The Sudbury from the Danforth Street bridge in Framingham downstream to the confluence with the Assabet, the Assabet from 1,000 feet below the Damon Mill Dam downstream to the confluence with the Sudbury, and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 bridge in Billerica.
    2. Westfield River: Shaker Mill Brook from Brooker Hill Road in Becket to its headwaters. The Upper East Branch from the Windsor/Cummington town line to its confluence; Upper East Branch Tributaries including Drowned Land Brook, Center Brook and Windsor Jamb's Brook. Headwater tributaries of the West Branch, including Shaker Mill Brook from Brooker Hill Road in Becket to its confluence with the West Branch; Depot Brook; Savery Brook; Watson Brook; and Center Pond Brook from Center Pond to its confluence with the West Branch. The Lower Middle Branch, East Branch, and Main Stem in the Town of Huntington (3.2 miles) and the Upper East Branch from its confluence with Sykes Brook to its confluence with the West Branch.
    3. Taunton River: From the confluence of the Town River and Matfield River in Bridgewater downstream to Mt. Hope Bay at the Route 195 bridge in Fall River.
  - iv. NH: Wildcat Brook from its headwaters to the confluence with the Ellis River, and the Lamprey River from the former West Epping Dam to the confluence with the Piscassic River.
  - v. RI: There are no designated Wild and Scenic Rivers or rivers designated as Study Rivers at the time this GP was issued. However, a bill has been introduced in Congress to study the Wood-Pawcatuck River system.
  - vi. VT:
    1. Missisquoi River from its headwaters in Lowell to the Canadian border in Troy (25 miles) and from the Canadian border in East Richford to Enosburg Falls (25 miles) (study river)
    2. Trout River from its headwaters to the confluence with the Missisquoi River (20 miles). (study river).

## 10. Navigation

- a. 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 permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.
- b. The permittee 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 permittee will be required, upon due notice from the Corps, 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.

c. A PCN is required for all work in, over or under an FNP or its buffer zone<sup>21</sup> except for the work authorized in GPs 1 and 16, and the work specified in GPs 2 and 4.

## 11. Federal Liability

In issuing this GP, 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 this permit; and
- d. Design or construction deficiencies associated with the permitted work;
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

## 12. Pile Driving and Removal

a. Derelict, degraded or abandoned piles in navigable waters, except for those inside of existing work footprints for piers, must be completely removed or cut and driven 3 feet below the surface to prevent interference with navigation and in some cases to remove polluting materials. Existing creosote piles in the project area that are affected by project activities should be completely removed. In areas of fine-grained substrates, piles must be removed by the direct, vibratory or clamshell pull method<sup>24</sup> to minimize turbidity and sedimentation 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. The TOY restrictions in GC 18 do not apply unless specified in a written determination.

b. Creosote piles are not authorized under this GP. Chromated copper arsenate (CCA) treated wood piles or other copper-treated piles shall not be placed in state-defined shellfish beds to prevent contaminants from leaching into this habitat.

All work in a) tidal waters; b) navigable waters that are rivers in CT, ME, MA and NH; and c) waters with Essential Fish Habitat in VT (see Section VI); shall comply with the following:

c. All pile-driving work must adhere to *one* of the following five methods. Pile driving can generate underwater sound pressure waves that may injure, harm or kill managed fish and prey species.

- i. Installed within the TOY window (i.e., may not occur within the TOY restriction) provided in GC 18;
- ii. Installed in the dry<sup>25</sup> provided that project activities do not encroach >25% of the waterway width at MLW;
- iii. Drilled and pinned to ledge;
- iv. Use of vibratory hammers to install any size and quantity; or

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<sup>24</sup> **Direct Pull:** Each piling is wrapped with a choker cable or chain that is attached at the top to a crane. The crane then pulls the piling directly upward, removing the piling from the sediment. **Vibratory Pull:** The vibratory hammer is a large mechanical device (5-16 tons) that is suspended from a crane by a cable. The vibrating hammer loosens the piling while the crane pulls up. **Clamshell Pull:** This can remove intact, broken or damaged pilings. The clamshell bucket is a hinged steel apparatus that operates like a set of steel jaws. The bucket is lowered from a crane and the jaws grasp the piling stub as the crane pulls up. The size of the clamshell bucket is minimized to reduce turbidity during piling removal.

<sup>25</sup> See the management techniques in GC 17(f). For pile driving, management techniques used to achieve dry conditions may be removed during the TOY window or restriction.

- v. Use of impact hammers provided they are limited to one hammer and <50 piles installed/day with the following: wood piles of any size, concrete piles ≤18-inches diameter, steel piles <12-inches diameter if the hammer is ≤3000 lbs and a wood cushion is used between the hammer and steel pile.
- d. The following are required for 12(c)(iii) through 12(c)(v) above<sup>26</sup>:
  - i. In-water noise levels shall not exceed >187dB SEL re 1μPa or 206dB peak re 1μPa, at any distance that is >10m from the pile being installed, and
  - ii. In-water noise levels >155dB peak re 1μPa shall not exceed 12 consecutive hours on any given day and a 12-hour recovery period (i.e., in-water noise below 155dB peak re 1μPa) must be provided between work days.

### **13. Utility Line Installation and Monitoring**

- a. Subsurface utility lines shall remain subsurface. If it is necessary to discharge dredged or filled material to keep such utility lines buried or restore them to their original subsurface condition, written verification from the Corps may be required (e.g., in the case of side casting into wetlands from utility trenches).
- b. Subsurface utility lines must be installed at a sufficient depth to avoid damage from anchors, dredging, etc., and to prevent exposure from erosion and stream adjustment. In accordance with Corps New England District Regulation NEDER 1110-1-9 ([www.nae.usace.army.mil/Missions/Regulatory](http://www.nae.usace.army.mil/Missions/Regulatory) >> [Useful Links and Documents](#)), as an absolute minimum, the bottom cover associated with the initial installation of utility lines under navigable waters and navigation channels shall be 48 inches in soil or 24 inches in rock excavation in competent rock unless specified in a written determination. These minimum bottom cover requirements for pipelines and cables shall be measured from the maximum depth of dredging to the top of the utility. The maximum depth of dredging, in waterways having existing FNPs, is generally considered to be the authorized project depth plus any allowance for advanced maintenance and the allowable overdepth for dredging tolerances. In waterways that do not have existing FNPs, this depth should be taken as two feet below the existing bottom or maximum depth of proposed dredging, as applicable.
- c. For horizontal directional drilling work, returns of drilling fluids to the surface (i.e., frac-outs) are not authorized and require restoration in accordance with the terms and conditions of this GP. The permittee and its contractor shall have onsite and shall implement the procedures detailed in a frac-out contingency plan for monitoring drilling operations and for the immediate containment, control and recovery/removal of drilling fluids released into the environment should a discharge of material occur during drilling operations.
- d. Abandoned or inactive utility lines must be removed and faulty lines (e.g., leaking hazardous substances, petroleum products, etc.) must be removed or repaired. A written verification is required if they are to remain in place, e.g., to protect sensitive areas or ensure safety.
- e. No work shall drain a water of the U.S. by providing a conduit for water on or below the surface. Trench plugs installed along pipelines may be effective.

### **14. Heavy Equipment in Wetlands**

- a. Operating heavy equipment in wetlands shall be minimized, and such equipment other than fixed equipment (drill rigs, fixed cranes, etc.) shall not be stored, maintained, fueled or repaired in wetlands unless the equipment is broken down and cannot be easily removed or unless it is more environmentally damaging to do otherwise. An adequate supply of spill containment equipment shall be maintained on site.

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<sup>26</sup> For more information, go to [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Information on Sound Impacts from Pile Driving.  
NE GP, Section IV

- b. Where construction requires heavy equipment operation in or across wetlands, the work shall result in no more than minimal adverse effects unless otherwise authorized. The equipment shall:
  - i. Have low ground pressure (typically  $\leq 3$  psi); or
  - ii. Be placed on swamp/construction/timber mats (herein referred to as “construction mats” and defined at Section VI) 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 equipment and upheaval of adjacent wetlands.
- c. General Condition 16 is particularly relevant to impacts from heavy equipment and construction mats, especially when work occurs on soils meeting these field indicators,<sup>27</sup> which are highly susceptible to shear forces: A1 (Histosol), A2 (Histic Epipedon), A3 (Black Histic), A10 (2cm Muck), S1 (Sandy Mucky Mineral), or S3 (5cm Mucky Peat or Peat).
- d. When construction mats are used, they shall be placed in the wetland from the upland or from equipment positioned on construction mats if working within a wetland. Dragging construction mats into position is prohibited. Construction mats should be managed in accordance with the Construction Mat Best Management Practices (BMPs) at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources.
- e. In tidal wetlands, no dredge work shall have equipment traverse, be placed, or stored on the marsh vegetation.

## 15. Temporary Fill

- a. 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, typically within three calendar days after disturbance. Accelerated stabilization (the providing of temporary or permanent cover by the end of the work day to prevent erosion) shall be employed as necessary. Temporary fill must be placed in a manner that will prevent it from being eroded by expected high flows.
- b. Unconfined temporary fill authorized for discharge into waters of the U.S. (e.g., temporary stream crossings) shall consist of material that minimizes impacts to water quality (e.g. washed stone, stone, etc.).
- c. 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. Place materials 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.
- d. 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 placed 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.
- e. Temporary fill, construction mats and corduroy roads are considered temporary only if they are removed as soon as they are no longer needed to construct the authorized work, and are considered permanent if they are in place more than 2 years.
- f. Construction debris and/or deteriorated materials shall not be located in waters of the U.S.

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<sup>27</sup> U.S. Department of Agriculture, Natural Resources Conservation Service, 2010. *Field Indicators of Hydric Soils in the United States*, Version 7.0. L.M. Vasilas, G. W. Hurt, and C.V. Noble (eds.)  
NE GP, Section IV

## **16. Restoration of Special Aquatic Sites**

- a. All SAS that are temporarily disturbed shall be restored to their pre-construction condition, function and elevation. Restoration shall commence no later than the completion of construction. A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions will be required unless otherwise stated. The physical actions of cut-and-fill work, land grading, construction equipment movement and the transport of building materials alter the architecture and structure of the soil, resulting in: the mixing of layers (horizons) of soil materials, compression of those materials and diminished soil porosity which, if left unchecked, severely impairs the soil's water holding capacity and vertical drainage (rainfall infiltration), from the surface downward.
- b. For excavated areas, restoration to pre-construction means careful removal of existing soil and vegetation, separate topsoil and subsoil stockpiling, soil protection, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized. Plan for natural settling that will occur (the initial post-restoration elevation of the backfilled areas should be above the desired final grade as topsoil may settle by 33% to 50%), minimize compaction, and ensure that topsoil is void of gravel and subsoil. A minimum of 4 inches of topsoil should be at the surface after the soil has settled. Limit compaction to the minimum needed to promote a successful seedbed; a 'fluffy' seedbed is susceptible to erosion until the plants get established, but a compacted topsoil layer is counter-productive and will lead to greater erosion susceptibility down the road. Test soils for compaction. A soil probe, auger, or shovel should be able to retrieve samples of post-restoration profile. Equipment refusal shall be considered a failure of restoration, in which case the soil should be restored through deep-ripping and/or decompaction, or other appropriate methods, and wetland hydrology must be maintained. Reference the documents at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources >> Restoration.
- c. To ensure restoration to the original condition, wetland areas temporarily disturbed by excavation shall be seeded or planted, and wetland areas not disturbed by excavation (e.g., equipment, construction mat placement, temporary fill, etc.) shall be seeded or planted as necessary. Seed mixes and vegetation shall include only plant species native to New England and shall not include any species listed in Appendix D - "Invasive and Other Unacceptable Plant Species" in the "New England District Compensatory Mitigation Guidance" (see GC 25). This list may be updated periodically.
- d. In areas of authorized temporary disturbance, cut woody vegetation (trees, shrubs, etc.) 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.
- e. Trenches shall be constructed or backfilled so that the trench does not drain waters of the U.S. (e.g., materials or methods that create a French drain effect).

## **17. Soil Erosion, Sediment and Turbidity Controls**

- a. Appropriate soil erosion, sediment and turbidity controls<sup>28</sup> must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date. Erosion, sediment and turbidity controls shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment.

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<sup>28</sup> Appropriate soil erosion and sediment controls are management measures, practices and devices, such as phased construction, 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, retention of existing vegetated buffers, application of temporary mulching during construction, and permanent seeding and stabilization, etc.

b. Temporary soil erosion, sediment and turbidity controls shall be removed promptly upon completion of work, but not until all disturbed areas are permanently stabilized. The sediment 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<sup>29</sup>, appropriate, and flows, animal passage, etc. are not disrupted. Biodegradable controls left in place, such as rolled erosion control products (RECPs) (e.g., mulch control netting, erosion control blankets, turf mats, mulch socks, fiber rolls, wattles, etc.), must be composed of 100% natural biodegradable material. Photodegradable, UV degradable or Oxo-(bio)degradable plastics are not considered biodegradable for the purposes of this requirement. When RECPs reinforced with netting must be used, the mesh or aperture size should be as large as possible to avoid wildlife entrapment and should have a loose-weave wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement. Avoid the use of silt fences reinforced with metal or plastic mesh or the mesh or aperture size should be as large as possible. See the Wildlife-Friendly Plastic-Free Netting BMP document located at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources.

c. Permittees are encouraged to perform work within waters of the U.S. during periods of low-flow or no-flow conditions, or when the tide is waterward of the work.

d. Work occurring within 25 feet of tidal SAS or shellfish beds must utilize appropriate controls and techniques to minimize direct and secondary impacts.

e. Trenches must be backfilled as soon as practicable after pipeline installation to reduce turbidity impact duration.

f. There shall be no unconfined fill, excavation, turbidity causing, or sediment resuspending work (e.g., grading, excavation, beach nourishment, etc.) in flowing or tidal waters. This may be accomplished by working in dry conditions, which may occur during periods of no flow (proponents must plan for unexpected high flows), when the tide is waterward of the work, or by confining and dewatering the work site using appropriate management techniques<sup>30</sup>.

Management techniques: i. These must be installed and removed during the TOY work window in GC 18, but removal of non-embedded management techniques (e.g., jersey barriers) may occur during the TOY restriction provided any released sediment does not elevate background turbidity conditions by more than five nephelometric turbidity units (NTU) over pre-removal conditions for more than 30 minutes as determined by in-water monitoring; and ii) Confined work may be conducted during the TOY restriction, but water diversions<sup>31</sup> must be conducted during the TOY work window and confined work may not encroach >50% of the waterway width at OHW or MLW during the TOY restriction. The accumulated sediment behind the management techniques must be removed and impacted areas shall be stabilized before removal of the management techniques. The material within sandbags shall not be released (e.g., sandbag slicing) during their removal. The Corps may waive any part of 17(f) with a written determination concluding that the work will result in no more than minimal adverse effects.

g. Bank stabilization activities authorized in Activities 1 and 7 are not subject to the requirements in (f) above. General conditions 17(a) -17(c) and 18 are particularly relevant.

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<sup>29</sup> Defined in Section VI, Definitions and Acronyms.

<sup>30</sup> Management techniques used to achieve dry conditions may involve cofferdams, bypass pumping around barriers immediately up and downstream of the work footprint (e.g., “dam and pump”), erosion control barriers for work that is adjacent to streams, etc.

<sup>31</sup> Water diversions are activities such as bypass pumping (e.g., “dam and pump”) or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary’s confines aren’t water diversions. “Normal flows” are defined as no change in flow from pre-project conditions.

## 18. Time of Year Work Windows and Restrictions

a. Work must be conducted during the time of year (TOY) work windows (i.e., shall not occur during the TOY restriction) in (b) and (c) below unless: i) stated in a written state determination as specified in (c) below or the Corps waives these requirements by making a written determination concluding that the work will result in no more than minimal adverse effects (applicants should demonstrate the need for a modification and any mitigating factors); or ii) specified elsewhere in this GP [e.g., GC 17(f)] or in the following three bullets unless required by the pile-driving requirements of GC 12, in written determination, or the work causes turbidity or sediment resuspension in streams or tidal waters:

- Non-stream and non-tidal work; or
- Activities 2, 4, 19 and 21;
- Activities 3, 16 & 18 (except as specified in the GP 3, 16 & 18 notes),

b. In non-tidal streams, the TOY work windows/restrictions are as follows. The TOY work windows typically coincide with the low flow period:

	<u>TOY Restriction</u>	<u>TOY Work Window</u>
CT	Oct 01 to May 31	Jun 1 to Sep 30
ME	Oct. 02 to Jul. 14	Jul. 15 to Oct. 01
MA	See (c)(ii) below.	See (c)(ii) below.
NH	Oct. 02 to Jul. 14	Jul. 15 to Oct. 01
RI	See (c)(v) below.	See (c)(v) below.
VT	Oct. 01 to Jun. 30	Jul. 01 to Sep. 30

In tidal waters, including streams, the TOY windows/restrictions are as follows:

	<u>TOY Restriction</u>	<u>TOY Work Window</u>
CT	Feb. 01 to Sep. 30	Oct. 01 to Jan. 31
ME	Mar. 16 to Nov. 14	Nov. 15 to Mar. 15
MA	See (c)(ii) below.	See (c)(ii) below.
NH	Mar. 16 to Nov. 14	Nov. 15 to Mar. 15
RI	See (c)(v) below.	See (c)(v) below.

c. Project proponents may consult with the following offices in order for them to modify in writing the TOY window/restrictions in (b) above:

i. In CT, the DEEP Inland Fisheries Division, with the concurrence of the DEEP Inland Water Resources Division or DEEP OLISP;

ii. In MA, the MA Department of Environmental Protection (MassDEP) or conservation commission after consulting with the MA Division of Marine Fisheries (DMF) or MA Division of Fisheries and Wildlife (DF&W). Work shall not be conducted during the TOY restrictions for any tidal water, including streams, or any non-tidal stream, with a species that has a “*spawning run/habitat present*” listed in Appendix B of the MA DMF Technical Report TR-47 at

[www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >>

Massachusetts. The following apply for waterbodies not yet listed in Appendix B of the MA DMF document unless the MA DMF or MA DF&W specify a different TOY window/restriction in writing after consulting with their offices:

	<u>TOY Restriction</u>	<u>TOY Work Window</u>
MA (non-tidal streams)	Sep. 01 to Jun. 30	Jul. 01 to Aug. 31
MA (tidal waters)	Feb. 14 to Nov. 15	Nov. 16 to Feb. 15

iii. In ME, the Department of Marine Resources and Department of Inland Fisheries and Wildlife;

iv. In NH, the NH DES Wetlands Bureau after consulting with [the NH Fish and Game Department](#);

v. In RI's non-tidal streams, the TOY windows/restrictions are as follows unless the RI DEM specifies a different TOY window/restriction in writing after consulting with their offices. The non-anadromous TOY windows/restrictions coincide with the low flow period.

	<u>TOY Restriction</u>	<u>TOY Work Window</u>
RI (anadromous) <sup>32</sup>	Sep. 16 to Jun. 30	Jul. 01 to Sep. 15
RI (non-anadromous)	Nov. 01 to Jun. 30	Jul. 01 to Oct. 31

In RI's tidal waters, including streams, the TOY windows/restrictions are as follows unless the RI CRMC specifies a different TOY window/restriction in writing after consulting with their offices. The non-anadromous TOY windows/restrictions coincide with the low flow period and the RI dredge window.

	<u>TOY Restriction</u>	<u>TOY Work Window</u>
RI (anadromous) <sup>32</sup>	Feb. 01 to Nov. 14	Nov. 15 to Jan. 31
RI (non-anadromous)	Feb. 01 to Oct. 14	Oct. 15 to Jan. 31

vi. In VT, the River Management Program under the VT Stream Alteration General Permit or Title 19 Permit after consulting with the VT Fish & Wildlife Department.

d. The Corps may modify TOY restrictions for a particular region(s) for a specified time period during emergency situations.

## 19. Aquatic Life Movements & Management of Water Flows

a. No activity may impede or 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 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 (e.g., streams, wetlands) shall be:

i. Suitably culverted, bridged, 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 culvert. Permanent and temporary crossings of wetlands shall be suitably culverted, spanned or bridged in such a manner as to preserve hydraulic and ecological connectivity between the wetlands on either side of the road.

b. To avoid adverse impacts on aquatic organisms, the low flow channel/thalweg shall remain unobstructed during periods of low flow, except when it is necessary to perform the authorized work.

c. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must 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 preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

## 20. Water Quality and Coastal Zone Management

a. Applicants must satisfy any conditions imposed by states and EPA, where applicable, in their CWA § 401 Water Quality Certifications (WQC) for these NE GPs, or in any Individual § 401 WQC. See Section IX, Part A, for state-specific information and to determine if any action is required to obtain a 401 WQC. The Corps 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

<sup>32</sup> See the document "Waterbodies in RI With Anadromous Fish" at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Rhode Island.

projects authorized by these NE GPs shall be designed, constructed and operated to minimize or eliminate the discharge of pollutants. The Corps will review all PCNs to determine if a project may result in a discharge of relevant pollutants to an impaired water.

b. Applicants must satisfy any additional conditions imposed by states in their Coastal Zone Management (CZM) Act consistency concurrences for this GP, or in any Individual CZM consistency concurrences. See Section IX, Part A, for state-specific information and to determine if any action is required to obtain an Individual CZM consistency concurrence. The Corps may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

## **21. Floodplains and Floodways**

a. Appropriate measures must be taken to minimize flooding to the maximum extent practicable.

b. Activities within 100-Year Floodplains must comply with applicable Federal Emergency Management Agency (FEMA)-approved state and/or local floodplain management permitting requirements. Proponents may need to coordinate with FEMA and apply for a formal change to the flood insurance study products or forward a set of project plans and relevant technical documentation in a digital format to the Risk Analysis Branch Chief, Mitigation Division, FEMA, Region 1, 99 High Street, Boston, Massachusetts 02110. Applicants should provide a copy of any documentation to the Corps along with the PCN.

