



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

PUBLIC NOTICE

30-DAY PUBLIC NOTICE

Date: January 10, 2023

Comment Due Date: February 9, 2023

E-mail: Katelyn.M.Rainville@usace.army.mil

PROPOSED REVISION AND REISSUANCE OF THE DEPARTMENT OF THE ARMY MASSACHUSETTS GENERAL PERMITS

The New England District, U.S. Army Corps of Engineers (USACE), hereby proposes to replace and reissue the statewide Massachusetts General Permits (GPs), pursuant to 33 CFR Part 325.5(c), with the revised 2023 Massachusetts GPs. The existing GPs expire on April 5, 2023, and we propose to issue revised GPs for another five years. The proposed, revised GPs are enclosed.

The revised GPs will continue to provide an expedited review process for activities in USACE jurisdiction within Massachusetts under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 that have minimal individual and cumulative adverse environmental effects. The New England District has had success with streamlining the USACE Regulatory Program with the use of GPs throughout New England. This public notice is being issued in accordance with 33 CFR 325.3 (b) to coordinate reissuance of the GPs with the public, including federal, state and tribal entities with interest in resources that are regulated under these GPs.

The revised GPs organize eligible work into twenty-five (25) activity-specific categories. This continues to satisfy the requirements of Section 404(e) of the Clean Water Act, which allows the USACE to issue GPs for activities that are similar in nature and will cause no more than minimal individual and cumulative adverse environmental effects. Identifying specific activities allows the USACE to adequately assess cumulative impacts of permitted activity types.

All GP authorizations would be subject to the applicable requirements, procedures, and conditions contained in the GP document. Project eligibility under these GPs will fall into two categories: Self-Verification (SV) and Pre-Construction Notification (PCN). Authorizations under the GPs are not valid until all required federal, state and local approvals are obtained.

Routine activities with minimal individual and cumulative effects on the aquatic environment will be approved administratively under these GPs. Representatives of the USACE, state, and federal resource agencies will continue to review categories of activities requiring a PCN as outlined within the GPs. Projects that do not meet the terms and conditions of the GPs, including those that have the potential for more than minimal effects or to be contrary to the public interest, will require an Individual Permit (IP). The IP review process is detailed at 33 CFR 325, Processing of Department of the Army Permits. The issuance of these GPs does not

alter the IP review procedures, or federal exemptions, which are not necessarily the same as the State of Massachusetts' exemptions.

Essential Fish Habitat (EFH)

In 1996, the Magnuson-Stevens Fishery Conservation and Management Act was amended to require the Federal fishery management councils (Councils) to designate EFH for all Federally-managed fish species. Essential Fish Habitat is broadly defined as those waters and substrates necessary to fish for spawning, feeding, breeding, and growth to maturity. Section 305 (b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires that federal agencies proposing to authorize, fund, or to undertake actions which may adversely affect EFH consult with National Marine Fisheries Service (NMFS) regarding the action. Accordingly, the USACE has initiated consultation with NMFS. For certain activity types that would 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(f).

Endangered Species Consultation (ESA)

It is the District Engineer's preliminary determination that the issuance of the proposed GPs will have no effect on federally-listed endangered or threatened species or their designated critical habitat. Effect determinations for ESA-listed species are made on an individual basis upon submission of project information by a project proponent to the USACE or other identified lead federal Agency. The USACE has consulted with NMFS and the U.S. Fish & Wildlife Service pursuant to Section 7 of the ESA.

National Historic Preservation Act

It is the District Engineer's preliminary determination that the proposed work has the potential to cause effects on properties listed in, or eligible for listing in, the National Register of Historic Places. The USACE has initiated consultation with the Massachusetts Historic Preservation Officer, Tribal Historic Preservation Officers, and Massachusetts Board of Underwater Archaeological Resources pursuant to Section 106 of the National Historic Preservation Act of 1966 as amended.

Tribal Trust Responsibilities

It is the District Engineer's preliminary determination that the proposed work has the potential to cause effects on resources of interest to federally recognized tribes. The USACE has initiated consultation with the Tribal Historic Preservation Officers for each federally recognized tribe with interests in Massachusetts.

Water Quality Certification

State 401 Water Quality Certification (WQC) pursuant to section 401 of the Clean Water Act, or waiver thereof, is required from the state, authorized tribes, or EPA where applicable, prior to the issuance or reissuance of general permits authorizing activities that may result in a discharge into waters of the U.S. The USACE will request that the Massachusetts Department of Environmental Protection (MassDEP) determine whether to issue, waive, or deny a 401 WQC.

Coastal Zone Management Consistency

The USACE will request that the Massachusetts Office of Coastal Zone Management (CZM) concur with our consistency determination for activities authorized under these GPs. Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972, as amended, requires USACE to provide a consistency determination to the appropriate state agency and receive state concurrence prior to the issuance, reissuance, or expansion of activities authorized by any GP that authorizes any 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 Commonwealth of Massachusetts has an approved CZM program.

Proposed Changes

The proposed, modified MA GPs are enclosed. This document is comprised of the following sections and appendices: **Section I** – Statutory Authorities & Regulated Activities, **Section II** – Review Categories & Application Procedures, **Section III** – Massachusetts General Permits, **Section IV** – General Conditions, **Section V** – Mitigation Standards, **Section VI** – Federal & State Agency Contact Information & Websites, **Section VII** – Definitions & Acronyms, **Appendix A** – Guidance for S106 NHPA Compliance in Massachusetts, **Appendix B** – ENG 4345 Form, **Appendix C** – SV Application Checklist, and **Appendix D** – PCN Application Checklist. We are proposing changes and improvements throughout the document, some of which are listed below:

- Reorganizing Sections I and II to provide more clarity to the regulated public on what is required when submitting a permit application to the USACE.
- Adding two new GP activities to Section III, GP 20 – Living Shoreline Projects and GP 25 – Emergency Situations.
- Adding the following SV threshold in most GPs: “In tidal waters, the combined permanent and temporary impacts are <1,000 SF in mudflats and natural rocky habitat.”
- Removing in GP 7 the transportation of dredged material for the purpose of disposal in the ocean regulated under Section 103.
- Adding Section V – Mitigation Standards, which describes the process for avoiding, minimizing, and providing compensatory mitigation for impacts to aquatic resources in compliance with the 2008 Mitigation Rule.
- Adding Appendix A – Guidance for §106 NHPA Compliance in Massachusetts, which describes the process of submitting project notifications to the SHPO, THPOs and MA BUAR in compliance with Section 106 of the National Historic Preservation Act.
- Moving the ENG 4345 Form to its own section, Appendix B. This form will now be a required submittal for all SV and PCN applications.
- Adding Appendix C – SV Application Checklist and Appendix D – PCN Application Checklist, which applicants must use when submitting a complete permit application to USACE.

Comments

We are seeking public comment in order to properly evaluate the proposed GPs in Massachusetts. Anyone wishing to comment is encouraged to do so in writing within the comment period specified in this notice. Please submit comments to: Ms. Katelyn M. Rainville,

Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742-2751. If you have any questions, please contact Ms. Rainville at (978) 318-8677 or Katelyn.M.Rainville@usace.army.mil.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The USACE 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.

Paul Maniccia

Paul Maniccia
Massachusetts Branch Chief
Regulatory Division

Enclosure

Draft 2023 Massachusetts General Permit

Department of the Army
General Permits for the Commonwealth of Massachusetts

The New England District of the U.S. Army Corps of Engineers (USACE) hereby issues twenty-five (25) regional general permits (GPs) for activities subject to USACE jurisdiction in waters of the U.S., including wetlands, navigable waters within the Commonwealth of Massachusetts and adjacent ocean waters to the seaward limit of the outer continental shelf. These Massachusetts GPs (hereafter referred to as MA GPs or GPs) are issued in accordance with USACE regulations at 33 CFR 320 – 332 [see 33 CFR 325.5(c)(1)]. These GPs will regulate impacts to aquatic resources and authorize activities that have no more than minimal individual and cumulative adverse impacts to the aquatic environment.

<u>This document contains the following sections:</u>		<u>Pages</u>
SECTION I	Statutory Authorities & Regulated Activities	2
SECTION II	Review Categories & Application Procedures	3-6
SECTION III	Massachusetts General Permits	7-33
SECTION IV	General Conditions	34-48
SECTION V	Mitigation Standards	49-51
SECTION VI	Federal & State Agency Contact Information & Websites	52-53
SECTION VII	Definitions & Acronyms	54-63
APPENDIX A Guidance for §106 NHPA Compliance in Massachusetts		64-66
APPENDIX B ENG 4345 Form		67-69
APPENDIX C SV Application Checklist		70-72
APPENDIX D PCN Application Checklist		73-79

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

Tammy R. Turley	Date
Chief, Regulatory Division	

SECTION I. STATUTORY AUTHORITIES & REGULATED ACTIVITIES

1. Work Requiring USACE Authorization

- a. Section 10: Work and structures that are located in, over, under or that affect navigable waters of the United States (U.S.) (see 33 CFR 329). The USACE regulates these activities under section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR 322).
- b. Section 404: The discharge of dredged or fill material into waters of the U.S (see 33 CFR 328). The USACE regulates these activities under Section 404 of the Clean Water Act (CWA). The term “discharge of dredged or fill material” also includes certain discharges resulting from excavation. Applicants should contact USACE to determine if a particular excavation discharge occurring within waters of the U.S. is a regulated activity. See 33 CFR 323.4 of the CWA for exempted activities.

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

https://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/Jurisdictional_Limits_Brochure.pdf

2. Authority to Issue General Permits

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

3. Related Laws

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

SECTION II. REVIEW CATEGORIES & APPLICATION PROCEDURES

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

Activities can qualify under the MA GPs if the thresholds for Self-Verification (SV) and Pre-Construction Notification (PCN) are met. Activities that do not fit under these thresholds may require an Individual Permit (IP). Activities may require a PCN or IP if indicated in Section III Massachusetts General Permits and/or Section IV General Conditions. These GPs do not replace or change the activities exempt from USACE regulation.

1. Pre-Application

Prospective applicants are encouraged to contact USACE with questions at any time (U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord Park, Concord, MA, 978-318-8338, or cenae-r-ma@usace.army.mil). Any general inquiries received by the USACE will be assigned to a Project Manager for further processing.

Pre-application meetings, whether arranged by the USACE or requested by a prospective applicant, are encouraged to facilitate the review of projects. Pre-application meetings and/or site visits help streamline the authorization process by alerting the prospective applicant to potentially time-consuming factors that may arise during the evaluation of their project (e.g., avoidance, minimization and compensatory mitigation requirements, historic properties, endangered species, essential fish habitat, and dredging of contaminated sediments).

If another Federal agency is the lead for a project and they complete any required consultation under Section 7 of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat), or Section 106 of the National Historic Preservation Act, applicants are encouraged to contact the USACE for further information on project eligibility under these GPs (SV vs PCN).