**22. Storage of Seasonal Structures.** Seasonal or recreational structures such as pier sections, floats, aquaculture structures, 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 landward of mean high water (MHW) or OHW and not in wetlands, tidal wetlands, their substrate or mudflats. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is waterward of MHW or OHW. Seasonal storage of structures in navigable waters, e.g., in a protected cove on a mooring, requires Corps approval.

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

a. Activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities in 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. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

b. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee 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 permittee should contact the Corps or appropriate local office of the USFWS to determine if such “take” permits are required for a particular activity.

## **24. Vernal Pools**

a. Direct, secondary and cumulative adverse effects to all vernal pools (VPs), including their envelopes and critical terrestrial habitats,<sup>33</sup> shall be avoided and minimized<sup>34</sup> to the maximum extent

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<sup>33</sup> The VP depression, envelope, and critical terrestrial habitat are defined in Section VI, Definitions and Acronyms.

<sup>34</sup> The following provide conservation recommendations and are located at

[www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources:

NE GP, Section IV



practicable. See VP BMPs at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources. Site clearing, grading and construction activities associated with a regulated activity<sup>35</sup> in the VP depression, envelope or critical terrestrial habitat may cause secondary or cumulative effects to the VP.

b. All waters of the U.S. on the project site should be investigated<sup>36</sup> to determine whether or not they are VPs. For the PCN's project plans, show all VPs that are located: i) less than 500 feet offsite and known (based upon searches of publically available documentation, including databases, GIS mapping, regulatory agency or historical records, etc.), and ii) onsite based upon the information in 24(b)(i) above and field surveys.

c. A PCN is required when (see the documents in Footnote 34 for avoidance and minimization practices that the Corps will use during its review):

i. A discharge of dredge or fill material occurs within a VP depression; or

ii. There is a VP depression, either offsite (if known) or onsite, within 500 feet of any regulated activity.<sup>35</sup>

d. GC 24(c)(i) and (c)(ii) do not apply to temporary construction mats in previously disturbed areas of existing 1) utility project right-of-ways (e.g., electric transmission lines and gas pipelines) or 2) linear transportation projects (e.g., roads, highways, railways, trails, airport runways and taxiways), provided there is a Vegetation Management Plan or equivalent BMPs that avoid, minimize and mitigate impacts to aquatic resources.

e. GC 24(a) and (c) do not apply to projects that are within a municipality and meet the provisions of a Corps-approved VP Special Area Management Plan (VP SAMP) and are otherwise eligible for self-verification.

f. The states of CT, MA, ME, NH, RI and VT have specific protections for certain wetland areas. See the state-specific supplements (Section IX, Part A) for more information.

## **25. Invasive and Other Unacceptable Species<sup>37</sup>**

a. The introduction or spread of invasive or other unacceptable plant or animal species on the project site or areas adjacent to the project site caused by the site work shall be avoided to the maximum extent practicable. For example, construction mats and equipment shall be thoroughly cleaned and free of vegetation and soil before and after use. The introduction or spread of invasive plant or animal species on the project site caused by the site work shall be controlled.

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a. Corps VP BMPs

b. Best Development Practices: Conserving pool-breeding amphibians in residential and commercial development in the northeastern U.S., Calhoun and Klemens, 2002. Chapter III, Management Goals and Recommendations, Pages 15 – 26, is particularly relevant.

c. Science and Conservation of Vernal Pools in Northeastern North America, Calhoun and deMaynadier, 2008. Chapter 12, Conservation Recommendations section, Page 241, is particularly relevant.

<sup>35</sup> The discharge of dredged or fill material into waters of the U.S., or structure or work in navigable waters. See Section II, Page 3.

<sup>36</sup> Investigations shall be conducted in accordance with the Corps document titled "Vernal Pool Assessment," which includes information on conducting investigations during dry periods, and the accompanying "Vernal Pool Characterization Form." See [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Permit Resources.

<sup>37</sup> For the purposes of this GP, plant species that are considered invasive and unacceptable are provided in Appendix D "Invasive and other Unacceptable Plant Species" of our document "Compensatory Mitigation Guidance" at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Mitigation. Chapter 4(e) Planting is also particularly relevant. The June 2009 "Corps of Engineers Invasive Species Policy" provides policy, goals and objectives and is located at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Invasive Species. Additional information can be found at: [www.eddmaps.org/ipane](http://www.eddmaps.org/ipane).

b. No cultivars, invasive or other unacceptable plant species may be used for any mitigation, bioengineering, vegetative bank stabilization or any other work authorized by this GP. However, non-native species and cultivars may be used when it is appropriate and specified in a written verification, such as using *Secale cereale* (Annual Rye) to quickly stabilize a site. All PCNs should explain the reason for using non-native species or cultivars.

**26. St. John/St. Croix Rivers (ME only).** Work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission is not eligible for self-verification and a PCN is required if any temporary or permanent use, obstruction or diversion of international boundary waters could affect the natural flow or levels of waters on the Canadian side of the line; or if any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters could raise the natural level of water on the Canadian side of the boundary.

**27. Cape Cod Canal Review Area (MA only).** Any work in the area of the Cape Cod Canal located west of the vertical lift railroad bridge as detailed in Section IX, Part F is not eligible for self-verification and requires PCN.

**28. Programmatic Agreements.** The Corps requirements to comply with Section 106 of the NHPA, Section 7 of the Endangered Species Act or Essential Fish Habitat conservation under the Magnuson-Stevens Act may be satisfied by a Programmatic Agreement with the Corps, New England District or another Federal action agency. Activities may then be eligible for self-verification. Any New England District Programmatic Agreements will be available on our website.

**29. Permit On Site.** The permittee shall ensure that a copy of this GP and any accompanying authorization letter with attached plans are at the site of the work authorized by this GP whenever work is being performed and that all construction personnel are aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and subcontracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this GP. This shall be achieved by including the entire permit authorization in the specifications for work. The term “entire permit authorization” means this GP or its general conditions and the authorization letter (including its drawings, plans, appendices and other attachments) and also includes 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 subcontract. Although the permittee may assign various aspects of the work to different contractors or subcontractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization, and no contract or subcontract shall require or allow unauthorized work in areas of Corps jurisdiction.

**30. Self-Verification Notification Form.** Permittees must submit the SVNF provided at Section VII to the Corps before starting work authorized by this GP in MA, ME and VT, and work in non-tidal waters in CT and RI. The SVNF is not required for work in NH and work in tidal waters in CT and RI as the Corps may review this work through each state’s notification process as applicable. The SVNF is also not required for the work specified in the notes to GPs 19 and 21.

See the state-specific application/notification procedures in Section IX, Part B for more information.

**31. Inspections.** The permittee shall allow the Corps to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and NE GP, Section IV

conditions of this GP and any written verification. The Corps may also require post-construction engineering drawings for completed work or post-dredging survey drawings for any dredging work. To facilitate these inspections, the permittee shall complete and return to the Corps the following forms:

- For Self-Verification: The SVNF (see Section VII).
- For PCN: The a) Work-Start Notification Form and b) Compliance Certification Form, when either are provided with the authorization letter.

### **32. Maintenance**

- a. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable general conditions and activity-specific conditions to a written verification.
- b. The requirement in (a) above does not include maintenance of dredging projects. Each maintenance dredging event exceeding the self-verification limits requires a new PCN unless an unexpired, written PCN or other Corps authorization specifies that the permittee may “dredge and maintain” an area for a particular time period. Self-verification or PCN maintenance dredging includes only those areas and depths previously authorized and actually dredged.
- c. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2). See Section III, GP 1.

**33. Property Rights.** This GP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.

**34. Transfer of GP Verifications.** When the structures or work authorized by these GPs are 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 permittee sells the property associated with a GP verification, the permittee may transfer the GP verification to the new owner by submitting a letter to the Corps (see Part E for address) to validate the transfer. A copy of the GP verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by these GPs are 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 new owner(s) of the property. To validate the transfer of these GPs and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

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(Transferee)

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(Date)

**35. Modification, Suspension, and Revocation.** These GPs or any work authorized under these GPs by self-verification or PCN may be either modified, suspended, or revoked, in whole or in part, pursuant to the policies and procedures of 33 CFR 325.7. Any such action shall not be the basis for any claim for damages against the U.S.

**36. Special Conditions.** The Corps may independently, or at the request of the Federal resource agencies, impose other special conditions on a project authorized pursuant to this GP 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 terms and conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee to criminal, civil or administrative penalties and/or an ordered restoration.

**37. False or Incomplete Information.** If the Corps 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 permittee, the Corps may determine that the GP authorization is not valid; modify, suspend or revoke the authorization; and the U.S. Government may institute legal proceedings.

**38. Abandonment.** If the permittee abandons or 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 obtain written verification from the Corps and may be required to restore the area to the satisfaction of the Corps.

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

**40. Previously Authorized Activities**

- a. Any work that was authorized in accordance with the state GPs for CT, ME, MA, NH, RI and VT that were in effect at the time these NE GPs were issued, remain in effect in accordance with the original provisions of those state GPs, including its terms, general conditions, and any special conditions in the written verification letter.
- b. Projects authorized and completed under the previous GPs, Programmatic GPs (PGPs), nationwide permits, or regional general permits, are not affected by this GP.
- c. Activities authorized pursuant to 33 CFR 330.3 (“Activities occurring before certain dates”) are not affected by this GP.

**41. Duration of Authorization**

- a. These GPs expire on January 20, 2020. Activities authorized under these NE GPs that have either commenced (i.e., are under construction) or are under contract to commence before these NE GPs expire will have until January 20, 2021 to complete the activity under the terms and conditions of the current GP. The permittee must be able to document to the Corps satisfaction that the project was under construction or under contract by the appropriate date. If work is not completed within the one year extended timeframe, the permittee must contact the Corps if he/she wants the work to continue to be authorized after that date.
- b. Activities completed under these NE GPs will continue to be authorized.

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**DISTRICT ENGINEER**

**DATE**



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## **V: Content of Pre-Construction Notification**

Applicants may email applications to [cenae-r@usace.army.mil](mailto:cenae-r@usace.army.mil). In addition to the following required information, the applicant must provide additional information as the Corps deems essential to make a public interest determination including, where applicable, a determination of compliance with the Section 404(b)(1) guidelines or ocean dumping criteria. Such additional information may include environmental data and information on alternate methods and sites as may be necessary for the preparation of the required environmental documentation. For a more comprehensive checklist, go to [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Forms >> Application and Plan Guideline Checklist. Please check with the Corps for project-specific requirements.

### **Information required for all projects:**

- Corps application form ([ENG Form 4345](#)) or appropriate state application form (see Section IX, Part B). Forms may need to be supplemented to include the information noted below.
- Proof of notification to the SHPO and the appropriate THPOs (see Section IX, Part B).
- Drawings, sketches, or plans (detailed engineering plans and specifications are not required) that are legible, reproducible (color is acceptable, but features must be distinguishable in black and white), no larger than 11"x17", with bar scale. Wetland area impact sheets should have the highest resolution possible to show work within Corps jurisdiction (do not just reduce project overview or cut large-scale plan into quadrant sheets). Provide locus map and a plan overview of the entire property with a key index to the individual impact sheets. Digital submissions are encouraged. Include:
  - All direct, secondary, permanent and temporary effects the project would cause, including the anticipated amount of loss of water of the U.S. expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure.
  - Any historic permanent fill associated with each single and complete project.
  - Cross-section views of all wetland and waterway fill areas and wetland replication areas.
  - Delineation of all wetlands, other special aquatic sites (vegetated shallows, saltmarsh, mudflats, riffles and pools, coral reefs, and sanctuaries and refuges), and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Use Federal delineation methods and include Corps wetland delineation data sheets (see GC 2).
  - MLW and MHW elevations in tidal waters. Show the HTL elevations [and the coastal jurisdiction line (CJL) in CT] when fill is involved. Show OHW elevation in lakes and non-tidal streams.
  - Existing and proposed conditions.
  - For vegetated shallow and eelgrass survey guidance, see [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Jurisdictional Limits and Wetlands >> Submerged Aquatic Vegetation Survey Guidance for the New England Region.
  - Show all known VPs on the project site. See GC 24 for vernal pool identification requirements.
- 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 OHW in inland waters and below the HTL in coastal waters.
- The name(s) of Federal or state "listed species or habitat" present in the action area (see GC 8).
- A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions (see GC 16).

### **Information that may be required:**

- Photographs of wetland/waterway to be impacted. Photos at low tide are preferred for work in tidal waters.
- For drawings, sketches, or plans:
  - The vertical datum for all coastal projects must be in U.S. survey feet and referenced to NAVD 88 and new tidal epochs. Don't use local datum. See [www.nae.usace.army.mil/Missions/Regulatory.aspx](http://www.nae.usace.army.mil/Missions/Regulatory.aspx) >> [Forms and Publications](#);
  - The horizontal state plane coordinates shall be in U.S. survey feet and based on the appropriate state plane coordinate system.
- For the construction of a filled area or pile or float-supported platform, the use of, and specific structures to be erected on, the fill or platform.
- For the discharge of dredged or fill material into waters of the U.S. or the transportation of dredged material for the purpose of disposing of it in ocean waters, the source of the material; the purpose of the discharge, a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site.
- For the discharge 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. Include either a statement describing how impacts to waters of the U.S. are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts.
- Purpose and need for the proposed activity;
- Information on permanent, temporary, direct, secondary, and cumulative effects associated with the project.
- Limits and coordinates of any Federal Navigation Project in the vicinity of the project area.
- Limits and coordinates of any proposed mooring field, reconfiguration zone or aquaculture activity. Provide coordinates for all corners.
- Schedule of construction/activity;
- Names and addresses of adjoining property owners;
- Location and dimensions of adjacent structures;
- List of authorizations required by other Federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.
- Identification and description of potential impacts to Essential Fish Habitat (defined at VI. Definitions and Acronyms).
- Invasive Species Control Plan (see GC 25). For sample control plans, see [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Invasive Species.
- Wildlife Action Plan (WAP) maps are available in all 6 states, but only ME, MA and NH have a mapping component to them.

### **Information for dredging projects that may be required:**

- Sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing. For projects proposing open water disposal, applicants are encouraged to contact the Corps as early as possible regarding sampling and testing protocols. Sampling and testing of sediments without such contact should not occur and if done, would be at the applicant's risk.
- The area in square feet and volume of material to be dredged below mean high water.
- Existing and proposed water depths.
- Type of dredging equipment to be used.
- Nature of material (e.g., silty sand).
- Any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects.
- Information on the location and nature of municipal or industrial discharges and occurrence of any

contaminant spills in or near the project area.

- Shellfish survey.
- Location of the disposal site (include locus sheet).
- Identification and description of any potential impacts to Essential Fish Habitat.
- Delineation of submerged aquatic vegetation (e.g., eelgrass beds).

**Information for aquaculture projects that may be required:**

- In addition to the information required above, applications must also include:
  - A map showing the boundaries of the project area, with latitude and longitude coordinates for each corner of the project area;
  - Name(s) of the cultivated species;
  - Whether canopy predator nets are being used.

## VI. DEFINITIONS AND ACRONYMS

### Definitions

**Attendant Features:** Occurring with or as a result of; accompanying.

**Biodegradable:** A material that decomposes into elements found in nature within a reasonably short period of time and will not leave a residue of plastic or a petroleum derivative in the environment after degradation. Examples of biodegradable materials include jute, sisal, cotton, straw, burlap, coconut husk fiber (coir) or excelsior. In contrast, degradable plastics break down into plastic fragments that remain in the environment after degradation.

**Boating facilities:** These provide, rent or sell mooring space, such as marinas, yacht clubs, boat yards, dockminiums, town facilities, land/home owners, etc. Not classified as boating facilities are piers shared between two abutting properties or town mooring fields that charge an equitable user fee based on the actual costs incurred.

**Brushing the Flats:** The placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats, or any bottom disturbance (e.g., discing, plowing, raking, etc.), to enhance recruitment of shellfish.

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

**Construction mats:** Constructions, 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 a variety of materials in various sizes. A timber mat consists of large timbers bolted or cabled together. Corduroy roads, which are not considered to be construction mats, are cut trees 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 effects:** See “Direct, secondary, and cumulative effects.”

### **Direct, secondary, and cumulative effects:**

Direct Effects: The loss of aquatic ecosystem within the footprint of the discharge of dredged or fill material. Direct effects are caused by the action and occur at the same time and place.

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 all 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).

Cumulative Effects: The changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual 1) discharges of dredged or fill material, or 2) structures. Although the impact of a particular discharge may constitute a minor change in itself, the cumulative effect of numerous such piecemeal changes can result in a major impairment of the water resources and interfere with the productivity and water quality of existing aquatic ecosystems. See 40 CFR 230(g).

### **Dredging:**

Maintenance Dredging: Includes areas and depths previously authorized by the Corps and dredged. The Corps may require proof of authorization. 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. Routine maintenance dredging is conducted regularly for navigational purposes (typically at least once every ten years) and does not include any expansion of the previously dredged area or depth. The Corps may review a maintenance



dredging activity as new dredging if sufficient time has elapsed to allow for the colonization of SAS, shellfish, etc. The main characteristics of maintenance dredging projects are:

- variable quantities of material;
- soft, uncompacted soil;
- contaminant content possible;
- thin layers of material;
- occurring in navigation channels and harbors;
- repetitive activity

**New Dredging:** Dredging of an area or to a depth that has never been authorized by the Corps or dredged.

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

**Essential Fish Habitat (EFH):** This is broadly defined to include those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. The following streams in the Connecticut River watershed in Vermont are stocked with Atlantic salmon. See GC 12 for more information.

- Black River (from its mouth in Springfield to its headwaters)
- Connecticut River
- Deerfield River
- Ompompanoosuc River
- Ottauquechee River
- Nulhegan River
- Passumpsic River
- Paul Stream
- Saxtons River
- Stevens River
- Wells River
- West River
- White River
- Williams River

**Fill material & discharge of fill material:** These are defined at 323.2(e) and (f). The term fill material is defined as material placed in waters of the U.S. where the material has the effect of either replacing any portion of a water of the U.S. with dry land or changing the bottom elevation of any portion of a water of the U.S.

**Federal anchorages, Federal channels and Federal turning basin:** See Federal navigation projects below.

**Federal navigation projects (FNPs):** These areas are maintained by the Corps; authorized, constructed and maintained on the premise that they will be accessible and available to all on equal terms; and are comprised of Federal Anchorages, Federal Channels and Federal Turning Basins. The buffer zone is equal to three times the authorized depth of a FNP. More information on the following FNPs is provided at [www.nae.usace.army.mil/missions/navigation.aspx](http://www.nae.usace.army.mil/missions/navigation.aspx) >> Navigation Projects.

**Connecticut**

- |                                   |   |                                     |
|-----------------------------------|---|-------------------------------------|
| Black Rock Harbor                 | Housatonic River                            | Patchogue River                     |
| Branford Harbor                   | Little Narragansett Bay and Watch Hill Cove | Pawcatuck River                     |
| Bridgeport Harbor                 | Mianus River                                | Southport Harbor                    |
| Clinton Harbor                    | Milford Harbor                              | Stamford Harbor                     |
| Connecticut River                 | Mystic River                                | Stonington Harbor                   |
| Duck Island Harbor                | New Haven Breakwater                        | Stony Creek                         |
| Fivemile River Harbor             | New Haven Harbor                            | Thames River                        |
| Greenwich Harbor                  | New London Harbor                           | Westcott Cove                       |
| Guilford Harbor                   | Niantic Bay and Harbor                      | Westport Harbor and Saugatuck River |
| Hay (West) Harbor, Fishers Island | Norwalk Harbor                              | Wilson Point Harbor                 |

**Maine**

- |                  |                      |                          |
|------------------|----------------------|--------------------------|
| Bagaduce River   | Bunker Harbor        | Damariscotta River       |
| Bar Harbor       | Camden Harbor        | Deer Island Thoroughfare |
| Bass Harbor      | Cape Porpoise Harbor | Frenchboro Harbor        |
| Bass Harbor Bar  | Carvers Harbor       | Georges River            |
| Beals Harbor     | Cathance River       | Harraseeket River        |
| Belfast Harbor   | Cobscook Bay         | Hendricks Harbor         |
| Bucks Harbor     | Corea Harbor         | Isle Au Haut             |
| Bucksport Harbor | Criehaven Harbor     | Thoroughfare             |

Isles of Shoals Harbor  
Jonesport Harbor  
Josias River  
Kennebec River  
Kennebunk River  
Lubec Channel  
Machias River  
Matinicus Harbor  
Medomak River  
Moosabec Bar  
Narraguagus River  
New Harbor  
Owls Head Harbor  
Penobscot River

**Massachusetts**

Andrews River, Harwich, MA  
Aunt Lydia's Cove  
Beverly Harbor  
Boston Harbor  
Buttermilk Bay Channel  
Canapitsit Channel  
Cape Cod Canal  
Chatham Harbor  
Cohasset Harbor  
Cross Rip Shoals,  
Nantucket Sound  
Cuttyhunk Harbor  
Dorchester Bay and  
Neponset River  
Duxbury Harbor  
Edgartown Harbor  
Essex River  
Fall River Harbor  
Falmouth Harbor  
Gloucester Harbor and  
Annisquam River

**New Hampshire**

Bellamy River (Dover, NH)  
Cocheco River (Dover, NH)  
Exeter River (Exeter, NH  
to Great Bay)  
Hampton Harbor  
Isles of Shoals Harbor

**Rhode Island**

Apponaug Cove  
Block Island (Great Salt Pond)

Pepperell Cove  
Pig Island Gut  
Pleasant River  
Portland Harbor  
Portsmouth Harbor and  
Piscataqua River  
Richmond Harbor  
Richmond Island Harbor  
Rockland Harbor  
Rockport Harbor  
Royal River  
Saco River  
Sasanoa River  
Scarboro River

Green Harbor  
Hingham Harbor  
Hyannis Harbor  
Ipswich River  
Island End River  
(Chelsea, MA)  
Kingston Harbor  
Lagoon Pond  
Little Harbor Woods Hole  
Lynn Harbor  
Malden River  
Menemsha Creek  
Merrimack River  
Mystic River  
Nantucket Harbor of Refuge  
New Bedford and  
Fairhaven Harbor  
Newburyport Harbor  
Oak Bluffs Harbor  
Pigeon Cove Harbor  
Plymouth Harbor

Lake Winnepesaukee  
(Meredith Bay to Paugus  
Bay)  
Lamprey River (Newmarket  
to Great Bay)  
Little Harbor

Block Island Harbor of  
Refuge  
Bullocks Point Cove

Searsport Harbor  
South Bristol Harbor  
Southwest Harbor  
St. Croix River  
Stockton Harbor  
Stonington Harbor  
Sullivan Falls Harbor  
Union River  
Wells Harbor  
Winter Harbor  
Wood Island Harbor and  
The Pool at Biddeford  
York Harbor

Pollock Rip Shoals,  
Nantucket Sound  
Provincetown Harbor  
Red Brook Harbor  
Rockport Harbor  
Salem Harbor  
Sandy Bay Harbor of Refuge  
Saugus River  
Scituate Harbor  
Sesuit Harbor  
Taunton River  
Vineyard Haven Harbor  
Wareham Harbor  
Wellfleet Harbor  
Westport River and Harbor  
Weymouth Back River  
Weymouth Fore and  
Town Rivers  
Winthrop Harbor  
Woods Hole Channel

Portsmouth Harbor and  
Piscataqua River  
Rye Harbor

Coasters Island Harbor  
Greenwich Bay

Little Narragansett Bay  
and Watch Hill Cove  
Newport Harbor  
Oakland Beach  
Pawcatuck River  
Pawtuxet Cove

Point Judith Pond and  
Harbor of Refuge  
Potowomut River  
Providence River and Harbor  
Sakonnet Harbor  
Sakonnet River

Seekonk River  
Warren River  
Warwick Cove  
Wickford Harbor

**Vermont:**

Lake Champlain - Burlington Harbor, Burlington, VT  
Lake Champlain - Gordons Landing, Grand Isle, VT  
Lake Champlain - Channel between North and South Hero Islands  
Lake Champlain - Narrows of Lake Champlain  
Lake Champlain - St. Albans Harbor, St. Albans, VT  
Lake Champlain - Swanton Harbor, Swanton, VT  
Otter Creek from the mouth at Lake Champlain to the falls in Vergennes

**Flume:** An open artificial water channel, in the form of a gravity chute, that leads water from a diversion dam or weir completely aside a natural flow. A flume can be used to measure the rate of flow.

**Frac out:** During normal drilling operations, drilling fluid travels up the borehole into a pit. When the borehole becomes obstructed or the pressure becomes too great inside the borehole, the ground fractures and fluid escapes to the surface.

**Independent utility:** A test to determine what constitutes a single and complete non-linear project in the Corps 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.

**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.

**Loss of waters of the U.S.:** Waters of the U.S. that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the U.S. is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for a particular activity; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the U.S. temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the U.S. Impacts resulting from activities eligible for exemptions under Section 404(f) of the CWA are not considered when calculating the loss of waters of the U.S.

**Maintenance:** Regulations on maintenance are provided at 33 CFR 323.4. The following definitions are applicable:

**Minor deviations:** Deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal.

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

**Marina reconfiguration zone:** A Corps-authorized area in which permittees 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.

**Navigable waters of the U.S.:** See Waters of the U.S. below.

**Overall project:** See “single and complete linear project” below.

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

**Permanent impacts:** Permanent impacts means waters of the U.S. that are permanently affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent impacts include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. Temporary impacts include waters of the U.S. that are temporarily filled, flooded, excavated, drained or mechanically cleared because of the regulated activity.

**Pre-construction notification (PCN):** A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by 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 these GPs.

**Secondary effects:** See “Direct, secondary, and cumulative effects.”

**Single and complete linear project:** A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the U.S. (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for the purposes of these GPs. 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. The overall project, for purposes of these GPs, includes all regulated activities that are reasonably related and necessary to accomplish the project purpose.

**Single and complete non-linear project:** For non-linear projects, 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. For non-linear projects, the single and complete project must have independent utility (see definition).

**Special aquatic sites:** These include inland and saltmarsh wetlands, mud flats, vegetated shallows, sanctuaries and refuges, coral reefs, and riffle and pool complexes. These are defined at 40 CFR 230 Subpart E.

**Stream channelization:** The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

**Temporary impacts:** See permanent impacts above.

**Utility line:** Any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term ‘utility

line' does not include activities that drain a water of the U.S., such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.

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

**Vernal pools (VPs):** For the purposes of these GPs, VPs are depressional wetland basins that typically go dry in most years and may contain inlets or outlets, typically of intermittent flow. Vernal pools range in both size and depth depending upon landscape position and parent material(s). Pools usually support one or more of the following obligate indicator species: wood frog, spotted salamander, blue-spotted salamander, marbled salamander, Jefferson's salamander and fairy shrimp. However, they should preclude sustainable populations of predatory fish.

VP areas are:

- Depression (includes the VP depression up to the spring or fall high water mark, and includes any vegetation growing within the depression),
- Envelope (area within 100 feet of the VP depression's edge), and
- Critical terrestrial habitat (area within 100-750 feet of the VP depression's edge).

Note: See footnote to GC 24. The Corps may determine during the PCN review that a waterbody should not be designated as a VP based on available evidence.

**Water diversions:** Water diversions are activities such as bypass pumping (e.g., "dam and pump") or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary's confines aren't water diversions. "Normal flows" are defined as no change in flow from pre-project conditions.

**Weir:** A barrier across a river designed to alter the flow characteristics. In most cases, weirs take the form of a barrier, smaller than most conventional dams, across a river that causes water to pool behind the structure (not unlike a dam) and allows water to flow over the top. Weirs are commonly used to alter the flow regime of the river, prevent flooding, measure discharge and help render a river navigable.

### **Waters of the U.S.**

**Waters of the United States (U.S.):** The term waters of the U.S. and all other terms relating to the geographic scope of jurisdiction are defined at 33 CFR 328. Also see Section 502(7) of the Federal CWA [33 USC 1352(7)]. Waters of the U.S. include jurisdictional wetlands. Not all waters and wetlands are jurisdictional. Contact the Corps with any questions regarding jurisdiction.

**Navigable waters:** Refer to 33 CFR 329. These waters include the following Federally designated navigable waters in New England. This list represents only those waterbodies for which affirmative determinations have been made; absence from this list should not be taken as an indication that the waterbody is not navigable:

**CT:** Connecticut River to the Massachusetts state line

**MA:** Merrimack River, Connecticut River, and Charles River to the Watertown Dam

**ME:** Kennebec River to Moosehead Lake; Penobscot River to the confluence of the East and West Branch at Medway, Maine; Lake Umbagog within the State of Maine.

**NH:** Merrimack River from the MA-NH state line to Concord, NH; Lake Umbagog within NH; and the Connecticut River from the MA-NH state line to Pittsburg, NH.

**VT:** Connecticut River, Lake Champlain, Lake Memphremagog, Wallace Pond, Ompompanoosuc River (to mile 3.8), Waits River (to mile 0.9), the Black River (mouth to mile 25 in Craftsbury), the Batten Kill River (to mile 50 in Manchester), the Lamoille River (mouth to mile 79 in Greensboro), the Missisquoi River (including the North Branch, from the mouth to mile 88.5 in Lowell), Otter Creek (mouth to mile 63.8 in Procter), Winooski River (mouth to Marshfield), Moose River (from Passumpsic River to the Victory Town Line), Nulhegan River (mouth to its source including the East Branch, the

Black Branch and the Yellow Branch), Paul Stream (mouth to the source), East Branch of the Passumpsic River (from the confluence with the Passumpsic River to East Haven), Passumpsic River (mouth to confluence with the East Branch), Wells River (mouth to Groton Pond), White River (mouth to its source).

**Acronyms**

BMPs	Best Management Practices
BUAR	Bureau of Underwater Archaeological Resources
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CWA	Clean Water Act
CRMC	RI Coastal Resources Management Council
CZM	Coastal Zone Management
CT DEEP	Connecticut Department of Energy & Environmental Protection
CT OLISP	Connecticut Office of Long Island Sound
CT IWRD	Connecticut Inland Water Resources Division
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
EFH	Essential Fish Habitat
FNP	Federal Navigation Project
GC	General condition
GP	General permit
HTL	High Tide Line
IP	Individual Permit
LID	Low impact development
ME DACF	Maine Department of Agriculture, Conservation & Forestry
MassDEP	Massachusetts Department of Environmental Protection
MA DF&W	Massachusetts Division of Fisheries and Wildlife
MA DMF	Massachusetts Division of Marine Fisheries
MA NHESP	Natural Heritage and Endangered Species Program
MHC	Massachusetts Historical Commission
MHHW	Mean Higher High Water
MHW	Mean High Water
MLLW	Mean Lower Low Water
MLW	Mean Low Water
NMFS	National Marine Fisheries Service
NRCS	Natural Resources Conservation Service
NHCP	New Hampshire Coastal Program
OHW	Ordinary High Water
PCN	Preconstruction Notification
RI DEM	Rhode Island Department of Environmental Management
SAS	Special aquatic sites
SF	Square Feet
SV	Self-verification
STURAA	Surface Transportation and Uniform Relocation Assistance Act
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
TOY	Time of year
USFWS	U.S. Fish and Wildlife Service
USCG	U.S. Coast Guard

USGS	U.S. Geological Service
VP	Vernal pool
VT ANR	Vermont Agency of Natural Resources
VT DHP	Vermont Division of Historic Preservation
WPA	Wetlands Protection Act
WQC	Water Quality Certification



**US Army Corps  
of Engineers**®

New England District

### VII: Self-Verification Notification Form

(for all tidal and non-tidal projects subject to Corps jurisdiction  
in MA, ME, RI and VT; and for all non-tidal projects in CT)

At least two weeks before work commences, complete **all** fields (write “none” if applicable) below or use the fillable form at [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit. Send this form and the existing plans to one of the following three applicable addresses, fax to (978) 318-8303, or email to [cenae-r@usace.army.mil](mailto:cenae-r@usace.army.mil) The two-week lead time is not required for emergency situations (see page 2 for definition). Please call (978) 318-8338 with questions.

CT (non-tidal), MA, ME & RI

Regulatory Division  
U.S. Army Corps of Engineers  
New England District  
696 Virginia Road  
Concord, MA 01742-2751

ME

Regulatory Division  
U.S. Army Corps of Engineers  
Maine Project Office  
675 Western Ave, #3  
Manchester, ME 04351

VT

Regulatory Division  
U.S. Army Corps of Engineers  
Vermont Project Office  
11 Lincoln Street, Room 210  
Essex Junction, Vermont 05452

State Permit Number: \_\_\_\_\_

Date of State Permit: \_\_\_\_\_

State Project Manager: \_\_\_\_\_

State or local approval and accompanying plans are attached: Yes \_\_\_\_\_ No \_\_\_\_\_

Permittee: \_\_\_\_\_

Address, City, State & Zip: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

Project Location (provide detailed description if necessary): \_\_\_\_\_

Address, City, State & Zip: \_\_\_\_\_

Latitude/Longitude Coordinates (if address doesn't exist): \_\_\_\_\_

Waterway Name: \_\_\_\_\_

Contractor (write none if same as permittee): \_\_\_\_\_

Address, City, State & Zip: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

Consultant/Engineer/Designer: \_\_\_\_\_

Address, City, State & Zip: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

Wetland/Vernal Pool Consultant: \_\_\_\_\_

Address, City, State & Zip: \_\_\_\_\_

Phone(s) and Email: \_\_\_\_\_

(continued on next page)



Project Purpose: \_\_\_\_\_

Work Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Work will be done under the following activity(s) in Section III, Eligible Activities (check all that apply):

- |        |        |         |         |         |         |
|--------|--------|---------|---------|---------|---------|
| 1_____ | 5_____ | 9_____  | 13_____ | 17_____ | 21_____ |
| 2_____ | 6_____ | 10_____ | 14_____ | 18_____ | 22_____ |
| 3_____ | 7_____ | 11_____ | 15_____ | 19_____ | 23_____ |
| 4_____ | 8_____ | 12_____ | 16_____ | 20_____ |         |

Aggregate total wetland impact area\*: temporary\_\_\_\_\_SF permanent\_\_\_\_\_SF

Aggregate total waterway impact area\*: temporary\_\_\_\_\_SF permanent\_\_\_\_\_SF

(\*leave blank if work involves structures only)

Does your project include any secondary impacts? (See General Condition 3.) Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, describe here: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Proposed Work Dates: Start: \_\_\_\_\_ Finish: \_\_\_\_\_

**Your name/signature below, as permittee, confirms that your project a) meets the self-verification criteria and b) that you accept and agree to comply with the applicable terms and conditions in the New England General Permit.**

Permittee Printed Name: \_\_\_\_\_

Permittee Signature: \_\_\_\_\_ Date: \_\_\_\_\_



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

### VIII: SHPO/THPO Notification Form

In accordance with General Condition 6, proponents must ensure and document that all potential historic properties within the permit area have been identified. For PCN activities, proponents must notify the SHPO and applicable THPO(s) and provide proof as specified in Section IX, Part B(2) and submit a copy of any other documentation with the PCN. This form may be used for self-verification or PCN activities. It is recommended that you complete **all** fields (write “none” or “see attached form” if applicable), attach any Corps or state waterway agency application form, and attach plans and a copy of the USGS quadrangle map section that clearly marks the project location.

SHPOs and THPOs will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

Permittee: \_\_\_\_\_  
 Address, City, State & Zip: \_\_\_\_\_  
 Phone(s) and Email: \_\_\_\_\_

Project Name: \_\_\_\_\_  
 Project Location (provide detailed description if necessary): \_\_\_\_\_  
 Address, City, State & Zip: \_\_\_\_\_  
 Latitude/Longitude Coordinates (if address doesn't exist): \_\_\_\_\_  
 Waterway Name: \_\_\_\_\_  
 Project Purpose: \_\_\_\_\_  
 Work Description: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

To the best of your knowledge, are any historic or archaeological properties known to exist within the project's area of potential impact? If so, specify. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature of person submitting this form: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/Town/Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

## **IX. State-Specific Supplement**

### **1. Connecticut and Lands Located Within the Boundaries of Indian Tribal Lands**

#### **Part:**

- A. State-Specific Information on General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**

## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the general conditions in Section IV of these GPs.

### **1. General Condition 1, Other Permits**

The following state approvals may be required by the CT Department of Energy & Environmental Protection, Inland Water Resources Division (DEEP IWRD):

- a. Inland Wetlands and Watercourses Permit under the Inland Wetlands and Watercourses Act
- b. Water Diversion Permit under the Connecticut Water Diversion Policy Act
- c. Stream Channel Encroachment Lines Permit
- d. Dam Safety Construction Permit
- e. Flood Management Certification. For projects receiving State funding with work proposed within a FEMA floodway/floodplain, applicants should apply for and receive a Flood Management Certification from CT DEEP Inland Water Resources Division (IWRD) if one is required, before applying to the Corps.

### **2. General Condition 8, Federal Threatened and Endangered Species.**

The Connecticut Endangered Species Act, passed in 1989, recognizes the importance of the state's plant and animal populations and the need to protect them from threats that could lead to their extinction. See Chapter 495 Endangered Species, Secs. 26-303 to 26-316, for more information. Known locations of state threatened and endangered species and species of special concern, and significant natural communities are identified on maps entitled "State and Federal Listed Species and Significant Natural Communities", as amended. These maps are available at city or town clerk offices and in the CT DEEP File Room located on the store level of 79 Elm Street, Hartford and on their website: <http://www.ct.gov/dep/>.

### **3. General Condition 20, Water Quality and Coastal Zone Management**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

- a. Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341). Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state, authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In Connecticut, the DEEP IWRD, or EPA for Indian reservation lands, has authority to issue or deny WQC. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the DEEP IWRD or EPA have granted or waived WQC when applicable. Activities must comply with all conditions set forth in the DEEP IWRD or EPA 401 WQC for work authorized under these GPs or in a DEEP IWRD or EPA Individual 401 WQC when required by DEEP IWRD or EPA.

For self-verified activities authorized under these GPs, the CT DEEP IWRD has issued a conditional WQC for work in inland wetlands and waterways subject to the condition set forth below, and the EPA has granted WQC for self-verified activities authorized under these GPs located on land within the boundaries of an Indian Reservation.

- The CT DEEP IWRD must issue a written, project-specific 401 WQC eligibility determination for the following situations before work is authorized by these GPs:

- Projects with fill placed within a FEMA established floodway <http://msc.fema.gov>, unless the applicant has obtained a State of Connecticut Flood Management Certification for the project pursuant to section 25-68d of the Connecticut General Statutes.
- Projects with fill placed within a FEMA-established floodplain that would adversely affect the hydraulic characteristics of the floodplain. Note: Projects that have received a Flood Management Certification are assumed to have no adverse effect to hydraulic characteristics.

For PCN activities that have received written verification from the Corps, the CT DEEP IWRD has issued a conditional WQC for work in inland wetlands and waterways, which requires that applicants for all activities obtain an Individual 401 WQC determination from the CT DEEP IWRD.

Authorization under these GPs becomes valid only after the CT DEEP IWRD issues an Individual 401 WQC determination. If CT DEEP IWRD denies the WQC, the activity is not authorized under these GPs. If CT DEEP IWRD issues a WQC for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

b. Concurrence under Section 307 of the Federal Coastal Zone Management (CZM) Act of 1972, as amended. Section 307(c)(1) requires the Corps to provide a consistency determination and receive state agreement prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Management Program when activities that would occur within, or outside, that state's coastal zone will affect any land or water use or natural resource of the state's coastal zone. In Connecticut, the CT DEEP Office of Long Island Sound (OLISP) administers the CT CZM program. In New York's Long Island Sound, the NY Department of State (DOS) administers the NY CZM program. Information on Connecticut's coastal zone is provided in Part B on the following page. Information on New York's coastal zone is provided at [www.nyswaterfronts.com/consistency\\_federal.asp](http://www.nyswaterfronts.com/consistency_federal.asp).

The CT DEEP OLISP has agreed with the Corps consistency determination for activities authorized under these GPs provided that permittees obtain a Federal consistency concurrence from the CT DEEP OLISP or obtain one of the following State permits: Certificate of Permission (COP); General Permit (LIS-GP); Tidal Wetlands Permit under the Tidal Wetlands Act; or Structures, Dredging and Fill Permits. If the CT DEEP OLISP denies any of these permits, the activity is not consistent and any authorization under these GPs becomes valid only after Federal consistency concurrence is obtained. If a Federal consistency concurrence is obtained for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

The NY DOS has agreed with the Corps consistency determination that activities authorized under these GPs are consistent with the Long Island Sound (LIS) Coastal Management Program (CMP) provided that permittees for dredging/excavation and associated disposal (GP 5) within the Byram River obtain a consistency determination from the NY DOS directly. Authorization under these GPs becomes valid only after the NY DOS determines that the activity is consistent with the LIS CMP. If the NY DOS determines that the activity is not consistent with the state's CMP, the activity is not authorized under these GPs. If the NY DOS consistency concurrence is for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate. All projects with disposal at any of the Long Island Sound Disposal Sites (seaward of the -20' bathymetric contour) will also require NY DOS CZM consistency. The Corps will coordinate directly with NY DOS

for these projects. Additional information can be found at their website:  
[http://www.nyswaterfronts.com/consistency\\_federal.asp](http://www.nyswaterfronts.com/consistency_federal.asp).