2. State & Local Approvals

If the following Water Quality Certification (WQC) and/or Coastal Zone Management Act (CZMA) Federal consistency concurrence are required for a project, these approvals must be obtained prior to the commencement of work in USACE jurisdiction (see GCs 8 & 9).

Water Quality Certification under Section 401 of the Federal Clean Water Act (33 USC 1341). The MassDEP has processed a WQC where they waived, certified, or conditionally certified certain activities authorized by the 2023 MA GPs. Applicants are responsible for determining the appropriate 401 WQC requirements and submitting this information to the USACE at the time of their §404 CWA application. When applicable, applicants should also submit their individual 401 WQC application concurrently to MassDEP and the USACE to comply with 40 CFR 121.

Coastal Zone Management Act Federal Consistency Concurrence pursuant to Section 307 of the CZMA of 1972, as amended. The Massachusetts Office of Coastal Zone Management (CZM) has

granted CZM federal consistency concurrence for all SV activities for GPs XXXXX and PCN activities for GPs XXXXX, provided that the applicant obtains all other applicable permits and approvals before the authorized activities commence (i.e., work begins on site). The MA CZM program includes five regional offices that serve 78 coastal municipalities. <https://www.mass.gov/service-details/czm-regions-coastal-communities-and-coastal-zone-boundary>

Other Approvals: Applicants are responsible for applying for and obtaining any required local, state and federal approvals. Approvals typically required in Massachusetts include, but are not limited to, a Chapter 91 License, MEPA review, Order of Conditions, and/or Aquaculture Certification. *It should be noted that, if any required permit/approval is denied, the applicant must submit that documentation to the USACE at the time they submit a permit application.*

3. Procedures for Self-Verification (SV) Eligible Projects

If the activity is eligible for an SV, notification to the USACE is required unless stated otherwise in that particular GP. *No work eligible under SV and requiring notification may proceed until the enclosed ENG 4345 and SV Application Checklist are submitted to the USACE and the USACE confirms receipt of a complete SV submittal.* The ENG 4345 (Appendix B) and SV Application Checklist (Appendix C) must be submitted to USACE at least 30 days before the anticipated start of project construction. When possible, it is *highly* recommended that SVs are submitted at least 60 days in advance of the target start date. Project construction cannot begin for SV-eligible activities until at least 30 days after submission of relevant project information to the SHPO, THPOs, and BUAR (Appendix A).

Digital submittals by email are **strongly encouraged** to facilitate the most efficient processing of the proposed activity. Please communicate with USACE staff if you are unable to provide a digital copy of your permit application. See <https://www.nae.usace.army.mil/Missions/Regulatory/Submitting-Electronic-Correspondence> for information about our electronic submittal process. Addresses are cenae-r-ma@usace.army.mil (email) or Regulatory Division - Branch A, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751 (mail).

a. Eligible SV Activities:

- Are subject to USACE jurisdiction (see GC 2); and
- Qualify for one or more of the GPs within this document (Section III); and
- Meet the GCs within this document (Section IV); and
- Are supported by submittal of a complete application to USACE, which includes:
 - i. A complete SV Application Checklist (Appendix C); and
 - ii. Submittal of relevant project information to the appropriate parties identified in Appendix A. A PCN may be required if concerns are raised by a notified party within 30 days of receipt; and
- Receive all other required Federal and State approvals.

4. Procedures for Pre-Construction Notification (PCN) Eligible Projects

For activities that are eligible for PCN, an application to and written authorization from USACE is required. *No work requiring a PCN may proceed until written authorization from USACE has been received.* When possible, it is *highly* recommended that PCN application materials are submitted at least 90 days before the target start date to allow for USACE evaluation and any necessary agency consultations. Digital PCN submittals by email are **strongly encouraged**. Please communicate

with USACE staff if you are unable to provide a digital copy. See <https://www.nae.usace.army.mil/Missions/Regulatory/Submitting-Electronic-Correspondence> for information about our electronic submittal process. Addresses are cenae-r-ma@usace.army.mil (email) or Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, MA 01742-2751 (mail).

a. Eligible PCN Activities:

- Are subject to USACE jurisdiction (see GC 2); and
- Qualify for one or more of the GPs within this document (Section III); and
- Meet the GCs within this document (Section IV); and
- Comply with the Mitigation Standards within this document (Section V); and
- Include a complete PCN Application Checklist (Appendix D); and
- Submit relevant project information to the appropriate parties identified in Appendix A; and
- Receive all other required Federal and State approvals.

5. Interagency Review Procedures

The USACE will coordinate review of select PCN activities with the interagency review team (IRT) comprised of Federal and State agencies to ensure that the proposed activity results in no more than a minimal impact to the aquatic environment. This may require project modifications involving avoidance, minimization, and/or compensatory mitigation for unavoidable impacts to ensure the net effects of a project are minimal. The USACE determines, after review and coordination with the IRT and/or the applicant, if PCN applications:

- a. Meet the terms and conditions of the GP as proposed;
- b. Require additional information;
- c. Require avoidance, minimization, compensatory mitigation, construction sequencing, project modification, or other special conditions to avoid or minimize adverse impacts to the aquatic environment;
- d. Require individual permit review regardless of whether the terms and GCs of these GPs are met, based on concerns for the aquatic environment or any other factor of the public interest (see GC 4 Discretionary Authority).

The applicant must wait for written authorization from the USACE before commencing activities in waters of the U.S. Beginning work for PCN required activities in WOTUS without a USACE written authorization is a violation of these GPs, and the terms and conditions of this document. The applicant may be subjected to an enforcement action by the Environmental Protection Agency (EPA) and/or USACE.

6. Construction of Solid Fill Structures and Fills Along the Coastline or Baseline from Which the Territorial Sea is Measured.

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water) require a PCN and USACE will coordinate these projects with the Bureau of Ocean Energy Management (BOEM), Outer Continental Shelf Survey Group, for their review pursuant to the Submerged Lands Act (43 USC 1301-1315, 33 CFR 320.4(f)). The BOEM will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have ten (10) business days from the date BOEM received the project information to determine if the baseline will be affected.

7. Emergency Situations

Per 33 CFR 325.2(e)(4), an emergency is limited to sudden, unexpected occurrences that would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures. Emergency work shall be limited to that which is necessary to stabilize and secure the situation. Additional work needed for final repairs shall not be completed until approval is obtained through the appropriate, non-emergency process. Emergency work is subject to the same terms and conditions of these GPs as non-emergency work, and similarly, must qualify for authorization under these GPs; otherwise, an IP is required. See *GP 25 Emergency Situations for additional information*.

8. Individual Permit

Projects that do not meet the terms and conditions of GPs 1-25 require an IP (33 CFR 325.5 (b)). Proposed work in this category will require a separate Federal application for an individual permit from USACE (33 CFR 325.1). In addition, USACE retains discretionary authority on a case-by-case basis to elevate GP-eligible activities to an IP based on concerns for the aquatic environment or any other factor of the public interest (33 CFR 320.4 (a)). Applicants are required to submit the appropriate application materials directly to USACE as early as possible to expedite the permit review process. General information and application forms can be obtained at our website or by contacting our office at cenae-r-ma@usace.army.mil or (978) 318-8338. Individual 401 WQC and/or CZMA Federal consistency concurrence from the appropriate MA agencies are required before USACE can issue an individual permit. Applying for an IP does not relieve the applicant from their obligation to obtain all required Federal, State and/or local approvals.

9. Compliance

Applicants shall ensure compliance with all applicable GPs in Section III, GCs in Section IV, and any special conditions included in USACE verification letters that are deemed necessary to protect aquatic resources. Noncompliance with these GPs and GCs may subject the applicant to criminal, civil, or administrative penalties, and/or an ordered restoration, and/or the permit may be modified, suspended or revoked by USACE. The USACE will consider any activity requiring USACE authorization to be noncompliant if that activity does not comply with all GP terms and conditions at all times, including while the project is under construction and when work is completed.

SECTION III. MASSACHUSETTS GENERAL PERMITS

Prospective applicants are encouraged to review Sections I & II prior to submitting an application to confirm that the activity as proposed complies with all terms and conditions of the 2023 MA GPs. Prospective applicants are also encouraged to review the definitions in Section VII, Definitions & Acronyms, of this document. Several terms are frequently used throughout the GPs, and it is important for the reader to understand these terms. If seeking verification for an activity previously verified under the 2018 MA GPs that does not meet General Condition 44 of the 2018 MA GPs, please contact the USACE to discuss permitting needs in advance of submitting an application.

General Permits

1. Aids to Navigation, and Temporary Recreational Structures
2. Maintenance
3. Moorings
4. Structures in Navigable Waters of the U.S.
5. Boat Ramps and Marine Railways
6. Utility Lines, Oil or Natural Gas Pipelines, Outfall Or Intake Structures, and Appurtenant Features
7. Dredging, Disposal of Dredged Material, Beach Nourishment, and Rock Removal & Relocation
8. U.S. Coast Guard Approved Bridges
9. Bank and Shoreline Stabilization
10. Aquatic Habitat Restoration, Establishment and Enhancement Activities
11. Fish and Wildlife Harvesting and Attraction Devices and Activities
12. Response Operations for Oil and Hazardous Substances
13. Cleanup of Hazardous and Toxic Waste
14. Scientific Measurement Devices
15. Survey Activities
16. Land and Water-Based Renewable Energy Generation Facilities and Hydropower Projects
17. Residential, Commercial and Institutional Developments, and Recreational Facilities
18. Aquaculture Activities
19. Mining Activities
20. Living Shorelines
21. Agricultural Activities
22. Reshaping Existing Drainage Ditches, New Ditches, and Mosquito Management
23. Linear Transportation Projects and Wetland/Stream Crossings
24. Temporary Construction, Access, and Dewatering
25. Emergency Situations

GP 1. AIDS TO NAVIGATION AND TEMPORARY RECREATIONAL STRUCTURES (Authority: §10)

(a) The placement of 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, chapter I, subchapter C, part 66; and (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. See GC 16.

Self-Verification Eligible

1. Aids to navigation and regulatory markers approved by and installed in accordance with the requirements of the USCG.
2. Temporary buoys, markers and similar structures that are: (a) placed for recreational use during specific events and removed within 30 days after event; (b) placed during winter events on ice and removed before spring thaw; (c) authorized by the local harbormaster; (d) Not located within an FNP; and (e) Not located in saltmarsh, mudflats, or vegetated shallows.

Pre-Construction Notification Required

1. Impacts in saltmarsh, mudflats, or tidal vegetated shallows.
2. Activities that are not SV eligible.

Note: An SV submittal is not required for work authorized under SV #2 above.

GP 2. MAINTENANCE (Authorities: §10 and §404)

Repair, rehabilitation, or replacement of any previously authorized¹, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 (activities occurring before certain dates), provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction technique requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This GP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the activities above. Maintenance dredging and beach nourishment are not eligible under GP 2 (see GP 7). Stream crossing modifications (including sliplining), replacements or extensions are not eligible under GP 2 (see GPs 6, 17, 23). See GP 25 Emergency Situations for expedited review of emergency activities.