Applicants must submit requests for sampling plans to CT DEEP OLISP and the Corps simultaneously along with other required information specific to dredging/open water disposal, including a detailed open water disposal site alternatives analysis and a completed NY DOS Federal Consistency Assessment Form (see [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Connecticut). The Corps will coordinate these projects with NY DOS on behalf of the applicant.

#### **4. General Condition 24(f), Vernal Pools.**

The State of Connecticut's classification of special wetlands includes vernal pools, bogs, fens, cedar swamps, spruce swamps, calcareous seepage swamps, and wetlands that provide habitat for threatened or endangered species or species of special concern as designated by the State of Connecticut Natural Diversity Database.

## **Part B: State-Specific Application/Notification and Authorization Procedures**

### **1. SV Activities**

For activities in non-tidal waters in Connecticut and lands located within the boundaries of the Mohegan Tribe Indian Reservation, permittees must submit the SVNF at Section VII to the Corps and CT DEEP, IWRD before work authorized by these GPs commences.

For activities in non-tidal waters in lands located within the boundaries of the Mashantucket Pequot Tribal Nation (MPTN), proponents must submit the SVNF at Section VII to the Corps and the MPTN Natural Resources Protection and Regulatory Affairs Department before work authorized by these GPs commences.

For activities in tidal or coastal zone waters<sup>38</sup> in Connecticut, the proponent does **not** need to submit an application or notification to the Corps, nor the SVNF. However, CT DEEP OLISP will forward copies of application packages and their approvals to the Corps. The Corps will typically verify whether or not a project qualifies for SV and forward that verification to the applicant.

### **2. PCN Activities**

#### **a. Activities in non-tidal waters in Connecticut and lands located within the boundaries of the Mohegan Tribe Indian Reservation**

a. Applicants must send the PCN directly to the Corps, and to the CT DEEP IWRD unless otherwise directed, and include:

- 2 copies of the Corps application form (ENG Form 4345)  
[www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> Forms/Publications
- 2 sets of 8.5" x 11" drawings and large-scale drawings;
- 2 copies of the wetlands functions and values assessment;
- 2 copies of Federal wetland delineation documentation (data sheets);
- 2 copies of the CT DEEP addendum found at:  
[www.ct.gov/dep/lib/dep/Permits\\_and\\_Licenses/LandUse\\_General\\_Permits%5CInlandWater\\_General\\_Permits/CT\\_addendum\\_app.pdf](http://www.ct.gov/dep/lib/dep/Permits_and_Licenses/LandUse_General_Permits%5CInlandWater_General_Permits/CT_addendum_app.pdf);
- 1 copy of the notification to or response from the Connecticut Commission on Culture and Tourism (this is the SHPO for CT) and Mohegan Tribe THPO (see Part C below for contact information and GC 6). Applicants may submit the SHPO/THPO Notification Form (see Section VIII) but must include the information specified in the form. The Corps recommends notifying the SHPO and THPO before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPO have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal

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<sup>38</sup> The Connecticut coastal area shall include the land and water within the area delineated by the following: The westerly, southerly and easterly limits of the state's jurisdiction in Long Island Sound; the towns of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield, Bridgeport, Stratford, Shelton, Milford, Orange, West Haven, New Haven, Hamden, North Haven, East Haven, Branford, Guilford, Madison, Clinton, Westbrook, Deep River, Chester, Essex, Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London, Montville, Norwich, Preston, Ledyard, Groton and Stonington. [Connecticut General Statutes 22a-94 - Coastal area; coastal boundary.]

agency as the lead in accordance with 36 CFR 800.2(a)(2). The Mohegan Environmental Protection Administrator may also review for actions that may affect tribal environmental interests;

- An Invasive Species Control Plan (See GC 25); and
- A plan describing any proposed mitigation.

The State of Connecticut requires applicants to concurrently submit three copies of the following to the DEEP at State of Connecticut, Department of Energy & Environmental Protection, Central Permit Processing Unit, 79 Elm Street, Hartford, CT 06106-5127:

- The Corps application form;
- 8.5" x 11" drawings, large scale drawings;
- Wetlands functions and values assessment;
- Federal wetlands delineation documentation (data sheets);
- CT DEEP addendum; and
- A plan describing any proposed mitigation.

NOTE: Applicants must submit all project revisions and modifications to both agencies.

The Corps will notify the applicant directly of any requests for additional information, any permit decision (i.e., authorized, denied), or whether the work does not qualify for PCN and therefore requires an Individual Permit review. The Corps notification will include information resulting from our coordination with the CT DEEP IWRD and any associated permit decisions.

**b. Activities in non-tidal waters in lands located within the boundaries of the Mashantucket Pequot Tribal Nation (MPTN)**

Applicants must send the PCN directly to the Corps and include:

- 2 copies of the Corps application form (ENG Form 4345) [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx)>>Forms/Publications;
- 1 set of 8.5" x 11" drawings and one large-scale drawing;
- 2 copies of the wetlands functions and values assessment;
- 2 copies of the Federal wetland delineation documentation;
- 1 copy of the notification to or response from the Connecticut Commission on Culture and Tourism (this is the SHPO for CT) and Mashantucket Pequot Tribal Nation THPO (see Part C below for contact information and GC 6). Applicants may submit the SHPO/THPO Notification Form (see Section VIII) but must include the information specified in the form. The Corps recommends notifying the SHPO and THPO before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPO have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2);
- An Invasive Species Control Plan (See GC 25); and
- A plan describing any proposed mitigation.

NOTE: Applicants must submit all project revisions and modifications to both agencies.

The Corps will notify the applicant directly on any requests for additional information, any permit decision (i.e., authorized, denied), or whether the activity is not eligible for PCN and therefore requires an Individual Permit. The MPTN will issue their own notification(s) to the applicant.



c. Activities in tidal or coastal zone waters<sup>41</sup> in Connecticut

i. Structures, Dredging and Fill Permit Applications: Applicants must send the following to the Corps:

- 1 copy of the “DEEP Permit Consultation Form for U.S. Army Corps of Engineers Review” and project plans to the Corps.
- 1 copy of the notification to or response from each of the two THPOs (see Part C below for contact information and GC 6) for activities in tidal or coastal zone waters involving new dredging, new excavation or new fill. Applicants may submit the SHPO/THPO Notification Form (see Section VIII), but must include the information specified in the form. The Corps recommends notifying the THPOs before submitting the PCN in the event that extensive coordination or archaeological work is required. The THPOs have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2).

The Corps will then review this information and return the DEEP Permit Consultation Form to applicants for their submission to DEEP OLISP. The Corps will notify the applicant directly on any requests for additional information, any permit decision after receipt of final plans and/or CT DEEP OLISP’s Notice of Tentative Determination (i.e., authorized, denied), or whether the activity is not eligible for PCN and therefore requires an Individual Permit. The CT DEEP OLISP will also issue their own notification(s) to the applicant.

ii. Certificates of Permission (COPs)/GPs/time extensions/modifications: Applicants must apply directly to CT DEEP OLISP and forward copies of application packages and approvals to the Corps, including one copy of correspondence with the Connecticut Commission on Culture and Tourism (this is the SHPO for CT) and THPO indicating coordination with these offices, unless alternate procedures exist (see GC 28). The CT DEEP OLISP forwards all approvals to the Corps on a weekly basis. If the Corps determines that a project is eligible for authorization under these GPs, the Corps will coordinate these projects in accordance with review procedures. If the Corps determines that an IP or additional information is required, the Corps will coordinate directly with the applicant/agent. Requests for time extensions should be sent to both CT DEEP OLISP and the Corps.

NOTE: Regarding (i) and (ii) above, for projects which involve dredging with open water disposal, applicants must submit the following to the CT DEEP OLISP and the Corps simultaneously: requests for sampling plans, other required information specific to dredging/open water disposal, a detailed open water disposal site alternative analysis, and a completed NY DOS Federal Consistency Assessment Form found at <http://nyswaterfronts.com/downloads/pdfs/fcaf2.pdf>. See [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Connecticut for a list of all required additional information.

iii. Marine and land-based aquaculture activities, including associated structures: Applicants must apply directly to the CT Department of Agriculture, Bureau of Aquaculture (DA/BA) using the “Application for Joint Programmatic General Permit for Aquaculture” form at: [www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx) >> New England General Permit >> Connecticut, and submit one copy of correspondence with the Connecticut Commission on Culture and Tourism (this is the SHPO for CT) and THPO indicating coordination with these offices, unless alternate procedures exist (see GC 28). The DA/BA will forward a copy of the aquaculture application package and SHPO and THPO correspondence to the Corps. The Corps will notify the applicant directly on any requests for

additional information, any permit decision (i.e., authorized, denied), or whether the activity is not eligible for authorization under these GPs and therefore requires an Individual Permit. The DA/BA will also issue their own notification(s) to the applicant. See Part D below.

### **3. SV and PCN Activities**

The SHPO and THPOs will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

## Part C - Contacts and Tribal Areas of Interest

### 1. Federal

U.S. Army Corps of Engineers  
New England District, Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
(978) 318-8338 (phone); (978) 318-8303 (fax)

U.S. Fish and Wildlife Service  
70 Commercial Street, Suite 300  
Concord, NH 03301-5087  
(603) 223-2541 (phone)  
*(Federal endangered species)*

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, MA 02109-3912  
(617) 918-1556 (phone)

National Park Service  
North Atlantic Region  
15 State Street  
Boston, MA 02109  
(617) 223-5203 (phone)

National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 (phone); (978) 281-9301 (fax)  
*(Federal endangered species & EFH)*

Department of Agriculture  
Bureau of Aquaculture  
P.O. Box 97  
190 Rogers Avenue  
Milford, CT 06460  
(203) 874-0696 (phone)

Commander (dpb)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, NY 10004-1466  
(212) 668-7021 (phone); (212) 668-7967 (fax)  
*(bridge permits)*

### 2. State of Connecticut

#### Department of Environmental Protection

Office of Long Island Sound Programs  
79 Elm Street  
Hartford, CT 06106-5127  
(860) 424-3034 (phone)  
*(coastal projects)*

Inland Water Resources Division  
79 Elm Street  
Hartford, CT 06106-5127  
(860) 424-3019 (phone)  
*(inland projects)*

Connecticut Department of Agriculture  
Bureau of Aquaculture & Laboratory  
PO Box 97  
Milford, CT 06460  
(203) 874-0696 (phone)  
*(aquaculture projects)*

Bureau of Natural Resources  
Wildlife Division  
Natural Diversity Data Base  
79 Elm Street  
Hartford, CT 06106-5127  
(860) 424-3011 (phone)  
*(state endangered species)*

### 3. Historic Properties

#### a. State Historic Preservation Officer (SHPO)

Connecticut Commission on Culture and Tourism  
Historic Preservation & Museum Division  
One Constitution Plaza, 2<sup>nd</sup> Floor  
Hartford, CT 06103-6103  
(860) 424-3005 (phone)  
Area of concern: The entire State of CT

#### b. Tribal Historic Preservation Officers (THPOs)

Tribal Historic Preservation Officer  
Mashantucket Pequot Tribal Nation  
P. O. Box 3202  
550 Trolley Line Boulevard  
Mashantucket, CT 06338-3202  
(860) 396-6887 (phone)

Area of concern: Mashantucket Pequot Tribal Nation

Tribal Historic Preservation Officer  
Mohegan Tribe of Indians of Connecticut  
13 Crow Hill Road  
Uncasville, CT 06382  
(860) 862-6393 (office)  
(860) 917-8255 (cell)  
(860) 862-6395 (fax)

Area of concern: The entire State of Connecticut

#### c. Tribal Environmental Officers

Department of Natural Resources Protection &  
Regulatory Affairs  
Mashantucket Pequot Tribal Nation  
550 Trolley Line Boulevard  
P. O. Box 3202  
Mashantucket, CT 06338-3202

Environmental Protection Administrator  
Compliance and Regulation Department  
Mohegan Tribe of Indians of Connecticut  
13 Crow Hill Road  
Uncasville, CT 06382  
(860) 862-6112 (office)  
(860) 367-1817 (cell)  
[jmcinnis@moheganmail.com](mailto:jmcinnis@moheganmail.com)

### 4. Organizational Websites

U. S. Army Corps of Engineers, N.E. District  
U.S. Army Corps of Engineers, Headquarters  
U.S. Environmental Protection Agency (EPA)  
EPA, Region 1, Low Impact Development  
practices and state-specific resources, including  
CT DEP Stormwater Quality Manual

[www.nae.usace.army.mil/missions/regulatory.aspx](http://www.nae.usace.army.mil/missions/regulatory.aspx)

See above link>>Useful Links>>Federal Agency Links.

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

[www.epa.gov/ne/topics/water/lid.html](http://www.epa.gov/ne/topics/water/lid.html)

National Marine Fisheries Service

[www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)

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/)

Federal Emergency Management Agency

[www.fema.gov](http://www.fema.gov)

Connecticut Dept. of Environmental Protection

[www.ct.gov/dep/](http://www.ct.gov/dep/)

Connecticut Dept. of Agriculture,

[www.ct.gov/doag/](http://www.ct.gov/doag/)

Bureau of Aquaculture & Laboratory

EPA, Green Infrastructure website

[www.epa.gov/greeninfrastructure](http://www.epa.gov/greeninfrastructure)

## **Part D: Aquaculture Activities**

Eligible for authorization under GP 21 are the following aquaculture activities in tidal and non-tidal waters of the U.S. in CT<sup>39</sup>:

1. The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.;
2. New or expansion of small-scale shellfish and aquatic plant aquaculture gear consisting of bottom or floating cages/bags/racks/trays, floating cages/nets suspended on one or more surface-buoyed long-lines, and predator netting/screens with no interference to public access;
3. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species;
4. Discharges of dredged or fill material into waters of the U.S. necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities;
5. Shellfish seeding or brushing the flats projects; and
6. Shellfish seeding/spatted-shell or cultch for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds that have historically been similarly cultivated.

The following requirements apply to all aquaculture work authorized under GP 21:

1. The permittee shall notify the applicable USCG office regarding the project. Rafts and other floating structures must be securely anchored and clearly marked in accordance with appropriate USCG, harbormaster, state or local regulations to inform mariners of the location;
2. The permittee shall remove all gear and associated equipment within any leased or designated shellfish area in the event that the operator surrenders or loses the right to its use. In some situations, a performance bond may be required;
3. The right of the public to traverse or utilize the waters not physically occupied by authorized structures and/or moored vessels within the areal limits of the authorized gear perimeter shall not be impeded;
4. Aquaculture projects authorized herein shall not interfere with public shore access at or seaward of MHW or interfere with the access to any riparian or littoral property. All gear shall be designed and deployed in such a manner as to limit, to the greatest extent practicable, negative impacts on avian resources such as, but not limited to, shore birds, wading birds or members of the waterfowl group. This is meant to include nesting, feeding or resting activities by migratory birds identified at 50 CFR 10.13;
5. There shall be no discernible interference with natural sedimentation and erosion processes;
6. Cultch or spatted-shell must not result in visible degradation of habitat for other aquatic resources;
7. The placement of cultch shall occur only in appropriate locations for working the bed bottom and colonization by oysters, based upon factors of salinity, water quality, water circulation patterns, and substrate composition and such placement shall not create or exacerbate adverse impact to any aquatic resource (finfish, shellfish, marine mammals, coastal birds), water quality, Essential Fish Habitat or SAS; and
8. New applications of cultch and spatted-shell for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds cannot be placed within vegetated shallows and is limited to the minimum amount necessary for coverage of the target area.

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<sup>39</sup> For guidance and application materials, see [www.nae.usace.army.mil/regulatory](http://www.nae.usace.army.mil/regulatory) >> State General Permits/Permitting >> State General Permits >> Connecticut NE GP, Section IX - CT State-Specific Supplement 64

GP 21 does not authorize the following aquaculture activities:

1. Finfish aquaculture;
2. New impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
3. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster that exceed the area limits on page 4;
4. The cultivation of a nonindigenous species<sup>40</sup> unless that species has been previously cultivated in the waterbody;
5. The cultivation of an aquatic nuisance species<sup>41</sup>;
6. Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the U.S. as waste; or

The prospective permittee must submit a PCN for all aquaculture activities in CT. Applicants must submit the “Joint Application for Aquaculture in the State of Connecticut” located at: [www.nae.usace.army.mil/Missions/Regulatory.aspx](http://www.nae.usace.army.mil/Missions/Regulatory.aspx) >> New England General Permit >> Connecticut >> Aquaculture.

Notes:

1. The TOY restrictions in GC 18 do not apply to this activity unless specified in a written verification.

Definitions:

1. Aquaculture is the farming of aquatic organisms such as fish, crustaceans, molluscs and aquatic plants. It involves cultivating freshwater and saltwater populations under controlled conditions.
2. Aquaculture gear is any gear used to contain and/or cultivate shellfish including, but not limited to lines, racks, cages, bags, anchoring devices and buoys required to suspend or mark such structures.
3. Shellfish seeding is the placement of shellfish seed and/or suitable substrate to facilitate shellfish settlement and increase production. It may involve the placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).
4. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments.
5. Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

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<sup>40</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines nonindigenous species as “any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another.”

<sup>41</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines aquatic nuisance species as “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.”

## **IX. State-Specific Supplement**

### **2. Maine**

#### **Part:**

- A. State-Specific Information on General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**

## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the general conditions in Section IV of this document.

### **1. General Condition 1, Other Permits**

The following State of Maine offices may require the following state approvals:

- a. ME DEP: Maine Natural Resources Protection Act (NRPA) permit, including permit-by-rule and general permit authorizations; Site Location of Development Act permit; Stormwater Management Law Permit; and Maine Waterway Development and Conservation Act permit;
- b. ME DACF: Land Use Planning Commission (LUPC) permit and Maine Waterway Development and Conservation Act permit;
- c. ME DACF, Bureau of Parks and Lands, Submerged Lands: Lease;
- d. ME Department of Marine Resources: Aquaculture Leases;
- e. ME Department of Inland Fisheries & Wildlife: Maine Endangered Species Act Incidental Take Authorization; and
- f. Maine DACF, Bureau of Forestry: NRPA Permit.

### **2. General Condition 8, Federal Threatened and Endangered Species.**

State endangered and threatened inland fish and wildlife species in Maine are listed under Maine's Endangered Species Act (MESA). The Maine Department of Inland Fisheries and Wildlife holds management responsibility for inland fish and wildlife listed under MESA. State endangered and threatened marine species are listed under Maine's Marine Endangered Species Act. The Maine Department of Marine Resources (MDMR) has responsibility for these species. The MESA applies only to animals; plants are not included in the legislation. The Maine Natural Areas Program maintains an "official" list of rare and endangered plants in Maine.

### **3. General Condition 20, Water Quality and Coastal Zone Management**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

a. Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341). Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state and authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In Maine, the Department of Environmental Protection (DEP) or Land Use Planning Commission (LUPC) have authority to issue or deny WQC. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the DEP or LUPC have granted or waived WQC when applicable. Activities must comply with all conditions set forth in the DEP or LUPC 401 WQC for work authorized under these GPs or in a DEP or LUPC Individual 401 WQC when required by DEP or LUPC. The DEP and LUPC have waived WQC for all activities authorized under these GPs and no further § 401 coordination is necessary.

b. Concurrence under Section 307 of the Federal Coastal Zone Management (CZM) Act of 1972, as amended. Section 307(c)(1) requires the Corps to provide a consistency determination and receive state agreement prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Zone Management Program when activities that would occur within, or outside, that state's coastal zone will affect any land or water use or natural resource of the state's coastal zone. In Maine, the Department of Agriculture, Conservation & Forestry (DACF) administers Maine's coastal program. The state's coastal zone is



statutorily defined at [www.mainelegislature.org/legis/statutes/38/title38sec1802.html](http://www.mainelegislature.org/legis/statutes/38/title38sec1802.html), and additional information is provided at: [www.mainelegislature.org/legis/statutes/12/title12sec544-D.html](http://www.mainelegislature.org/legis/statutes/12/title12sec544-D.html).

The DACF has agreed with the Corps consistency determination for activities authorized under these GPs provided that permittees obtain all applicable state approvals referenced in 1(a), (b), (e) and (f) above. If the state denies any of these permits, the activity is not consistent and any authorization under these GPs becomes valid only after Federal consistency concurrence is obtained through issuance of such approvals. If a Federal consistency concurrence is obtained for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

**4. General Condition 24(f), Vernal Pools.** The State of Maine’s Significant Wildlife Habitat rules, [Chapter 335](#), Section 9 “Significant vernal pool habitat,” are located at [www.maine.gov/dep/blwq/docstand/nrpapage.htm#rule](http://www.maine.gov/dep/blwq/docstand/nrpapage.htm#rule) under “Rules.”

## **Part B: State-Specific Application/Notification and Authorization Procedures**

### **1. SV Activities:**

See Page 2 of this document for information. In addition, the SVNF must be submitted to the Corps (see GC 30) before work commences.

### **2. PCN Activities:**

Applicants must send the PCN directly to the Corps and include:

- a. The DEP application form or the Corps application form (ENG Form 4345). Also apply directly to the state (DEP, LUPC, BPL or DMR) as applicable using the appropriate state form, if the work is regulated by the Corps and the state, or
- b. The Corps application form (ENG Form 4345) if the work is regulated by the Corps but not the state (DEP, LUPC, BPL or DMR).
- c. The applicable information in Section V to help ensure the application is complete and to speed project review.
- d. One copy of the notification to or response from the Maine Historic Preservation Commission (this is the SHPO in ME) and the five Federally recognized Indian tribes (see Part C below for contact information and GC 6). Applicants may submit the SHPO/THPO Notification Form (see Section VIII) but must include the information specified in the form. The Corps recommends notifying the SHPO and THPO before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPOs have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2).

Applicants for PCN activities may not proceed with work in Corps jurisdiction until written verification is received from the Corps. If the Corps determines that the PCN activity qualifies for authorization under the GPs, the Corps will send a written verification directly to the applicant. The Corps will attempt to issue a written verification within the state’s review period. If the Corps determines that the activity does not qualify for authorization under these GPs or that additional

information is required, the Corps will notify the applicant in writing and typically send a copy to the DEP or LUPC.

### **3. SV and PCN Activities:**

The SHPO and THPOs will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

## **Part C: Contacts and Tribal Areas of Interest**

### **1. Federal**

U.S. Army Corps of Engineers  
Maine Project Office  
675 Western Avenue #3  
Manchester, ME 04351  
(207) 623-8367 (phone); (207) 623-8206 (fax)

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, MA 02109-3912  
(617) 918-1589 (phone)

U.S. Fish and Wildlife Service  
Maine Field Office  
17 Godfrey Drive, Suite 2  
Orono, ME 04473  
(207) 866-3344 (phone); (207) 866-3351 (fax)  
*(Federal endangered species)*

National Marine Fisheries Service  
Maine Field Office  
17 Godfrey Drive Suite 1  
Orono, ME 04473  
(207) 866-7379 (phone); (207) 866-7342 (fax)

National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 (phone); (978) 281-9301 (fax)  
*(Federal endangered species & EFH)*

National Park Service  
North Atlantic Region  
15 State Street  
Boston, MA 02109  
(617) 223-5203 (phone)  
*(Wild and Scenic Rivers)*

Commander (dpb)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, NY 10004-1466  
(212) 668-7021 (phone); (212) 668-7967 (fax)  
*(bridge permits)*

### **2. State of Maine**

#### **a. Department of Environmental Protection (*State permits & Water Quality Certifications*)**

Division of Land Resource Regulation  
Bureau of Land and Water Quality  
17 State House Station  
Augusta, Maine 04333  
(207) 287-7688 (phone)

Southern Maine Regional Office  
312 Canco Road  
Portland, Maine 04103  
(201) 822-6300 (phone)

Eastern Maine Regional Office  
106 Hogan Road  
Bangor, Maine 04401  
(207) 941-4570 (phone)

Northern Maine Regional Office  
1235 Central Drive - Skyway Park  
Presque Isle, Maine 04769  
(207) 764-0477 (phone)

b. Department of Agriculture, Conservation and Forestry

i. Maine Land Use Planning Commission (LUPC) (*State permits & Water Quality Certifications in the unorganized areas of the State*)

Augusta Office  
22 State House Station  
Augusta, Maine 04333-0022  
(207) 287-2631 (phone); (207) 287-7439 (fax)

Greenville Regional Office  
43 Lakeview Drive  
P.O. Box 1107  
Greenville, Maine 04441  
(207) 695-2466 (phone); (207) 695-2380 (fax)

Rangley Regional Office  
133 Fyfe Road  
PO Box 307  
West Farmington, ME 04992  
(207) 670-7493 (phone)

Downeast Regional Office  
106 Hogan Rd, Suite 7  
BMHI Complex  
Bangor, Maine 04401  
(207) 941-4052 (phone); (207) 941-4222 (fax)

Ashland Regional Office  
45 Radar Road  
Ashland, ME 04732-3600  
(207) 435-7963 (phone); (207) 435-7184 (fax)

East Millinocket Regional Office  
191 Main Street  
East Millinocket, ME 04430  
(207) 746-2244 (phone); (207) 746-2243 (fax)

ii. Maine Coastal Program

Department of Agriculture, Conservation and Forestry  
Bureau of Resource Information and Land Use Planning  
17 Elkins Lane {physical address}  
State House Station 93  
Augusta, Maine 04333-0038  
(207) 287-2801 (phone)  
(*CZM consistency determinations*)

iii. Division of Parks and Public Lands

22 State House Station  
Augusta, Maine 04333  
(207) 287-3061 (phone)  
(*submerged lands leases*)

c. Department of Marine Resources

P.O. Box 8  
West Boothbay Harbor, Maine 04575  
(207) 633-9500 (phone)  
(*aquaculture leases*)

**3. Historic Properties**

a. State Historic Preservation Officer (SHPO)

Mr. Earle J. Shettleworth, Jr., Director

Maine Historic Preservation Commission (MHPC)  
65 State House Station  
Augusta, Maine 04333-0065  
(207) 287-2132 (phone); (207) 287-2335 (fax)  
Area of concern: The entire State of Maine

b. Tribal Historic Preservation Officers (THPOs)

Note: The area of concern for each tribe is the entire State of Maine

THPO & Environmental Planner  
Houlton Band of Maliseet Indians  
88 Bell Road  
Littleton, Maine 04730  
(207) 532-4273, x215 (phone)  
(207) 532-6883 (fax)  
[envplanner@maliseets.com](mailto:envplanner@maliseets.com)  
[ogs1@maliseets.com](mailto:ogs1@maliseets.com)

THPO  
Passamaquoddy Tribe of Indians  
Pleasant Point Reservation  
P.O. Box 343  
Perry, Maine 04667  
(207) 853-2600 (phone); (207) 853-6039 (fax)  
soctomah@gmail.com

THPO  
Passamaquoddy Tribe of Indians  
Indian Township Reservation  
P.O. Box 301  
Princeton, Maine 04668  
(207) 796-2301 (phone)  
(207) 796-5256 (fax); [soctomah@gmail.com](mailto:soctomah@gmail.com)

THPO  
Aroostook Band of Micmacs  
7 Northern Road  
Presque Isle, Maine 04769  
(207) 764-1972 (phone); (207) 764-7667 (fax)  
jdennis@micmac-nsn.gov

THPO  
Penobscot Nation  
Cultural and Historic Preservation Dept.  
12 Wabanaki Way  
Indian Island, Maine 04468  
(207) 817-7471 (phone)  
chris.sockalexis@penobscotnation.org

**4. Organizational Websites:**

U.S. Army Corps of Engineers, N.E. District	<a href="http://www.nae.usace.army.mil/missions/regulatory.aspx">www.nae.usace.army.mil/missions/regulatory.aspx</a>
U.S. Army Corps of Engineers, Headquarters	See above link>>Useful Links>>Federal Agency Links
U.S. Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands">www.epa.gov/owow/wetlands</a>
National Marine Fisheries Service	<a href="http://www.nmfs.noaa.gov">www.nmfs.noaa.gov</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov/mainefieldoffice">www.fws.gov/mainefieldoffice</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
Maine Department of Environmental Protection	<a href="http://www.maine.gov/dep">www.maine.gov/dep</a>
Maine Department of Agriculture, Conservation and Forestry	<a href="http://www.maine.gov/acf/index.shtml">www.maine.gov/acf/index.shtml</a>
Maine Land Use Planning Commission	<a href="http://www.maine.gov/doc/lupc/commission/offices.shtml">www.maine.gov/doc/lupc/commission/offices.shtml</a>
Maine Department of Marine Resources	<a href="http://www.maine.gov/dmr/index.htm">www.maine.gov/dmr/index.htm</a>
State of Maine - Aquaculture Guidelines	<a href="http://www.maine.gov/dmr/aquaculture/index.htm">www.maine.gov/dmr/aquaculture/index.htm</a>

## **Part D: Aquaculture Activities**

Eligible for authorization under GP 21 in tidal and non-tidal waters of the U.S. are the following aquaculture activities in ME<sup>1</sup>.

1. The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.;
2. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species;
3. Discharges of dredged or fill material into waters of the U.S. necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities; and
4. Shellfish seeding or brushing the flats projects.

The following requirements apply to all aquaculture work authorized under GP 21:

1. The permittee shall notify the applicable USCG office regarding the project. Rafts and other floating structures must be securely anchored and clearly marked in accordance with appropriate USCG, harbormaster, state or local regulations to inform mariners of the location;
2. The permittee shall remove all gear and associated equipment within any leased or designated shellfish area in the event that the operator surrenders or loses the right to its use. In some situations, a performance bond may be required;
3. The right of the public to traverse or utilize the waters not physically occupied by authorized structures and/or moored vessels within the areal limits of the authorized gear perimeter shall not be impeded;
4. Aquaculture projects authorized herein shall not interfere with public shore access at or seaward of MHW or interfere with the access to any riparian or littoral property. All gear shall be designed and deployed in such a manner as to limit, to the greatest extent practicable, negative impacts on avian resources such as, but not limited to, shore birds, wading birds or members of the waterfowl group. This is meant to include nesting, feeding or resting activities by migratory birds identified at 50 CFR 10.13;
5. There shall be no discernible interference with natural sedimentation and erosion processes;
6. Cultch or spatted-shell must not result in visible degradation of habitat for other aquatic resources;
7. The placement of cultch shall occur only in appropriate locations for working the bed bottom and colonization by oysters, based upon factors of salinity, water quality, water circulation patterns, and substrate composition and such placement shall not create or exacerbate adverse impact to any aquatic resource (finfish, shellfish, marine mammals, coastal birds), water quality, Essential Fish Habitat or SAS; and
8. New applications of cultch and spatted-shell for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds cannot be placed within vegetated shallows and is limited to the minimum amount necessary for coverage of the target area.

GP 21 does not authorize the following aquaculture activities:

1. New or expansion of existing aquaculture facilities for Atlantic salmon;
2. New impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
3. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster that exceed the area limits on page 4;

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<sup>1</sup> Aquaculture information is provided at: [www.maine.gov/dmr/aquaculture/index.htm](http://www.maine.gov/dmr/aquaculture/index.htm).  
NE GP, Section IX - ME State-Specific Supplement 61

4. The cultivation of a nonindigenous species<sup>2</sup> unless that species has been previously cultivated in the waterbody;
5. The cultivation of an aquatic nuisance species<sup>3</sup>;
6. Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the U.S. as waste; or

A PCN is required when/for:

1. New or expansion of existing aquaculture facilities;
2. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species;
3. Activities take place within 25 feet of SAS, including vegetated shallows;
4. Activities include a species not previously cultivated in the waterbody;
5. Activities involve a change from bottom culture to floating or suspended culture; or
6. Depth of cultch or spatting-shell exceeds the minimum necessary for full coverage of the farmed bed bottom.
7. Shellfish dredging, including mechanical or hydraulic in SAS, nor the placement of shell material/cultch in vegetated shallows.

Notes:

1. The TOY restrictions in GC 18 do not apply to this activity unless specified in a written verification.

Definitions:

1. Aquaculture is the farming of aquatic organisms such as fish, crustaceans, molluscs and aquatic plants. It involves cultivating freshwater and saltwater populations under controlled conditions.
2. Aquaculture gear is any gear used to contain and/or cultivate shellfish including, but not limited to lines, racks, cages, bags, anchoring devices and buoys required to suspend or mark such structures.
3. Shellfish seeding is the placement of shellfish seed and/or suitable substrate to facilitate shellfish settlement and increase production. It may involve the placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).
4. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments.
5. Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

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<sup>2</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines nonindigenous species as “any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another.”

<sup>3</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines aquatic nuisance species as “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.”

## **IX. State Specific Supplement**

### **3. Massachusetts**

#### **Part:**

- A. State-Specific Information on General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**
- E. 401 Water Quality Certification**
- F. Cape Cod Canal Review Area**



## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the general conditions in Section IV of this document.

### **1. General Condition 1, Other Permits**

The following approvals may be required by the Commonwealth of Massachusetts:

- a. Final Order of Conditions under the Massachusetts Wetlands Protection Act (MGL c. 131 Section 40). See 310 CMR 10.02;
- b. Waterways license or permit under MGL c. 91. See 310 CMR 9.05.

### **2. General Condition 8, Federal Threatened and Endangered Species**

The Commonwealth of Massachusetts may have more stringent rules when work occurs in habitat regulated under the MA Endangered Species Act. Approval from the Commonwealth of Massachusetts may be required pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00), specifically pursuant to 321 CMR 10.14 or 10.18, for Projects or Activities within Priority Habitat. See [www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review](http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review)).

### **3. General Condition 20, Water Quality and Coastal Zone Management**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

- a. Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341). Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state and authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In Massachusetts, the MassDEP has authority to issue or deny WQC. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the MassDEP has granted or waived WQC when applicable. Activities must comply with all conditions set forth in the MassDEP 401 WQC for work authorized under these GPs or in a MassDEP Individual 401 WQC when required by the MassDEP.

The MassDEP has issued a conditional WQC for certain activities described at 314 CMR 9.03(1) to (6) for which an Individual 410 WQC determination is not required subject to the condition that applicants obtain the authorizations set forth below. Authorization under these GPs becomes valid only after these authorizations are granted. If these authorizations are denied, the project is not authorized under these GPs.

- A Final Order of Conditions under the Wetlands Act, MGL c. 131 s. 40 prior to work for activities subject to jurisdiction as defined at 310 CMR 10.02; and
- A license or permit under the Public Waterways Act, MGL c. 91 prior to work for activities subject to jurisdiction as defined at 310 CMR 9.05.

The MassDEP has issued a conditional WQC which requires that applicants for all of the following activities obtain an Individual 401 WQC determination from the MassDEP. Authorization under these GPs becomes valid only after the DEP either waives or issues an Individual 401 WQC determination. If the DEP denies the WQC, the project is not authorized under these GPs.

- Those activities listed at 314 CMR 9.04: Activities Requiring an Application. See Section IX, Part E of this GP and 314 CMR 9.00 for 401 WQC requirements.

If a WQC is issued for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

b. Concurrence under Section 307 of the Federal Coastal Zone Management (CZM) Act of 1972, as amended. Section 307(c)(1) of the CZM Act requires the Corps to provide a consistency determination and receive state agreement prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Management Program when activities that would occur within, or outside, that state's coastal zone will affect any land or water use or natural resource of the state's coastal zone. In Massachusetts, the Massachusetts Office of CZM (MA CZM) administers the MA CZM program. Information on the state's coastal zone is provided at <http://www.mass.gov/czm/mapping/czboundary.htm>.

For self-verified activities authorized under these GPs, the MA CZM has agreed with the Corps consistency determination and therefore these activities do not require any additional CZM Federal consistency review.

For PCN activities eligible for authorization under these GPs, the MA CZM requires that permittees obtain a Federal consistency concurrence from the MA CZM. The Corps will coordinate review with the MA CZM and then notify applicants if an individual consistency concurrence is required. Authorization under these GPs becomes valid only after the MA CZM determines that the activity is consistent with the MA CZM program. If the MA CZM determines that the activity is not consistent with the state's CZM program, the activity is not authorized under these GPs. If the MA CZM consistency concurrence is for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

#### **4. General Condition 24(f), Vernal Pools**

Vernal pools and work in their vicinity are regulated through a number of municipal by-laws and Massachusetts state laws, including 304 CMR 11.00, 310 CMR 10.00, 314 CMR 9.00, and 310 CMR 15.00.

## **Part B: State-Specific Application/Notification and Authorization Procedures**

### **1. SV Activities:**

See Page 2 of this document for information. In addition, the Self-Verification Notification Form must be submitted to the Corps (see GC 30) before work commences.

### **2. PCN Activities:**

Applicants must send the PCN directly to the Corps and include:

- a. Either ENG Form 4345 or the MassDEP Water Quality Certification application form.
- b. The applicable information in Section V to ensure the application is complete and to speed project review.
- c. One copy of the notification to or response from the Massachusetts Historical Commission (this is the SHPO in MA), BUAR, and the THPO(s) (see Part C below for “Areas of Interest” and GC 6). The submittal may include the SHPO/THPO Notification Form (see Section VIII), or the SHPO/MHC’s “Project Notification Form” using the “Guidance for Completing MHC’s Project Notification Form” located at [www.nae.usace.army.mil/Missions/Regulatory.aspx](http://www.nae.usace.army.mil/Missions/Regulatory.aspx) >> New England General Permit >> Massachusetts. The Corps recommends notifying the SHPO, BUAR and THPO(s) before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPO(s) have up to 30 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2). Aquaculture applicants do not need to notify the SHPO since these projects are unlikely to affect historic or archaeological resources. However the BUAR and four tribes do require notification.

All applicants for activities eligible for PCN must apply as appropriate to the MassDEP or local conservation commission for authorization under Section 401, MGL Chapter 131 section 40, MA Clean Waters Act - Section 401, or MGL Chapter 91 prior to or concurrent with the Corps application,

Applicants for PCN activities may not proceed with work in Corps jurisdiction until written verification is received from the Corps. If the Corps determines that the PCN activity qualifies for authorization under these GPs, the Corps will send an authorization letter directly to the applicant. If the Corps determines that the activity does not qualify for authorization under these GPs or that additional information is required, the Corps will notify the applicant in writing.

### **3. SV and PCN Activities:**

The SHPO and THPOs will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

## **Part C: Contacts and Tribal Areas of Interest**

### **1. Federal**

U.S. Army Corps of Engineers  
Regulatory Division  
696 Virginia Road  
Concord, Massachusetts 01742-2751  
(978) 318-8338 (phone); (978) 318-8303 (fax)

National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, Massachusetts 01930  
(978) 281-9300 (phone)  
*(Federal endangered species & EFH)*

National Park Service  
15 State Street  
Boston, MA 02109  
(617) 223-5191 (phone)  
*(Wild and Scenic Rivers)*

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, Massachusetts 02109-3912  
(617) 918-1692 (phone)

U.S. Fish & Wildlife Service  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301  
(603) 223-2541 (phone)  
*(Federal endangered species)*

Commander (dpb)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, NY 10004-1466  
(212) 668-7994 (phone); (212) 668-7967 (fax)  
*(bridge permits)*

### **2. State of Massachusetts**

#### **a. Department of Environmental Protection (MassDEP)**

MassDEP  
DEP Division of Wetlands and Waterways  
One Winter Street  
Boston, MA 02108  
(617) 292-5695

#### **MassDEP Regional Offices:**

DEP Western Region  
Wetlands Protection Program  
436 Dwight Street  
Springfield, MA 01103  
(413) 784-1100

DEP Central Region  
Wetlands Protection Program  
627 Main Street  
Worcester, MA 01608  
(508) 792-7650

DEP Southeast Region  
Wetlands Protection Program  
20 Riverside Drive, Route 105  
Lakeville, MA 02347  
(508) 946-2800

DEP Northeast Region  
Wetlands Protection Program  
205B Lowell Street  
Wilmington, MA 01887  
(978) 694-3200

b. Massachusetts Office of Coastal Zone Management (CZM)

Coastal Zone Management  
251 Causeway Street, Suite 800  
Boston, MA 02114  
(617) 626-1200 (phone)

**3. Historic Resources:**

a. State Historic Preservation Officer (SHPO)

Massachusetts Historical Commission (MHC)  
The Massachusetts Archives Bldg.  
220 Morrissey Boulevard  
Boston, MA 02125  
(617) 727-8470 (phone); (617) 727-5128 (fax)  
Area of concern: The entire Commonwealth of Massachusetts

b. Massachusetts Board of Underwater Archaeological Resources (BUAR)

Massachusetts Board of Underwater Archaeological Resources  
251 Causeway Street, Suite 800  
Boston, Massachusetts 02114  
(617) 626-1141 (phone); (617) 626-1240 (fax)  
[victor.mastone@state.ma.us](mailto:victor.mastone@state.ma.us)  
Area of concern: All Massachusetts lakes, ponds, rivers and navigable waters.

c. Tribal Historic Preservation Officers (THPOs)

Tribal Historic Preservation Officer  
Wampanoag Tribe of Gay Head (Aquinnah)  
20 Black Brook Road  
Aquinnah, MA 02535  
(508) 645-9265 (phone), (508) 645-3233 (fax)  
Area of concern: The entire Commonwealth of Massachusetts

Tribal Historic Preservation Officer  
Mashpee Wampanoag Tribe  
483 Great Neck Road South  
Mashpee, MA 02649  
(508) 477-0208, x101 (phone); (508) 477-6235 (fax)  
[106review@mwtribe.com](mailto:106review@mwtribe.com)  
Area of concern: The entire Commonwealth of Massachusetts

Tribal Historic Preservation Officer  
Stockbridge-Munsee Community  
P.O. Box 70  
Bowler, WI 54416  
(715) 793-3970 (phone)  
Area of concern: West of Connecticut River

Tribal Historic Preservation Officer  
Narragansett Indian Longhouse  
NE GP, Section IX - MA State-Specific Supplement 59

4425 South County Trail  
Charlestown, RI 02813  
(401) 491-9459 (phone); (401) 862-5106 (cell); (413) 325-7691 (cell); (401) 491-9458 (fax)  
[brwnjbb123@aol.com](mailto:brwnjbb123@aol.com), [dhnthpo@gmail.com](mailto:dhnthpo@gmail.com)

**Area of Concern:** Boston and its surrounding neighborhoods; Lynn; Newton; these cities and towns in Plymouth County (Carver, Duxbury, Hingham, Kingston, Marshfield, Middleborough, Plymouth, Plympton, Scituate); these cities and towns in Norfolk County (Milton, Quincy, Braintree, Randolph, Canton, Sharon and Foxborough); the Blackstone River valley and the cities and towns west of Worcester (which are those including and west of Ashburnham, Westminster, Princeton, Holden, Paxton, Leicester, Oxford and Webster).