Not authorized under GP 2 (IP required): (a) Permanent impacts in >1 acre in non-tidal waters and/or wetlands; or (b) Permanent impacts >1/2 acre in tidal waters; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in tidal vegetated shallows; or (c) Temporary impacts >1 acre in tidal waters; >5000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >1000 SF in vegetated shallows; (d) New stream channelization or stream relocation projects (e.g., those in response to storm or flood events).

Self-Verification Eligible

Maintenance activities that meet all of the following terms:

1. In non-tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF², and (b) not located in vegetated shallows or riffle and pool complexes.
2. In tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, (b) ≤1,000 SF in mudflats and/or natural rocky habitat, and (c) not located in saltmarsh and tidal vegetated shallows.
3. Minor deviations in the repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills.
4. Bulkhead replacement in tidal and non-tidal waters via installation of new bulkhead within 18" of the existing bulkhead and associated backfill.
5. Drawdown of an impoundment for dam/levee repair provided it does not exceed 18 months and one growing season (April through September).
6. Any stream channel modification is limited to the minimum necessary for the repair,

Pre-Construction Notification Required

1. Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals.
2. The removal of sediment outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend >200 feet in any direction from the structure.
3. Dam and flood control or levee repair, rehabilitation, or replacement involves:
 - a. A change in the flood elevation or permanent water surface elevation of the impoundment; or
 - b. Drawdown of impoundment for construction exceeding one growing season (SV eligible #5);
 - c. Any modification that changes the character, scope, or size of the original fill design; or
 - d. Does not meet SV eligible 1-7.
4. Activities in the Connecticut River from the Turners Falls Dam to the MA/CT border, or

¹ Some maintenance activities may not be subject to regulation under Section 404 of the CWA in accordance with 33 CFR 323.4(a)(2). Per 33 CFR 330.3, Vested dates are: a) Work performed and structures installed before December 18, 1968 (Section 10); and b) Fill placed before July 25, 1975 (Section 404).

² This excludes dam projects that may require a temporary drawdown with impacts >5,000 SF in non-tidal waters.

<p>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.</p> <p>7. Work to previously approved tide gates not affecting upstream tidal resource areas.</p>	<p>Merrimack River from the Essex Dam to the mouth, involving permanent or temporary impacts unless they are performed ≤5 feet waterward from the ordinary high water mark (OHW) or high tide line (HTL) and in the dry. This is to protect endangered species; or</p> <p>5. Work on USACE properties & USACE-controlled easements.</p> <p>6. Activities that do not require an IP. Activities that do not require a PCN or an IP may be SV eligible.</p>
<p>Notes:</p> <p>1. This authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the CWA §404(f) exemption for maintenance. See 33 CFR 323.4(a)(2). Prior USACE permits may have included authorization to maintain the activity, in which case authorization under this GP is not necessary.</p> <p>2. See GC 22 for information on temporary construction mats.</p>	

GP 3. MOORINGS (Authority: §10)

New moorings and mooring fields; the relocation of previously authorized moorings; expansions, boundary reconfigurations or modifications of previously authorized mooring fields; and maintenance and replacement of moorings.

Not authorized under GP 3 (IP required): (a) Moorings or mooring fields converted to or associated with a new boating facility¹; or (b) Moorings in a USACE Federal Navigation Anchorage or USACE Federal Navigation Channel, except municipal-operated mooring fields.

Self-Verification Eligible

1. New or relocated moorings that meet all the following terms:
 - a. Authorized by a local harbormaster/municipality under MGL Chapter 91 §10A; and
 - b. No interference with navigation; and
 - c. Single boat, single-point and non-commercial; and
 - d. Not associated with a boating facility, and
 - e. Neither placed within nor impact tidal vegetated shallows (e.g., eelgrass); and
 - f. Not located within a USACE Federal navigation project (FNP) or the FNP buffer zone.
2. Existing, authorized moorings are converted from traditional moorings to low impact mooring technology (see note below) and/or helical anchors.
3. Maintenance and replacement of moorings authorized by the USACE.

Pre-Construction Notification Required

1. New mooring fields; or expansions, boundary reconfigurations or modifications of existing, authorized mooring fields; or
2. Moorings located such that they, and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits of a Federal Anchorage. The buffer zone is equal to 3 times the authorized depth of that channel.
3. New individual moorings located in saltmarsh, mudflats, natural rocky habitat, and tidal vegetated shallows. Locating moorings these areas should be avoided to the maximum extent practicable. If these areas cannot be avoided, plans should show conservation mooring systems that prevent mooring chains from resting or dragging on the bottom substrate at all tides, where practicable. USACE may require a survey in areas previously mapped as containing eelgrass or within 100 ft. of existing eelgrass beds to document presence or absence of eelgrass and to determine the appropriate type and amount of compensatory mitigation for impacts to eelgrass.
4. Moorings that are not SV eligible and do not require an IP.

Note: Low impact mooring technology such as conservation moorings are encouraged to minimize impacts of chain scouring from conventional moorings during the tidal cycle.

¹ Boating facilities are marinas, yacht clubs, boat clubs, boat yards, dockominiums, town facilities, land/homeowner's associations, etc. that provide for a fee, rent or sell mooring or docking space. Not classified as boating facilities are municipal moorings or municipal mooring fields that charge an equitable user fee based only on the actual costs incurred.

GP 4. STRUCTURES IN NAVIGABLE WATERS OF THE U.S. (Authority: §10 & §404)

New, expansions, reconfigurations or modifications of structures for navigational access in waters of the U.S. including but not limited to temporary/seasonal or permanent pile and pole-supported piers, floats, stairs, shore out hauls, and boat and float lifts.

Not authorized under GP 4 (IP required): (a) Structures associated with a new boating facility; (b) Structures in a USACE Federal anchorage or channel; or (c) Artificial reefs.

Self-Verification Eligible

1. Private, non-commercial piers, floats and lifts that meet all the following terms:

- a. Piers and floats in: (i) Tidal waters total ≤ 600 SF combined; and (ii) Non-tidal navigable waters of the U.S. total ≤ 600 SF combined; and
 - b. Piers are ≤ 4 feet wide and ≥ 6 feet above the marsh substrate (the height is measured from the marsh substrate to the bottom of the lowest longitudinal support); and
 - c. Floats and lifts in tidal waters and non-tidal navigable waters of the U.S. are ≥ 18 inches above the substrate during all tidal cycles. Float stops are preferred when site conditions warrant them (i.e., low tide exposes substrate), and skids can only be used in areas where piles are not feasible and on sandy or hard bottom substrates; and
 - d. Piers, floats and lifts: (i) Are ≥ 25 feet from previously mapped or existing vegetated shallows, or riparian property line extensions; (ii) Extend $\leq 25\%$ of the waterway width in non-tidal navigable waters of the U.S. or MHW in tidal navigable waters of the U.S.; and (iii) Are ≤ 25 feet from the property line with a letter of no objection from the abutter.
 - e. Installation of ≤ 12 -inch diameter timber piles. Installation of ≥ 12 -inch diameter piles of any material type when installed in the dry.
2. Fenders and similar structures.

Pre-Construction Notification Required

1. Shore out hauls.
2. Expansions, modifications, or new reconfiguration zones at any authorized boating facility.
3. New, expansions, reconfigurations, reconfiguration zones, or modifications of structures that provide public, community or government recreational uses such as boating, fishing, swimming, access, etc.
4. Installation of new steel piles, including steel sheet piles, that cannot be done in the dry.
5. Located within the buffer zone (GC 15) of the horizontal limits of an FNP.
6. Miscellaneous structures.
7. Impacts in tidal vegetated shallows.
8. Structures that are not SV eligible and do not require an IP.

Notes:

1. See www.nae.usace.army.mil/missions/regulatory/useful-documents-forms-and-publications >> Structure Placement in Navigable Waterways for guidance.
2. See GC 19 regarding pile driving and pile removal in navigable waters.
3. Boating facilities are facilities that provide for a fee, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominiums, etc. Pile supported structures with no discharges of dredged or fill material are not regulated by USACE in non-navigable waters.

GP 5. BOAT RAMPS AND MARINE RAILWAYS (Authorities: §10 and §404)

Activities required for the construction of boat ramps and marine railways, including excavation and fill.

Not authorized under GP 5 (IP required): (a) Permanent impacts that are >1 acre in non-tidal waters of the U.S., >½ acre in tidal waters; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in tidal vegetated shallows; (b) Temporary impacts in tidal waters that are >1 acre; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows¹; or (c) dredging in navigable waters of the U.S. (see GP 7).

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows.

2. In tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, (b) ≤1,000 SF in mudflats and/or natural rocky habitat, and (c), not located in saltmarsh and tidal vegetated shallows.

Pre-Construction Notification Required

1. Boat ramps are located within 25 feet of property line extensions unless the properties are owned by the same owner. The USACE may require a letter of no objection from the abutter(s); or

2. Activities that are not eligible for SV and do not require an IP.

GP 6. UTILITY LINES, OIL OR NATURAL GAS PIPELINES, OUTFALL OR INTAKE STRUCTURES, AND APPURTENANT FEATURES (Authorities: §10 & §404)

Activities required for: (a) The construction, maintenance, repair or removal of utility lines, oil or natural gas pipelines¹, outfall or intake structures², and appurtenant features including the associated excavation, backfill, or bedding for these structures. (b) The construction, maintenance, or expansion of substations and other appurtenant facilities associated with a utility line, oil or natural gas pipeline, and outfall or intake structure in non-tidal waters of the U.S.; and (c) The construction and 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. This GP authorizes the construction of access roads to facilitate construction of the above activities provided the activity, in combination with all other activities included in one single and complete project, does not exceed the thresholds identified below (IP required). Access roads used solely for construction of the utility line must be removed upon completion of the work. This GP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the activities above.

Not authorized under GP 6 (IP required): (a) Permanent impacts for any single and complete project that are >1 acre in non-tidal waters of the U.S.; >½ acre in tidal waters; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in tidal vegetated shallows; (b) Temporary impacts in tidal waters that are >1 acre; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows; (c) Stormwater treatment or detention systems, or subsurface sewage disposal systems in waters of the U.S.; or (d) New tide gates that do not meet SV 1(d) below.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows.
2. In tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, (b) ≤1,000 SF in mudflats and/or natural rocky habitat, and (c), not located in saltmarsh and tidal vegetated shallows.
3. Intake structures that are dry hydrants used exclusively for firefighting activities with no stream impoundments.
4. New tide gates on outfall structures for pipes conveying stormwater and/or industrial NPDES-permitted discharges from waters that are not waters of the U.S.

Pre-Construction Notification Required

1. New outfall and/or intake structures.
2. Unconfined work or silt producing activities in streams with diadromous fish.
3. Submarine cables, conduits, or pipelines that occur in, over or under navigable waters of the U.S.
4. Stream channelization, relocation, impoundment, or loss of streambed occurs.
5. The activity is placed within and runs parallel to or along a streambed within waters of the U.S.
6. There is a permanent change in preconstruction contours in waters of the U.S.
9. Installation of utility lines or gas/oil pipelines using trench excavation where material is temporarily sidecast into waters of the U.S. for >3 months. Applicants must demonstrate how the material would not be dispersed by currents or other forces.
10. Activities that are not SV eligible and do not require an IP.