#### 4. Organizational Websites

U.S. Army Corps of Engineers, N.E. District	<a href="http://www.nae.usace.army.mil/missions/regulatory.aspx">www.nae.usace.army.mil/missions/regulatory.aspx</a>
U.S. Army Corps of Engineers, Headquarters	See above link>>Useful Links>>Federal Agency Links
U.S. Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands/">www.epa.gov/owow/wetlands/</a>
National Marine Fisheries Service	<a href="http://www.nmfs.noaa.gov">www.nmfs.noaa.gov</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov">www.fws.gov</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
Federal Emergency Management Agency	<a href="http://www.fema.gov">www.fema.gov</a>
MA Executive Office of Environmental Affairs	<a href="http://www.state.ma.us/envir">www.state.ma.us/envir</a>
MA Department of Environmental Protection (access the four regional offices)	<a href="http://www.state.ma.us/dep">www.state.ma.us/dep</a>
MassDEP, Division of Wetlands	<a href="http://www.state.ma.us/dep/brp/ww/rpwwhome.htm">www.state.ma.us/dep/brp/ww/rpwwhome.htm</a>
MassDEP, Division of Waterways	<a href="http://www.state.ma.us/dep/brp/waterway/waterway.htm">www.state.ma.us/dep/brp/waterway/waterway.htm</a>
MA Division of Marine Fisheries	<a href="http://www.state.ma.us/dfwele/dmf/">www.state.ma.us/dfwele/dmf/</a>
MA Division of Fisheries & Wildlife	<a href="http://www.state.ma.us/dfwele/dfw/dfw_toc.htm">www.state.ma.us/dfwele/dfw/dfw_toc.htm</a>
MA Endangered Species Program	<a href="http://www.state.ma.us/dfwele/dfw/nhesp/heritage.htm">www.state.ma.us/dfwele/dfw/nhesp/heritage.htm</a>
MA Coastal Zone Management	<a href="http://www.state.ma.us/czm">www.state.ma.us/czm</a>
MassGIS	<a href="http://www.state.ma.us/mgis/massgis.htm">www.state.ma.us/mgis/massgis.htm</a>
MA Historical Commission	<a href="http://www.state.ma.us/sec/mhc">www.state.ma.us/sec/mhc</a>
MA Board of Underwater Archaeological Resources	<a href="http://www.mass.gov/czm/buar/index.htm">www.mass.gov/czm/buar/index.htm</a>
Mashpee Wampanoag Tribe	<a href="http://mashpeewampanoagtribe.com">http://mashpeewampanoagtribe.com</a>
Narragansett Tribe	<a href="http://www.narragansetttribe.com">www.narragansetttribe.com</a>
Stockbridge-Munsee Tribe	<a href="http://www.mohican.com">www.mohican.com</a>
Wampanoag Tribe of Gayhead (Aquinnah)	<a href="http://www.wampanoagtribe.net">www.wampanoagtribe.net</a>

## **Part D: Aquaculture Activities**

Eligible for authorization under GP 21 in tidal and non-tidal waters of the U.S. are the following aquaculture activities in MA:

1. The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.;
2. Discharges of dredged or fill material into waters of the U.S. necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities; and
3. Shellfish seeding or brushing the flats projects.

The following requirements apply to all aquaculture work authorized under GP 21:

1. All facilities shall be installed and operated in compliance with the “Corps of Engineers Aquaculture Requirements for Massachusetts” located at [www.nae.usace.army.mil/Missions/Regulatory.aspx](http://www.nae.usace.army.mil/Missions/Regulatory.aspx) >> New England General Permit >> Massachusetts >> Aquaculture;
2. The permittee shall notify the applicable USCG office regarding the project. Rafts and other floating structures must be securely anchored and clearly marked in accordance with appropriate USCG, harbormaster, state or local regulations to inform mariners of the location;
3. The permittee shall remove all gear and associated equipment within any leased or designated shellfish area in the event that the operator surrenders or loses the right to its use. In some situations, a performance bond may be required;
4. The right of the public to traverse or utilize the waters not physically occupied by authorized structures and/or moored vessels within the areal limits of the authorized gear perimeter shall not be impeded;
5. Aquaculture projects authorized herein shall not interfere with public shore access at or seaward of MHW or interfere with the access to any riparian or littoral property. All gear shall be designed and deployed in such a manner as to limit, to the greatest extent practicable, negative impacts on avian resources such as, but not limited to, shore birds, wading birds or members of the waterfowl group. This is meant to include nesting, feeding or resting activities by migratory birds identified at 50 CFR 10.13;
6. There shall be no discernible interference with natural sedimentation and erosion processes;
7. Cultch or spatting-shell must not result in visible degradation of habitat for other aquatic resources.
8. The placement of cultch shall occur only in appropriate locations for working the bed bottom and colonization by oysters, based upon factors of salinity, water quality, water circulation patterns, and substrate composition and such placement shall not create or exacerbate adverse impact to any aquatic resource (finfish, shellfish, marine mammals, coastal birds), water quality, Essential Fish Habitat or SAS; and
9. New applications of cultch and spatting-shell for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds cannot be placed within vegetated shallows and is limited to the minimum amount necessary for coverage of the target area.

GP 21 does not authorize the following aquaculture activities:

1. New impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
2. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster that exceed the area limits on page 4;

3. The cultivation of a nonindigenous species<sup>1</sup> unless that species has been previously cultivated in the waterbody;
4. The cultivation of an aquatic nuisance species<sup>2</sup>;
5. Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the U.S. as waste; or

A PCN is required when/for:

1. New or expansion of existing aquaculture facilities totaling >2 acres;
2. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species >1000 SF;
3. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
4. Activities take place within 25 feet of SAS, including vegetated shallows;
5. Activities include a species not previously cultivated in the waterbody;
6. Activities involve a change from bottom culture to floating or suspended culture; or
7. Depth of cultch or spatted-shell exceeds the minimum necessary for full coverage of the farmed bed bottom.
8. Shellfish dredging, including mechanical or hydraulic in SAS, nor the placement of shell material/cultch in vegetated shallows.

Notes:

1. The TOY restrictions in GC 18 do not apply to this activity unless specified in a written verification.

Definitions:

1. Aquaculture is the farming of aquatic organisms such as fish, crustaceans, molluscs and aquatic plants. It involves cultivating freshwater and saltwater populations under controlled conditions.
2. Aquaculture gear is any gear used to contain and/or cultivate shellfish including, but not limited to lines, racks, cages, bags, anchoring devices and buoys required to suspend or mark such structures.
3. Shellfish seeding is the placement of shellfish seed and/or suitable substrate to facilitate shellfish settlement and increase production. It may involve the placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).
4. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments.
5. Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

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<sup>1</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines nonindigenous species as “any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another.”

<sup>2</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines aquatic nuisance species as “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.”



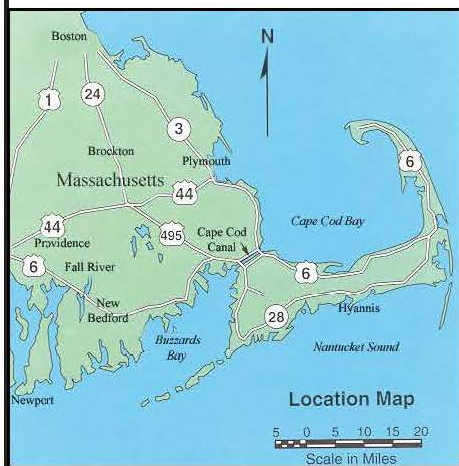
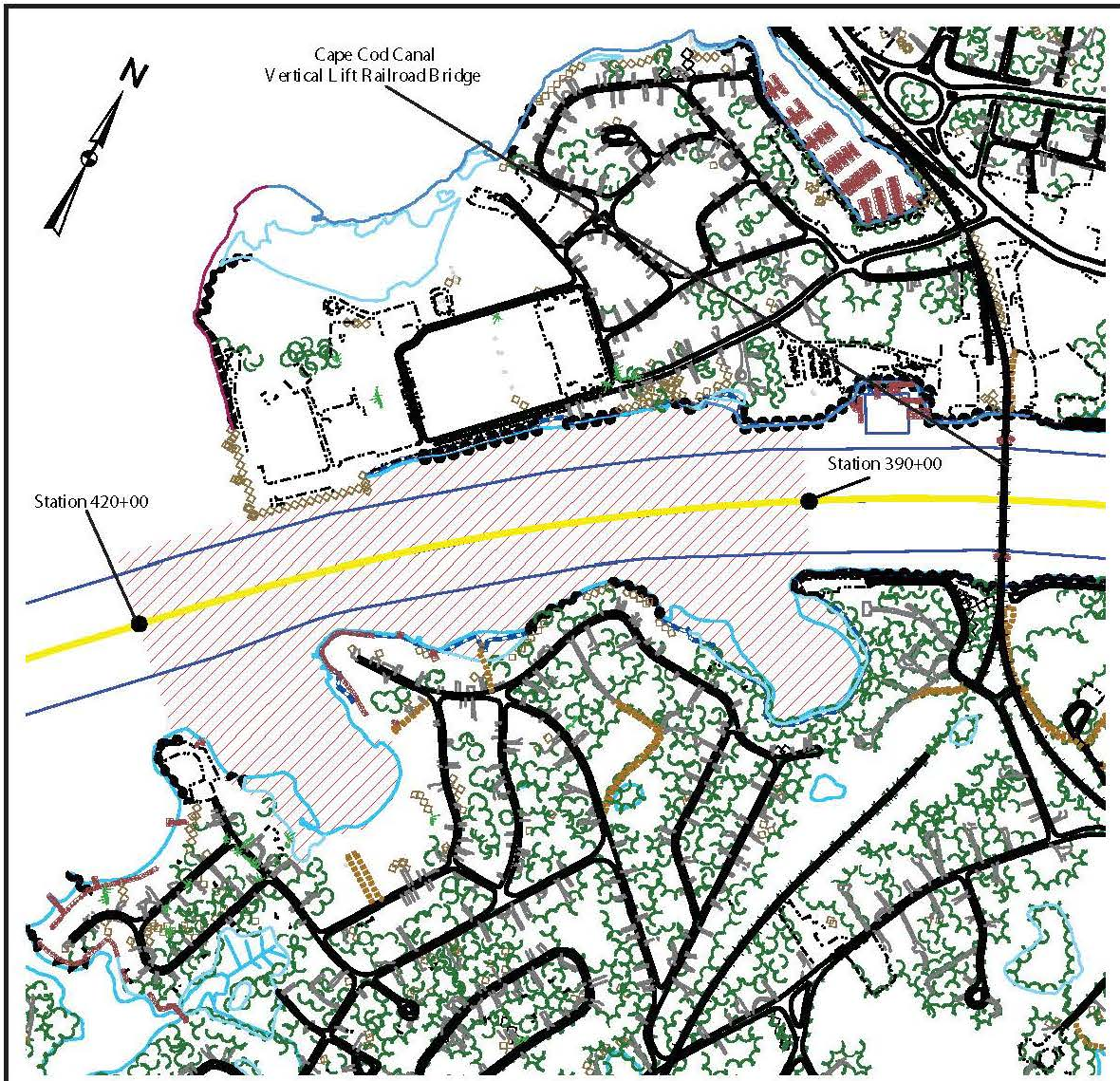
## **Part E: 401 Water Quality Certification**

For work in Corps jurisdiction involving a discharge to waters of the U.S., including wetlands, an Individual 401 WQC must be obtained from or waived by the MassDEP before work can proceed as authorized under these GPs for the following circumstances (pursuant to MGL c. 21 Sections 26 - 53 and regulations at 314 CMR 9.00). The following are from the MassDEP regulations at 314 CMR 9.04: Activities Requiring an Application, and require an Individual 401 WQC application:

1. *More than 5000 SF.* Any activity in an area subject to 310 CMR 10.00, which is also subject to 33 USC 1251, et seq. and will result in the loss of more than 5000 SF cumulatively of bordering and isolated vegetated wetlands and land under water.
2. *Outstanding Resource Waters. Dredging in, or any activity resulting in any discharge of dredged or fill material to any Outstanding Resource Water.*
3. *Real Estate Subdivision.* Any discharge of dredged or fill material associated with the creation of a real estate subdivision, unless there is a valid, unexpired Final Order of Conditions, followed by a Certificate of Compliance, and a recorded deed restriction providing notice to subsequent purchasers limiting the amount of fill for the single and complete project to less than 5000 square feet cumulatively of bordering and/or isolated vegetated wetlands and land under water and the discharge is not to an Outstanding Resource Water. Real estate subdivisions include divisions where approval is required and where approval is not required under the Subdivision Control Law, MGL. c. 41, §81K through 81GG. Discharges of dredged or fill material to create the real estate subdivision include but are not limited to discharges resulting from the construction of roads, drainage, sidewalks, sewer systems, buildings, septic systems, wells, and accessory structures.
4. *Activities Exempt under MGL. c. 131, §40.* Any activity not subject to MGL. c. 131, §40 and which is subject to 33 USC 1251, et seq. and will result in any discharge of dredged or fill material to bordering vegetated wetlands or land under water except for the use of construction mats as temporary fill for utility maintenance when done in accordance with the construction mat limits specified in General Permit 14 of the Corps New England General Permit document provided that temporary fill placed within an area of State listed rare species has an Operation and Maintenance Plan approved by the Massachusetts Natural Heritage Program, and temporary fill placed within an Outstanding Resource Water shall require the filing of an Individual WQC and a Variance Request when required pursuant to 314 CMR 9.06(3).
5. *Routine Maintenance.* Routine maintenance of existing channels, such as mosquito control projects or road drainage maintenance, that will result in the annual loss of more than 5000 square feet cumulatively of bordering and isolated vegetated wetland and land under water will be evaluated under the criteria of 314 CMR 9.06. A single application may be submitted and a single certification may be issued for repeated routine maintenance activities on an annual or multi-year basis not to exceed five years.
6. *More than 5000 sq. ft. of Isolated Vegetated Wetlands.* Any activity in an area not subject to jurisdiction of MGL. c. 131, §40 but which is subject to 33 U.S.C.1251, et seq. (i.e., isolated vegetated wetlands) which will result in the loss of more than 5000 square feet cumulatively of bordering and isolated vegetated wetlands and land under water.

7. *Rare and Endangered Species Habitat in Isolated Vegetated Wetlands.* Any activity resulting in the discharge of dredged or fill material to an isolated vegetated wetland that has been identified as habitat for rare and endangered species.
8. *Salt Marsh.* Any activity resulting in the discharge of dredged or fill material in any salt marsh.
9. *Individual 404 Permit.* Any activity that is subject to an Individual Permit under Section 404 of the CWA by the Corps of Engineers.
10. *Agricultural Limited Project.* Agricultural work, not exempt under MGL. c. 131, §40, referenced in and performed in accordance with 310 CMR 10.53(5). Provided the activity does not result in any discharge of dredged or fill material to an Outstanding Resource Water, such work will be presumed to meet the criteria of 314 CMR 9.06 where a comparable alternatives analysis is performed or approved by the Natural Resources Conservation Service and included in the Notice of Intent.
11. *Discretionary Authority.* Any activity where the Department invokes discretionary authority to require an application based on cumulative effects of multi-phased activities, cumulative effects of dredging, or from the discharge of dredged or fill material to bordering or isolated vegetated wetlands or land under water, or other impacts that may jeopardize water quality. The Department will issue a written notice of and statement of reasons for its determination to invoke this discretionary authority not later than ten business days after its receipt of an Order of Conditions.
12. *Dredging Greater than 100 cubic yards.* Any dredging or dredged material disposal of more than 100 cubic yards not meeting the requirements of 314 CMR 9.03(3).
13. Any activity not listed in 314 CMR 9.03 or 314 CMR 9.04 is an activity requiring an application subject to the requirements of 314 CMR 9.05 and 9.06 through 9.13 as applicable.

**Part F: Cape Cod Canal Review Area**



<sup>11</sup> Cape Cod Canal: The Individual Permit area begins approximately 1,000 feet West of the Cape Cod Canal Vertical Lift Railroad Bridge and continues westerly approximately 3,000 feet along the center line of the channel to the end of the area (NOAA Reference Chart 13236).






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

Map printed on January 30, 2003

**Cape Cod Canal Review Area**

**LEGEND**

-  Channel Limits
-  Center Line
-  Area (approximate) requiring a PCN for activities from Stations 390+00 to 420+00.

## **IX. State-Specific Supplement**

### **4. New Hampshire**

#### **Part:**

- A. State-Specific Information on General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**

## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the general conditions in Section IV of this document.

### **1. General Condition 1, Other Permits**

The following approvals may be required by the State of New Hampshire:

- a. Dredge, fill or construction in and adjacent to wetlands or waters of the state requires a permit from NH DES pursuant to RSA 482-A. Alteration of sand dunes or its vegetation, the upland tidal buffer zone, or in areas adjacent to designated prime wetlands also requires a DES wetlands permit.
- b. Pursuant to RSA 485-A:17 and Env-Ws 415.03 an Alteration of Terrain is required from DES Alteration of Terrain program prior to commencing: projects involving dredging, excavation, filling, mining, transporting of forest products, construction, earth moving, or other significant alteration of the characteristics of the terrain as defined in Env-Ws 415.02 that will occur in or on the border of the surface waters of the state; or construction, earth moving, or other significant alteration of the characteristics of the terrain as defined Env-Ws 415.02 when a contiguous area of 50,000 SF or more if within the protected shoreland as defined by RSA 483-B or 100,000 SF or more in all other areas will be disturbed.
- c. Shoreland Water Quality Protection Act: Excavation, filling and construction within the Protected Shoreland zone will require approval from DES in accordance with the Shoreland Water Quality Protection Act pursuant to RSA 483-B. Minimum standards for the maintenance of a natural woodland buffer and lots sizing as well as impervious surface limits are also set by this statute.
- d. Rivers Management and Protection Act: The DES and other state agencies are required to coordinate with the DES Rivers Coordinator prior to issuing permits affecting any river or segment designated rivers.
- e. The NH Endangered Species Conservation Act (“Endangered Species Act (ESA)”) may also be applicable to DES review under the Wetlands, Shoreland and Water Pollution Acts. The Endangered Species Act provides that “[s]pecies of wildlife normally occurring within this state which may be found to be in jeopardy should be accorded such protection as is necessary to maintain and enhance their numbers.” RSA 212-A:3, I. The ESA requires state agencies to cooperate with the New Hampshire Fish & Game Department in protecting endangered species, and voids state laws inconsistent with its provisions. Id.; RSA 212-A:8, RSA 212-A:9, III. Thus, DES review and permitting decisions under the Wetlands, Shoreland and Water Pollution Acts must ensure the protection of any endangered or threatened species at or near the project site.
- f. The NH Native Plant Protection Act (RSA 217-A) may also be applicable to DES review under the Wetlands, Shoreland and Water Pollution Acts. The Act provides that “Native species of plants within this state and the nation that are endangered, threatened, or otherwise reduced in number or may become so because of loss, modification, or severe curtailment of their habitats, or because of exploitation for commercial, scientific, educational, or private use, should be accorded protection as is necessary to maintain and enhance their numbers.” RSA 217 A:2, II. The Act also requires that, “All state agencies, consistent with their authority and responsibilities, shall assist and cooperate with the commissioner to carry out the purposes of this chapter. To the extent possible actions funded or carried out by state agencies shall not jeopardize the continued existence of any protected plant species or exemplary natural community.” RSA 217 A:7. Thus, DES review and permitting decisions under the Wetlands, Shoreland and Water Pollution Acts must consider the protection of any endangered or threatened plant species or exemplary natural community at or near the project site.

## **2. General Condition 8, Federal Threatened and Endangered Species.**

State protections for state threatened and endangered wildlife species are provided in the NH Endangered Species Conservation Act (RSA 212-A) and state protections for state threatened and endangered plant species are provided in the NH Native Plant Protection Act (RSA 217-A).

## **3. General Condition 20, Water Quality and Coastal Zone Management**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

a. Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341). Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state and authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In New Hampshire, the Department of Environmental Services (DES) Watershed Management Bureau, has authority to issue or deny WQC (RSA 485-A:12,III). Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the DES has granted or waived WQC when applicable. Activities must comply with all conditions set forth in the DES 401 WQC for work authorized under these GPs or in a DES Individual 401 WQC when required by the DES.