¹ See the definitions of a “utility line” and “oil or natural gas pipeline” in Section VII.

² Outfall structures must be in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (Section 402 of the Clean Water Act).

GP 7. DREDGING (Authority: §10; navigable waters of the U.S.), DISPOSAL OF DREDGED MATERIAL (Authorities: §10, §404; tidal waters of the U.S.), BEACH NOURISHMENT (Authorities: §10 & §404; tidal and non-tidal waters of the U.S.), ROCK REMOVAL (Authority: §10, navigable waters of the U.S.) AND ROCK RELOCATION (Authorities: §10 & §404; tidal and non-tidal waters of the U.S)

New, improvement and maintenance dredging (see notes below) including: (a) Disposal of dredged material at a confined aquatic disposal cell, beach nourishment location, near shore site, or ocean disposal site selected under Section 404 of the Clean Water Act pursuant to the 404(b)(1) Guidelines, provided the dredged material meets the requirements for such disposal; (b) Beach nourishment not associated with dredging; and (c) Rock removal and relocation for navigation.

Not authorized under GP 7 (IP required): (a) Dredging where ocean disposal is required for the disposal of dredged material (Section 103); New dredging >½ acre; ≥10,000 CY; >1000 SF permanent impacts to intertidal areas, saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF permanent impacts to tidal vegetated shallows; (b) Maintenance or improvement dredging and/or disposal with >1 acre of impacts to SAS; (c) New dredging where the primary purpose is sand mining for beach nourishment; (d) Beach scraping; (e) Boulder removal and relocation for navigation >½ acre; or (f) Blasting.

Self-Verification Eligible

1. Maintenance dredging of previously dredged areas, with upland disposal, that meet all of the following terms:
 - a. Dredged area ≤½ acre; and
 - b. Activities comply with GC 20, TOY Restrictions. The time-of-year restriction(s) stated in Appendix B of the MA Division of Marine Fisheries (DMF) Technical Report TR-47¹ can apply instead if they are provided for a specific waterbody and less restrictive. This is to protect endangered species, EFH and other species; and
 - c. Impacts that are located >25' from salt marsh or >100' from vegetated shallows; and
 - d. Combined impacts that are (i) <1,000 SF in mudflats or natural rocky habitat, or (ii) <5,000 SF within intertidal habitat and areas containing shellfish (an area contains shellfish unless: it is verified that minimal shellfish are present per the local shellfish constable or a shellfish survey; or it is not mapped as a MassGIS shellfish suitability area).
 - e. No return water from upland disposal areas.
2. Boulder relocation with ≤1,000 SF of impacts, no impacts to SAS and relocated to a similar depth and substrate.

Pre-Construction Notification Required

1. Maintenance dredging where the primary purpose is sand mining for beach nourishment.
2. New dredging and associated disposal <1/2 acre or <10,000 cubic yards.
3. Improvement dredging.
4. Beach nourishment in waters of the U.S. not associated with dredging.
5. Dredging in or within a distance three times the authorized depth of a Federal Navigation Channel.
6. Activities that are not eligible for SV and do not require an IP.

Notes:

1. See Section VII for definitions of improvement and maintenance dredging.
2. For PCN activities, the USACE may waive or adjust the time of year requirement on a case-by-case basis after consultation with NMFS and USFWS.
3. Disposal site of any dredged material must be identified.
4. Contact the USACE if a ten-year authorization to maintain an area is desired.

¹ The MA DMF Technical Report TR-47: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>

GP 8. U.S. COAST GUARD APPROVED BRIDGES (Authorities: §404)

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 Surface Transportation and Uniform Relocation Assistance Act (STURRA) (144h) exemption do not constitute USCG authorization.

Not authorized under GP 8 (IP Required): Causeways and approach fills (see GP 23).

Self-Verification Eligible

1. Discharges of dredged or fill material into navigable waters of the U.S. that are incidental to the construction of bridges and meet all of the following:
 - a. Permanent impacts from discharges that are $\leq 5,000$ SF.
 - b. Combined permanent and temporary impacts that are $\leq 1,000$ SF in mudflats and natural rocky habitat.
 - c. Not located in saltmarsh and tidal vegetated shallows.

Pre-Construction Notification Required

1. Work on USACE properties & USACE controlled easements.
2. Activities that are not eligible for SV and do not require an IP.

Notes:

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

GP 9. BANK AND SHORELINE STABILIZATION (Authorities: §10 & §404)

Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes bulkheads, seawalls, riprap, revetments, or slope protection & similar structures, specifically for the purpose of shoreline protection. Activities must meet the following criteria: (a) No material is placed in excess of the minimum needed for erosion protection; (b) 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.; (c) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas); (d) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization; (e) The activity is not a stream channelization activity; and (f) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This GP authorizes those maintenance and repair activities if they require authorization. This GP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. See GP 24 for living shoreline stabilization structures or fills.

Not authorized under GP 9 (IP required): (a) Bank stabilization >500 feet in total length including both stream banks or permanent loss of saltmarsh >1,000 SF, unless the District Engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank); (b) Stream channelization or relocation activities; or (c) Breakwaters, groins or jetties.