The DES has issued a conditional WQC, No. TBD for all activities authorized by these GPs, subject to the condition that applicants obtain the required state wetlands and Alteration of Terrain approvals and comply with the conditions of these GPs. According to the conditions of the WQC, GP activities shall be subject to DES review to determine if WQC should be denied or whether additional conditions or an Individual 401 Certification application are/is necessary to ensure compliance with surface water quality standards. DES will notify applicants if additional WQC conditions are necessary or if WQC has been denied for a specific activity.

Authorization under these GPs is valid under WQC No. TBD unless otherwise notified by DES. If these authorizations are denied, the project is not authorized under these GPs. If a WQC is issued for wetland impacts that are different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

b. Concurrence under Section 307 of the Federal Coastal Zone Management (CZM) Act of 1972, as amended. Section 307(c)(1) requires the Corps to provide a consistency determination and receive state agreement prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Management Program when activities that would occur within, or outside, that state's coastal zone will affect any land or water use or natural resource of the state's coastal zone. In New Hampshire, the DES administers the NH Coastal Program (NHCP). Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the DES has provided a consistency determination when applicable. The NHCP has agreed with the Corps consistency determination for activities authorized under these GPs and therefore these activities do not require additional CZM 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.

#### **4. General Condition 24(f), Vernal Pools.**

The State of NH defines Special Wetlands to include 1) enriched/calcareous seepage swamps, estuarine wetlands, floodplains, peatlands, unique basin swamps/marshes, and vernal pools; 2) all wetlands that provide habitat for threatened or endangered species, and 3) all exemplary wetland natural community occurrences as designated by the NH Natural Heritage Bureau (NHNHB). The wetland types provided in (1) above are fully described in Natural Community Systems of New Hampshire and Natural Communities of New Hampshire, which are available at [www.nhnaturalheritage.org](http://www.nhnaturalheritage.org). (Note: The Corps will use its own definition of vernal pools, which is provided in this NE GP document, not the definition in the referenced Natural Heritage documents.) The NE DES requires applicants to have NHNHB check the wetland types listed in 2 and 3 above by either requesting a hard copy review or using the DataCheck Tool at [www.nhdfi.org/about-forests-and-lands/bureaus/natural-heritage-bureau](http://www.nhdfi.org/about-forests-and-lands/bureaus/natural-heritage-bureau).

### **Part B: State-Specific Application/Notification and Authorization Procedures**

#### **1. SV Activities:**

Activities in NH are eligible for SV under these GPs regardless of whether or not they are categorized by the NHDES Wetlands Bureau as Minimum Impact Projects. Self-verification eligible projects may proceed to construction once they are authorized by the Wetlands Bureau unless the Corps notifies the permittee in writing that additional information or further review is required.

Notes:

1. Permittees are not required to submit the SVNF to the Corps (see GC 30) for work in New Hampshire.
2. The applicant must forward the comments received from the SHPO to the Corps with their DES file number.
3. The state's maintenance provisions differ from the Corps and may require written verification from the state, even though it is not required from the Corps.

#### **2. PCN Activities:**

Activities in NH that are not eligible for self-verification may be eligible for authorization under these GPs provided the work meets the following:

- a. Meets all applicable terms and GCs of these GPs, and
- b. Meets any other PCN eligibility requirement of these GPs.

The following apply to activities that require a PCN as stated throughout this document:

- a. Activities categorized by the NHDES Wetlands Bureau as Minor Impact Projects may proceed to construction 30 days after they are authorized by the DES Wetlands Bureau unless the Corps notifies the permittee in writing within those 30 days that additional information or further review is required. Written verification from the Corps is not required unless the Corps written notification indicates otherwise or unless the permittee wants to start work before the end of the 30-day period.
- b. Activities categorized by the NHDES Wetlands Bureau as Major Impact Projects may proceed only upon receipt of written verification from the Corps. These projects may not proceed to construction without written verification from the Corps.

c. For activities that require a PCN, applicants shall submit a Request for Project Review (RPR) Form ([www.nh.gov/nhdhr/review](http://www.nh.gov/nhdhr/review)) to the NH Division of Historical Resources (this is the SHPO in NH). See Part C below for contact information and GC 6. The Corps recommends notifying the SHPO before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO will notify the Corps if there are State concerns that the proposed work will have an effect on historic resources. The SHPO has up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. The notification may include the SHPO/THPO Notification Form (see Section VIII). The applicant must submit with their application/PCN to the DES Wetlands Bureau, either a copy of their cover letter, or a statement of having sent their application materials to the SHPO. The applicant must forward the comments received from the SHPO to the Corps with their NH DES Wetlands Bureau file number. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2).

d. Provide the applicable information in Section V to ensure the application is complete and to speed project review.

### **3. SV and PCN Activities:**

The SHPO will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.



## Part C: Contacts and Tribal Areas of Interest

### 1. Federal

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

U.S. Fish and Wildlife Service  
70 Commercial Street  
Suite 300  
Concord, NH 03301  
(603) 223-2541 (phone)  
*(Federal endangered species)*

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, MA 02109-3912  
(617) 918-1589 (phone)

National Park Service  
North Atlantic Region  
15 State Street  
Boston, MA 02109  
(617) 223-5191 (phone)  
*(Wild and Scenic Rivers)*

National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 (phone)  
*(Federal endangered species & EFH)*

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

Commander (dpb)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, NY 10004-1466  
(212) 668-7021 (phone); (212) 668-7967 (fax)  
*(bridge permits)*

### 2. State

NH Dept. of Environmental Services  
DES Wetlands Bureau  
P.O. Box 95  
29 Hazen Drive  
Concord, NH 03302  
(603) 271-2147 (phone)  
(603) 271-6588 (fax)

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

NH Fish and Game Department  
NH Fish and Game Department  
Non-Game Endangered Wildlife Program  
11 Hazen Drive

NH Dept. of Resources & Economic Development  
Natural Heritage Bureau  
172 Pembroke Road  
P.O. Box 1856  
Concord, NH 03302  
(603) 271-2215, x323 (phone)  
*(State endangered species)*

White Mountain National Forest  
White Mountain National Forest  
Forest Headquarters  
71 White Mountain Drive  
Campton, NH 03223  
(603) 536-6100 (phone)  
*(Wild & Scenic Rivers, specifically Wild Cat Brook)*

Concord, NH 03302-0095  
(603) 271-3421 (phone)  
(*State endangered species*)

### 3. Historic Resources

#### State Historic Preservation Office (SHPO)

NH Division of Historical Resources  
19 Pillsbury Street  
Concord, NH 03301-3570  
(603) 271-3483 (phone)  
Area of concern: The entire State of New Hampshire

### 4. Organizational Websites

U.S. Army Corps of Engineers, N.E. District	<a href="http://www.nae.usace.army.mil/missions/regulatory.aspx">www.nae.usace.army.mil/missions/regulatory.aspx</a>
U.S. Army Corps of Engineers, Headquarters	See above link>>Useful Links>>Federal Agency Links.
U.S. Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands">www.epa.gov/owow/wetlands</a>
National Marine Fisheries Service, Northeast Region	<a href="http://www.nero.noaa.gov/hcd">www.nero.noaa.gov/hcd</a>
National Marine Fisheries Service, National Headquarters	<a href="http://www.nmfs.noaa.gov/habitat">www.nmfs.noaa.gov/habitat</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov">www.fws.gov</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
NH DES Wetlands Bureau	<a href="http://www.des.nh.gov/organization/divisions/water/wetlands/index.htm">www.des.nh.gov/organization/divisions/water/wetlands/index.htm</a>
NH wetlands rules	<a href="http://www.des.nh.gov/organization/commissioner/legal/rules/index.htm#wetlands">www.des.nh.gov/organization/commissioner/legal/rules/index.htm#wetlands</a>
NH Fish and Game Department	<a href="http://www.wildlife.state.nh.us">www.wildlife.state.nh.us</a>
NH Coastal Program	<a href="http://des.nh.gov/organization/divisions/water/wmb/coastal/index.htm">http://des.nh.gov/organization/divisions/water/wmb/coastal/index.htm</a>
NH Division of Historical Resources	<a href="http://www.nh.gov/nhdhr">www.nh.gov/nhdhr</a>
NH GIS	<a href="http://www.granit.unh.edu">www.granit.unh.edu</a>
NH Natural Heritage Bureau, Dept. of Resources and Economic Development	<a href="http://nhnaturalheritage.org">nhnaturalheritage.org</a>

## **Part D: Aquaculture Activities**

Eligible for authorization under GP 21 in tidal and non-tidal waters of the U.S. are the following aquaculture activities in NH:

1. The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.;
2. Discharges of dredged or fill material into waters of the U.S. necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities; and
3. Shellfish seeding or brushing the flats projects.

The following requirements apply to all aquaculture work authorized under GP 21:

1. The permittee shall notify the applicable USCG office regarding the project. Rafts and other floating structures must be securely anchored and clearly marked in accordance with appropriate USCG, harbor master, state or local regulations to inform mariners of the location;
2. The permittee shall remove all gear and associated equipment within any leased or designated shellfish area in the event that the operator surrenders or loses the right to its use. In some situations, a performance bond may be required;
3. The right of the public to traverse or utilize the waters not physically occupied by authorized structures and/or moored vessels within the areal limits of the authorized gear perimeter shall not be impeded;
4. Aquaculture projects authorized herein shall not interfere with public shore access at or seaward of MHW or interfere with the access to any riparian or littoral property. All gear shall be designed and deployed in such a manner as to limit, to the greatest extent practicable, negative impacts on avian resources such as, but not limited to, shore birds, wading birds or members of the waterfowl group. This is meant to include nesting, feeding or resting activities by migratory birds identified at 50 CFR 10.13;
5. There shall be no discernible interference with natural sedimentation and erosion processes;
6. Depth of cultch or spatting-shell limited to the minimum necessary for full coverage of the farmed bed bottom and must not result in visible degradation of habitat for other aquatic resources;
7. The placement of cultch shall occur only in appropriate locations for working the bed bottom and colonization by oysters, based upon factors of salinity, water quality, water circulation patterns, and substrate composition and such placement shall not create or exacerbate adverse impact to any aquatic resource (finfish, shellfish, marine mammals, coastal birds), water quality, Essential Fish Habitat or SAS; and
8. New applications of cultch and spatting-shell for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds cannot be placed within vegetated shallows and is limited to the minimum amount necessary for coverage of the target area.

GP 21 does not authorize the following aquaculture activities:

1. New impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
2. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster that exceed the area limits on page 4;

3. The cultivation of a nonindigenous species<sup>1</sup> unless that species has been previously cultivated in the waterbody;
4. The cultivation of an aquatic nuisance species<sup>2</sup>;
5. Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the U.S. as waste; or

A PCN is required when/for:

1. New or expansion of existing aquaculture facilities;
2. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species >1000 SF;
3. Activities take place within 25 feet of SAS, including vegetated shallows;
4. Activities include a species not previously cultivated in the waterbody;
5. Activities involve a change from bottom culture to floating or suspended culture; or
6. Depth of cultch or spatting-shell exceeds the minimum necessary for full coverage of the farmed bed bottom.
7. Shellfish dredging, including mechanical or hydraulic in SAS, nor the placement of shell material/cultch in vegetated shallows.

Notes:

The TOY restrictions in GC 18 do not apply to this activity unless specified in a written verification.

Definitions:

1. Aquaculture is the farming of aquatic organisms such as fish, crustaceans, molluscs and aquatic plants. It involves cultivating freshwater and saltwater populations under controlled conditions.
2. Aquaculture gear is any gear used to contain and/or cultivate shellfish including, but not limited to lines, racks, cages, bags, anchoring devices and buoys required to suspend or mark such structures.
3. Shellfish seeding is the placement of shellfish seed and/or suitable substrate to facilitate shellfish settlement and increase production. It may involve the placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).
4. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments.
5. Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

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<sup>1</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines nonindigenous species as “any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another.”

<sup>2</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines aquatic nuisance species as “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.”

## **IX. State Specific Supplement**

### **5. State of Rhode Island**

#### **Part:**

- A. State-Specific Information on General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**
- E. Narragansett Land Claim Settlement Area and Areas of Influence**

## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the general conditions in Section IV of this document.

### **1. General Condition 1, Other Permits**

The following state approvals may be required by the state:

- a. RI Department of Environmental Management (RI DEM) approval under the Freshwater Wetland Act, Rhode Island General Laws (RIGL).
- b. RI DEM approval under RIGL Section 46-19 et seq. entitled “Inspection of Dams and Reservoirs” and regulations promulgated thereto.
- c. RI DEM approval under the “Water Quality Regulations for Water Pollution Control” pursuant to RIGL Chapter 42-17.1 and Section 46-12-1 et seq.
- d. RI DEM approval under the “Rules and Regulation for Dredging and the Management of Dredged Material” pursuant to RIGL Chapter 46-6.1.
- e. CRMC approval (“Assent”) pursuant to RIGL Chapter 23, Section 46-23-1 et seq, “Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast.”
- f. CRMC approval (“Assent”) pursuant to RIGL § 46-23 et seq. for activities in tidal waters or adjacent upland areas.

### **2. General Condition 8, Federal Threatened and Endangered Species.**

THIS SECTION MAY PROVIDE INFORMATION ON THE STATE’S PROTECTIONS FOR STATE ENDANGERED SPECIES.

### **3. General Condition 20, Water Quality and Coastal Zone Management**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

a. Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341). Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state and authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In Rhode Island, the Department of Environmental Management (DEM) has authority to issue or deny WQC. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the DEM has granted or waived WQC when applicable. Activities must comply with all conditions set forth in the DEM 401 WQC for work authorized under these GPs or in a DEM Individual 401 WQC when required by the DEM.

i. For self-verified activities eligible for authorization under these GPs, the DEM has issued a conditional WQC subject to the following condition:

- The applicant must obtain the state approvals listed in (1)(a) - (1)(d) above.

ii. For PCN activities eligible for authorization under these GPs, the DEM has issued a conditional WQC subject to the following conditions:

- The applicant obtains the state approvals listed in (1)(a) - (1)(d) above, and
- The DEM finds through Federal/State screening meetings that the activity is reasonably likely to have minimal or no impact on water quality.

b. Concurrence under Section 307 of the Federal Coastal Zone Management Act (CZM) Act of 1972, as amended. Section 307(c)(1) requires the Corps to provide a consistency determination and receive state agreement prior to the issuance, reissuance, or expansion of activities authorized by a GP that authorizes activities within a state with a Federally-approved Coastal Management Program when

activities that would occur within, or outside, that state's coastal zone will affect any land or water use or natural resource of the state's coastal zone. In Rhode Island, the RI Coastal Resources Management Council (CRMC) administers the RI CZM program. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the CRMC has provided a consistency determination when applicable. The CRMC has agreed with the Corps consistency determination for activities authorized under these GPs provided the applicant obtains the applicable state approvals listed in (1) above, and therefore these activities do not require any additional CZM Federal consistency review. The state's coastal zone is statutorily defined in RIGL Chapter 23, Section 46-23.

**4. General Condition 24(f), Vernal Pools**

See the "State of Rhode Island's Rules and Regulations Governing the Administration and Enforcement of The Fresh Water Wetlands Act," Rule 10.05(C), which lists review criteria.

## **Part B: State-Specific Application/Notification and Authorization Procedures**

### **1. Self-Verification**

Work in RI that is subject to Corps jurisdiction (see Section II, Page 3) and not located on the Narragansett Land Claim Settlement Area<sup>1</sup> or sites that may influence this area (Areas of Influence), are eligible for self-verification and may proceed without application to the Corps provided the work:

- a. Is eligible for self-verification as specified in Sections III, IV and IX of these GPs;
- b. Meets all applicable terms and conditions of these GPs; and
- c. Meets any other self-verification eligibility requirement of these GPs.

Notes:

1. Activities subject to Corps jurisdiction but exempt from state regulation are eligible for self-verification.
2. For activities eligible for self-verification under these GPs, the RI DEM and CRMC require an application to their offices for their review.
3. Applicants are not required to submit a SVNF (Section VII) for work in tidal waters. Applicants are required to include a completed and signed SVNF with their application to the RI DEM that certifies that their project is eligible for self-verification of these NE GPs.

### **2. PCN**

Work in RI that is subject to Corps jurisdiction (see Section II, page 3) requires written approval from the appropriate State permitting agency and the Corps provided the work meets the following:

- a. Does not qualify for self-verification and is eligible as a PCN activity as specified throughout this document, particularly in Sections III, IV and IX, and
- b. Meets all applicable terms and conditions of these GPs.

All applicants for work that is eligible for PCN must apply directly to the:

- a. Appropriate RI permitting agency (RI DEM or CRMC), not to the Corps, for projects in RI. The Corps and Federal resource agencies will receive State Notices from CRMC and copies of complete applications from the RI DEM. The DEM's written approval will include an approval statement from the Corps, if the Corps approves the project.
- b. The Corps and notify the Narragansett Indian Land and Water Resource Commission (see Part C) for all activities subject to Corps jurisdiction that are located on Narragansett Land Claim Settlement Area and Areas of Influence (see Part E). These activities are not eligible for self-verification.

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<sup>1</sup> The Narragansett Land Claim Settlement Area is marked with hatch marks at Section IX, Part E. Areas of Influence to this area are located outside of this Land Claim Settlement Area, but in or adjacent to either the Wood or Pawcatuck River. These are areas of special concern and shall be included as follows:

- The Pawcatuck River from the Highway 112 crossing downstream to the confluence with the Wood River;
- The Wood River, upstream of the confluence with the Pawcatuck River to the Highway 91 crossing;
- Tributaries to the Wood and Pawcatuck Rivers within the segments described at the two bullets above and within .25 miles of the main stems of the Wood and Pawcatuck Rivers; and
- The adjacent wetlands (bordering, contiguous and neighboring) to the Wood and Pawcatuck Rivers and their above specified tributaries.



c. Corps for activities exempt from RI regulation (see below) using ENG Form 4345. The Corps, not the state, will issue the written verification for such projects once they are approved.

For a - c above, the applicant shall include one copy of the notification to or response from the RI Historic Preservation and Heritage Commission (this is the SHPO in RI) and THPO(s) (see Part C below for “Areas of Interest” and GC 6). Applicants may submit the SHPO/THPO Notification Form (see Section VIII) but must include the information specified in the form. The Corps recommends notifying the SHPO and THPO(s) before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPO(s) have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2).

Refer to the information in Section V to ensure the required information for a complete application has been provided to us. In most cases, if PCNs satisfy all requirements of the Rhode Island Rules & Regulations Governing the Administration and Enforcement of the RI Freshwater Wetlands Act, they would adequately satisfy the submittal requirements of Section V. However, the Corps reserves the right to request additional information to satisfy the Section V requirements.

Applicants for PCN activities may not proceed with work in Corps jurisdiction until written verification is received from the Corps or State.

For DEM Freshwater Wetlands jurisdiction projects, if the Corps and Federal resource agencies determine that the activity is eligible for authorization under these GPs, the Corps will send an authorization memorandum to the DEM, and the DEM may then notify the applicant in a joint Corps/DEM authorization letter. For CRMC jurisdiction projects, if the Corps and Federal resource agencies determine that the activity is eligible for authorization under these GPs, the Corps will send an authorization letter directly to the permittee. The CRMC will send their decision (Assent) directly to the permittee. See [www.dem.ri.gov/maps/wetjuris.htm](http://www.dem.ri.gov/maps/wetjuris.htm) for wetland jurisdiction maps illustrating the boundaries that separate areas of DEM and CRMC freshwater wetlands authority.

### **3. SV and PCN Activities:**

The SHPO and THPOs will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

## **Part C: Contacts and Tribal Areas of Interest**

### **1. Federal**

U.S. Army Corps of Engineers  
New England District, Regulatory Division  
696 Virginia Road  
Concord, MA 01742-2751  
(978) 318-8338 or (800) 343-4789 (phone)  
(978) 318-8303 (fax)

U.S. Fish and Wildlife Service  
70 Commercial Street  
Suite 300  
Concord, NH 03301  
(603) 223-2541 (phone)  
*(Federal endangered species)*

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

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, MA 02109-3912  
(617) 918-1741 (phone)

National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 (phone)  
*(Federal endangered species & EFH)*

Commander (dpb)  
First Coast Guard District  
One South Street - Battery Bldg  
New York, NY 10004-1466  
(212) 668-7021 (phone); (212) 668-7967 (fax)  
*(bridge permits)*

### **2. State**

RI Department of Environmental Management  
Water Resources/Freshwater Wetlands  
235 Promenade Street  
Providence, RI 02908  
(401) 222-6820 (phone)  
(401) 222-3564 (fax)

Rhode Island Natural History Survey (RINHS)  
P.O. Box 1858  
Kingston, RI 02881  
(401) 874-5800 (phone)  
*(State endangered species)*

RI Coastal Resources Management Council  
Oliver Stedman Government Center  
4808 Tower Hill Road  
Wakefield, RI 02879-1900  
(401) 783-3370 (phone)  
(401) 783-3767 (fax)

### **3. Historic Resources**

#### **a. State Historic Preservation Officer**

Rhode Island Historical Preservation & Heritage Commission  
150 Benefit Street  
Providence, RI 02908  
(401) 222-2678 (phone); (401) 222-2968 (fax)  
Area of Concern: The entire State of Rhode Island

b. Tribal Historic Preservation Officers

Tribal Historic Preservation Officer  
Narragansett Indian Longhouse  
4425 South County Trail  
Charlestown, RI 02183  
(401) 491-9459 (phone); (401) 862-5106 (cell); (413) 325-7691 (cell); (401) 491-9458 (fax)  
[brwnjbb123@aol.com](mailto:brwnjbb123@aol.com), [dhnthpo@gmail.com](mailto:dhnthpo@gmail.com)  
Area of concern: The entire State of Rhode Island

Tribal Historic Preservation Officer  
Wampanoag Tribe of Gay Head (Aquinnah) 20 Black Brook Road  
Aquinnah, MA 02535-1546  
(508) 645-9265 (phone); (508) 645-3790 (fax)  
Area of concern: Barrington, Bristol, Central Falls, Cumberland, East Providence, Lincoln, Little Compton, Middletown, Newport, Pawtucket, Portsmouth, Tiverton, Warren, Woonsocket.

Tribal Historic Preservation Officer  
Mashpee Wampanoag Tribe  
483 Great Neck Road South  
Mashpee, MA 02649  
(508) 477-6186 (phone); (508) 477-6235 (fax); [106Review@mwtribe.com](mailto:106Review@mwtribe.com)  
Area of concern: Barrington, Bristol, Central Falls, Cumberland, East Providence, Lincoln, Little Compton, Middletown, Newport, Pawtucket, Portsmouth, Tiverton, Warren, Woonsocket.

c. Tribal Environmental Officer

Narragansett Indian Land and Water Resource Commission  
215 Fenner Hill Road  
Hope Valley, RI 02832  
(401) 491-9459 (phone); (401) 862-5106 (cell); (401) 491-9458 (fax)

**4. Organizational Websites**

U.S. Army Corps of Engineers, N.E. District	<a href="http://www.nae.usace.army.mil/missions/regulatory.aspx">www.nae.usace.army.mil/missions/regulatory.aspx</a>
U.S. Army Corps of Engineers, Headquarters	See above link>>Useful Links>>Federal Agency Links.
Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands/">www.epa.gov/owow/wetlands/</a>
National Marine Fisheries Service	<a href="http://www.nmfs.noaa.gov">www.nmfs.noaa.gov</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov">www.fws.gov</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
RI Dept. of Environmental Management	<a href="http://www.dem.ri.gov">www.dem.ri.gov</a>
RI CRMC	<a href="http://www.crmc.ri.gov">www.crmc.ri.gov</a>
RI Division of Fish and Wildlife	<a href="http://www.dem.ri.gov/programs/bnatres/fishwild/index.htm">www.dem.ri.gov/programs/bnatres/fishwild/index.htm</a>
RI Historic Preservation & Heritage Comm.	<a href="http://www.rihphc.state.ri.us">www.rihphc.state.ri.us</a>
RI GIS	<a href="http://www.planning.ri.gov/gis/gishome.htm">www.planning.ri.gov/gis/gishome.htm</a>
Narragansett Tribe	<a href="http://www.narragansetttribe.com">www.narragansetttribe.com</a>
Wampanoag Tribe	<a href="http://www.wampanoagtribe.net">www.wampanoagtribe.net</a>
Rhode Island Natural History Survey	<a href="http://www.rinhs.org">www.rinhs.org</a>

## **Part D: Aquaculture Activities**

Eligible for authorization under GP 21 in tidal and non-tidal waters of the U.S. are the following aquaculture activities in RI:

1. The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.;
2. Discharges of dredged or fill material into waters of the U.S. necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities; and
3. Shellfish seeding or brushing the flats projects.

The following requirements apply to all aquaculture work authorized under GP 21:

1. The permittee shall notify the applicable USCG office regarding the project. Rafts and other floating structures must be securely anchored and clearly marked in accordance with appropriate USCG, harbor master, state or local regulations to inform mariners of the location;
2. The permittee shall remove all gear and associated equipment within any leased or designated shellfish area in the event that the operator surrenders or loses the right to its use. In some situations, a performance bond may be required;
3. The right of the public to traverse or utilize the waters not physically occupied by authorized structures and/or moored vessels within the areal limits of the authorized gear perimeter shall not be impeded;
4. Aquaculture projects authorized herein shall not interfere with public shore access at or seaward of MHW or interfere with the access to any riparian or littoral property. All gear shall be designed and deployed in such a manner as to limit, to the greatest extent practicable, negative impacts on avian resources such as, but not limited to, shore birds, wading birds or members of the waterfowl group. This is meant to include nesting, feeding or resting activities by migratory birds identified at 50 CFR 10.13;
5. There shall be no discernible interference with natural sedimentation and erosion processes;
6. Depth of cultch or spatting-shell limited to the minimum necessary for full coverage of the farmed bed bottom and must not result in visible degradation of habitat for other aquatic resources;
7. The placement of cultch shall occur only in appropriate locations for working the bed bottom and colonization by oysters, based upon factors of salinity, water quality, water circulation patterns, and substrate composition and such placement shall not create or exacerbate adverse impact to any aquatic resource (finfish, shellfish, marine mammals, coastal birds), water quality, Essential Fish Habitat or SAS; and
8. New applications of cultch and spatting-shell for the purposes of enhancement or restoration of a native shellfish population and for bottom cultivation associated with commercial shellfish aquaculture on leased grounds cannot be placed within vegetated shallows and is limited to the minimum amount necessary for coverage of the target area.

GP 21 does not authorize the following aquaculture activities:

1. New impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster;
2. Expansions of existing, authorized impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster that exceed the area limits on page 4;
3. The cultivation of a nonindigenous species<sup>2</sup> unless that species has been previously cultivated in the waterbody;

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<sup>2</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines nonindigenous species as “any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another.”

4. The cultivation of an aquatic nuisance species<sup>3</sup>;
5. Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into waters of the U.S. as waste; or

A PCN is required when:

1. New or expansion of existing aquaculture facilities;
2. Research, educational, commercial-viability or experimental aquaculture gear activities for indigenous species >1000 SF;
3. Activities take place within 25 feet of SAS, including vegetated shallows;
4. Activities include a species not previously cultivated in the waterbody;
5. Activities involve a change from bottom culture to floating or suspended culture; or
6. Depth of cultch or spatting-shell exceeds the minimum necessary for full coverage of the farmed bed bottom.
7. Shellfish dredging, including mechanical or hydraulic in SAS, nor the placement of shell material/cultch in vegetated shallows.

Notes:

The TOY restrictions in GC 18 do not apply to this activity unless specified in a written verification.

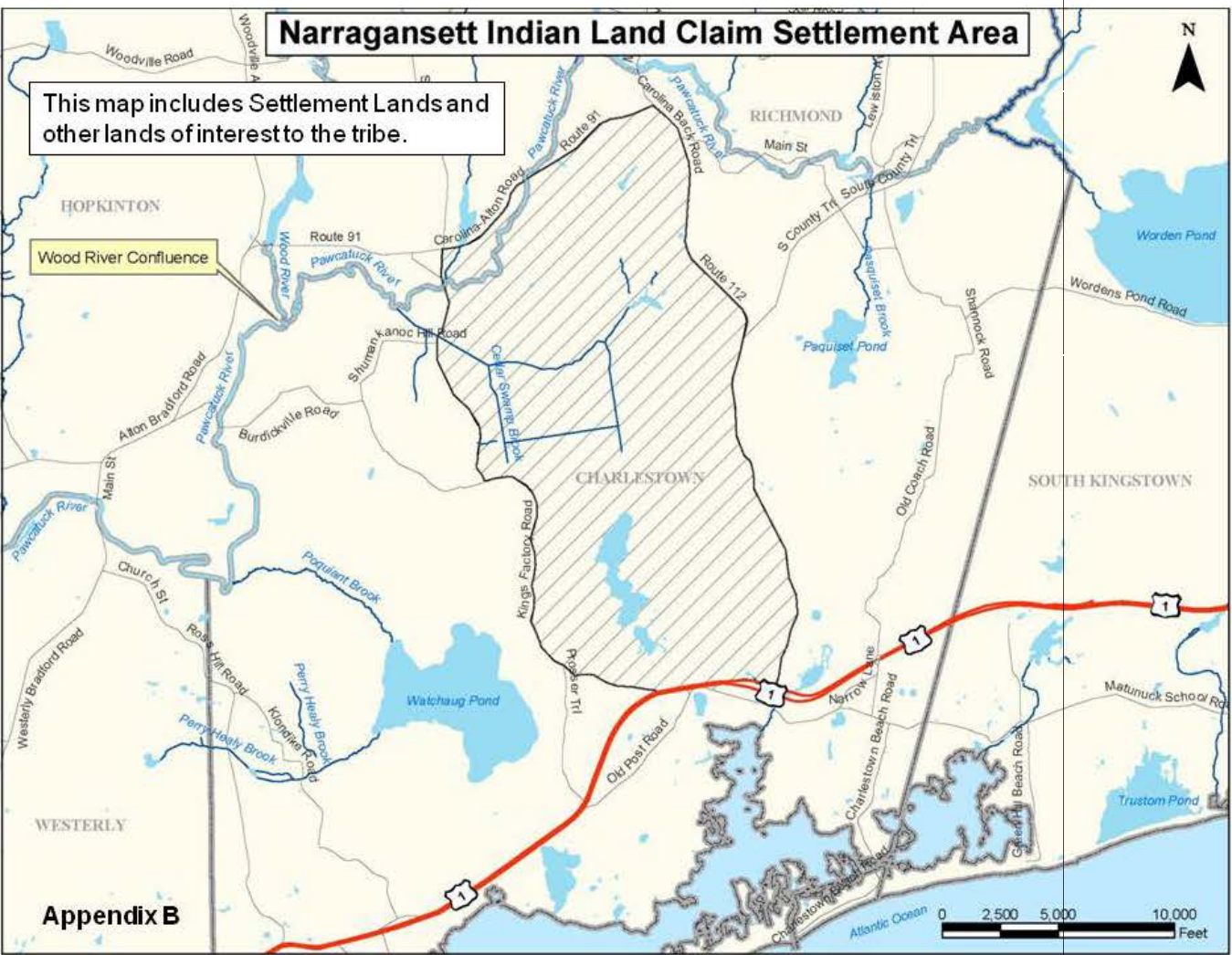
Definitions:

1. Aquaculture is the farming of aquatic organisms such as fish, crustaceans, molluscs and aquatic plants. It involves cultivating freshwater and saltwater populations under controlled conditions.
2. Aquaculture gear is any gear used to contain and/or cultivate shellfish including, but not limited to lines, racks, cages, bags, anchoring devices and buoys required to suspend or mark such structures.
3. Shellfish seeding is the placement of shellfish seed and/or suitable substrate to facilitate shellfish settlement and increase production. It may involve the placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).
4. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments.
5. Shellfish dredging typically consists of a net on a frame towed behind a boat to capture shellfish and leave the sediment behind. Dredges may skim the surface, utilize hydraulic jets, toothed rakes or suction apparatus.

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<sup>3</sup> The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines aquatic nuisance species as “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.”

**Part E: Narragansett Land Claim Settlement Area and Areas of Influence**



**Appendix B**

## **IX. State-Specific Supplement**

### **6. Vermont**

#### **Part:**

- A. State-Specific Information on General Permits and General Conditions**
- B. State-Specific Application/Notification and Authorization Procedures**
- C. Contacts and Tribal Areas of Interest**
- D. Aquaculture Activities**

## **Part A: State-Specific Information on General Conditions**

The following provide additional information to the GCs in Section IV of this document.

### **1. GP 7, Bank and Shoreline Stabilization**

The following is relevant to the State of Vermont's regulatory program:

a. Wherever practicable, projects should be designed to accommodate the natural tendencies of the fluvial system. This should greatly enhance the likelihood of long-term success of the project and minimize the chance of exacerbating an otherwise undesirable physical adjustment process. Recognition of these processes requires assessment of physical parameters and characteristics of the watershed, the water and sediment regimes, the channel and floodplain, the anthropogenic influences and constraints on the reach concerned, and to what extent sediment transport continuity in the reach can be attained.

b. Applicants should consult with the Vermont River Management Program Stream Alteration Engineer for assistance in complying with GP 7.

### **2. General Condition 1, Other Permits**

The following state approvals may be required by the state:

- a. Vermont Agency of Natural Resources (VT ANR) approval of a Wetland Permit under the Vermont Wetland Rules;
- b. VT ANR approval of a Stream Alteration Permit under Title 10, Chapter 41, Subchapter 2;
- c. VT ANR approval of a Lake Encroachment Permit under Title 29, Chapter 11, Management of Lakes and Ponds;
- d. VT ANR approval of a Dam Construction Permit under Title 10, Chapter 43, Dams;
- e. VT ANR approval of a Shoreland Permit or Registration under Title 10, Chapter 49A
- f. VT Department of Fish and Wildlife approval of a Stream Obstruction Permit under Title 10, Chapter 111, Section 4607.

### **3. General Condition 8, Federal Threatened and Endangered Species**

Pursuant to 10 V.S.A. Chapter 123, applicants shall not impact state threatened or endangered species. The lists of state threatened and endangered species are available through the Vermont Fish & Wildlife Department at [www.vtfishandwildlife.com/wildlife\\_nongame.cfm](http://www.vtfishandwildlife.com/wildlife_nongame.cfm). Contact information for the Vermont Fish and Wildlife Department is listed below in Part C.

### **4. General Condition 20, Water Quality Certification**

THE FOLLOWING WORDING REGARDING WQC AND CZM IS BASED UPON PAST WORDING IN THE STATE GP. THE FINAL WORDING IS PENDING THE OUTCOME OF THE WQC AND CZM CONSISTENCY PROCESSES.

Water Quality Certification (WQC) under Section 401 of the Federal CWA (33 USC 1341) Section 401(a)(1) requires applicants to obtain a WQC or waiver from the state and authorized tribes, or EPA where applicable, for any activity that may discharge pollutants into waters of the U.S. during construction or operation of the activity. In Vermont, the VT ANR has authority to issue or deny WQC. Authorization under the NE GPs is not valid and no work may commence in Corps jurisdiction until the VT ANR has granted or waived WQC when applicable. Activities must comply with all conditions set forth in the ANR's 401 WQC for work authorized under these GPs or in an ANR Individual 401 WQC when required by the ANR.

a. For self-verified activities authorized under these GPs, the VT ANR has issued a conditional WQC subject to the following condition:



- The Corps shall exercise its discretionary authority to require a PCN for any self-verification project when notified by the VT ANR that such project represents a threat to water quality.

b. For activities authorized under these GPs with PCN and written verification, the VT ANR has issued a conditional WQC for PCN activities subject to the following condition:

- The Corps notifies the VT ANR and the VT ANR finds that the activity is reasonably likely to have minimal or no impact on water quality. The VT ANR retains the right to require an Individual WQC for any PCN activity. Authorization under these GPs becomes valid only after the VT ANR issues an Individual 401 WQC determination. If the VT ANR denies the WQC, the activity is not authorized under these GPs. If the VT ANR issues a WQC for work different from that in the Corps authorization, the Corps authorization becomes invalid and the permittee must resubmit a PCN to the Corps so the Corps may reevaluate the project and issue a written verification as appropriate.

## **5. General Condition 24(f), Vernal Pools.**

The State of VT defines special wetlands as vernal pools, bogs, fens, and wetlands, which provide habitat for threatened or endangered species as designated by the State of Vermont Natural Heritage Program. Refer to the VT ANR Environmental Interest Locator, which provides an interactive web based GIS map with locations of significant (wetland) natural communities. At the Locator select map layers, fish and wildlife, and then significant natural communities: [http://maps.vermont.gov/imf/sites/ANR\\_NATRESViewer/jsp/launch.jsp](http://maps.vermont.gov/imf/sites/ANR_NATRESViewer/jsp/launch.jsp). Some wetlands are more valuable and sensitive to fragmentation, non-point source runoff, and other secondary impacts. Upland buffers are especially essential to protect their functions.

## **Part B: State-Specific Application/Notification and Authorization Procedures**

**1. Self-Verification Activities:** The Self-Verification Notification Form must be submitted to the Corps (see GC 30) before work commences (see Page 2 of this document).

**2. PCN Activities:** All applicants for activities that are eligible for PCN must apply as appropriate to the Corps directly at the Vermont Project Office using Corps ENG Form 4345. The information in Section V may be necessary to ensure the required information for a complete application has been provided to us. Applicants are encouraged to simultaneously apply to the VT ANR for any related permits. The Corps will review complete applications for PCN activities with the VT ANR, SHPO and THPO as appropriate.

Applicants shall include one copy of the notification to or response from the Vermont Division for Historic Preservation (this is the SHPO in VT) and THPO (see Part C below for “Areas of Interest” and GC 6). Applicants may submit the SHPO/THPO Notification Form (see Section VIII), but must include the information specified in the form. The Corps recommends notifying the SHPO and THPO before submitting the PCN in the event that extensive coordination or archaeological work is required. The SHPO and THPO have up to 15 calendar days to respond to the Corps, but the Corps may request expedited review on particular projects, e.g., emergency situations. Notification is not required when alternate procedures exist (see GC 28) or the Corps has designated another Federal agency as the lead in accordance with 36 CFR 800.2(a)(2).

**3. SV and PCN Activities:** The SHPO and THPO will contact the Corps if there is any potential for an effect on a historic property and the Corps will begin consultation. Applicants need to coordinate with the Corps before conducting any archaeological work (reconnaissance, surveys, recovery, etc.) as the Corps will use 33 CFR 325 Appendix C, including its “permit area” definition, to

determine its scope of analysis for the consideration of historic properties. This is to ensure that work is done in a cost-effective manner, in accordance with Corps requirements and to avoid effects to historic properties before the consultation requirements of Section 106 of the NHPA have been satisfied.

### **Part C: Contacts and Tribal Areas of Interest**

#### **1. Federal**

U.S. Army Corps of Engineers  
New England District, Regulatory Division  
Vermont Project Office  
11 Lincoln Street, Room 210  
Essex Junction, VT 05452  
(802) 872-2893 (phone), (802) 879-7638 (fax)

55 Great Republic Drive  
Gloucester, MA 01930  
(978) 281-9102 (phone)  
(603) 223-2541 (fax)  
*(Federal endangered species & EFH)*

U.S. Environmental Protection Agency  
5 Post Office Square  
Suite 100 (OEP05-2)  
Boston, Massachusetts 02109-3912  
(617) 918-1399 (phone)

U.S. Fish and Wildlife Service  
70 Commercial Street, Suite 300  
Concord, NH 03301-5087  
(603) 223-2541 (phone)  
*(Federal endangered species)*

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

#### **2. State**

**Vermont Agency of Natural Resources**  
Department of Environmental Conservation  
Watershed Management – Wetlands Program  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
(802) 828-1535 (phone)

Department of Environmental Conservation  
Watershed Management – Lakes and Ponds  
Program  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
(802) 828-1535 (phone)

Vermont Department of Fish and Wildlife  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3702  
(802) 828-1000 (phone)

Department of Environmental Conservation  
Watershed Management – Rivers Program  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522  
(802) 828-1535 (phone)

Department of Environmental Conservation  
Facilities Engineering Division - Dam Safety Program  
1 National Life Drive, Main 1  
Montpelier, VT 05620-3510  
(802) 828-1550 (phone)

Vermont Department of Fish and Wildlife  
Nongame and Natural Heritage Program  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3702  
(802) 828-1000 (phone)  
*(State endangered species)*

### 3. Historic Resources

#### a. State Historic Preservation Officer (SHPO)

Division for Historic Preservation  
National Life Building  
Drawer 20  
Montpelier, VT 05620-0501  
(802) 828-3211 (phone)  
Area of concern: The entire State of Vermont

#### b. Tribal Historic Preservation Officers (THPO)

Tribal Historic Preservation Officer  
Stockbridge-Munsee Community  
P.O. Box 70  
Bowler, WI 54416  
(715) 793-3970 (phone)  
Area of concern: Addison, Rutland and Bennington Counties

### 4. Organizational Websites

U.S. Army Corps of Engineers, N.E. District	<a href="http://www.nae.usace.army.mil/missions/regulatory.aspx">www.nae.usace.army.mil/missions/regulatory.aspx</a>
U.S. Army Corps of Engineers, Headquarters	See above link>>Useful Links>>Federal Agency Links.
Environmental Protection Agency	<a href="http://www.epa.gov/owow/wetlands/">www.epa.gov/owow/wetlands/</a>
National Marine Fisheries Service	<a href="http://www.nmfs.noaa.gov">www.nmfs.noaa.gov</a>
U.S. Fish and Wildlife Service	<a href="http://www.fws.gov/newengland">www.fws.gov/newengland</a>
National Park Service	<a href="http://www.nps.gov/rivers/index.html">www.nps.gov/rivers/index.html</a>
Vermont Department of Fish and Wildlife Nongame and Natural Heritage Program	<a href="http://www.vtfishandwildlife.com/wildlife_nongame.cfm">www.vtfishandwildlife.com/wildlife_nongame.cfm</a>

**Part D: Aquaculture Activities**

GP 21 does not authorize aquaculture activities in Vermont.