Self-Verification Eligible

1. Activities that meet the following:
 - a. ≤200 feet in length including both stream banks; or ≤200 feet in length on each side of the stream bank when necessary to protect transportation infrastructure; and
 - b. ≤1 cubic yard of fill per linear foot average along the bank waterward of the plane of OHW or HTL.
2. In non-tidal waters, the combined permanent and temporary impacts are (a) <1 acre, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows. In 2(a), permanent impacts cannot exceed 5,000 SF.
3. In tidal waters, the combined permanent and temporary impacts are (a) <1/2 acre, (b) ≤1,000 SF in mudflats and/or natural rocky habitat, and (c), not located in saltmarsh and/or tidal vegetated shallows. In 3(a), permanent impacts cannot exceed 5,000 SF.

Pre-Construction Notification Required

1. Activities in non-tidal and tidal waters that are:
 - a. >200 feet to ≤500 feet in length including both stream banks; or >200 feet to ≤500 feet in total length on each side of the stream bank and including both stream banks when necessary to protect transportation infrastructure; or
 - b. >1 cubic yard of fill per linear foot average along the bank waterward of the plane of OHW or HTL.
2. Activities in tidal waters, the Connecticut River from the Turners Falls Dam to the MA/CT border, or Merrimack River from the Essex Dam to the mouth, involving permanent or temporary impacts unless they are performed: (a) in the dry; or (b) use erosion controls when feasible.
3. Work on USACE properties & USACE-controlled easements.
4. Activities that are not eligible for SV and do not require an IP.

GP 10. AQUATIC HABITAT RESTORATION, ENHANCEMENT, AND ESTABLISHMENT ACTIVITIES
(Authorities: §10 and §404)

Activities for the restoration, enhancement and establishment of non-tidal and tidal wetlands and riparian areas, including invasive, non-native or nuisance species control; the restoration and enhancement of non-tidal streams and other non-tidal open waters; the relocation of non-tidal waters, including non-tidal streams & associated wetlands for reestablishment of a natural stream morphology and reconnection of the floodplain; the restoration and enhancement of shellfish, finfish and wildlife; and the rehabilitation or enhancement of tidal streams, tidal wetlands and tidal open waters; provided those activities result in net increases in aquatic resource functions and services. See GP 9 for bank and shoreline stabilization. See GP 24 for living shorelines.

Not authorized under GP 10 (IP required): Stream channelization activities and artificial reefs.

Self-Verification Eligible

1. In tidal and non-tidal waters excluding tidal vegetated shallows, the combined permanent and temporary impacts are ≤5,000 SF.
2. Eelgrass (vegetated shallows) planting and transplanting ≤100 SF in tidal waters.

Pre-Construction Notification Required

1. In tidal and non-tidal waters excluding tidal vegetated shallows, the combined permanent and temporary impacts are >5,000 SF.
2. Eelgrass (vegetated shallows) planting and transplanting >100 SF in tidal waters.
3. Permanent water impoundments, dam removal, or fish ladders.
4. Stream relocation, impoundment, or loss of streambed occurs.
5. The conversion of: (a) a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa, wetland to pond, etc.) or uplands, (b) one wetland type to another (e.g., forested wetland to an emergent wetland).
6. Activities in the Connecticut River from the Turners Falls Dam to the MA/CT border, or Merrimack River from the Essex Dam to the mouth, involving permanent or temporary impacts unless they are performed <5 feet waterward from OHW or HTL and in the dry. This is to protect endangered species.
7. Work on USACE properties & USACE-controlled easements.
8. Activities that are not eligible for SV and do not require an IP.

Notes:

1. GC 10 states a PCN is required for any activity that may affect listed species or habitat. This includes beneficial effects.
2. 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.
3. See RGL 18-01 for guidance on removal of obsolete dams and other structures from rivers and streams. <https://www.usace.army.mil/missions/civil-works/regulatory-program-and-permits/guidance-letters/>
4. An ecological reference site may be used and based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region, or based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area. A reference site may be required at the discretion of USACE.

GP 11. FISH AND WILDLIFE HARVESTING AND ATTRACTION DEVICES AND ACTIVITIES
(Authorities: §10 and §404)

Fish and wildlife harvesting and attraction devices and activities in waters of the U.S. such as pound nets, crab traps, crab and shellfish dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open-water fish concentrators (sea kites, etc.).

Not authorized under GP 11 (IP required): Artificial reefs; or new, or expansions of, impoundments and semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster with an impounded area $> \frac{1}{2}$ acre.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $\leq \frac{1}{2}$ acre, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows.

2. Fish and wildlife harvesting and attraction devices and activities that do not require a PCN or IP.

Pre-Construction Notification Required

1. Pound nets, impoundments or semi-impoundments of waters of the U.S. for the culture or holding of motile species such as lobster with an impounded area $\leq \frac{1}{2}$ acre, fish aggregating devices, or small fish attraction devices.

2. Devices and activities that are located in tidal waters.

3. Activities that do not require a PCN or an IP may be SV eligible.

Note: An SV submittal is not required for work authorized under GP 11.

GP 12. RESPONSE OPERATIONS, OIL AND HAZARDOUS SUBSTANCES (Authorities: §10 & §404)

(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 Prevention, 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; (c) Booms placed in navigable waters of the U.S. for oil and hazardous substance containment, absorption and prevention; and (d) The use of structures and fills for spill response training exercises. SAS should be restored in place at the same elevation.

Self-Verification Eligible

1. Activities are conducted in accordance with (a) or (b) above that are not planned or scheduled, but an emergency response (see Note 1).
2. Booms placed in navigable waters of the U.S. for oil and hazardous substance containment, absorption and prevention.
3. Temporary impacts for spill response training exercises <5000 SF in non-tidal waters and <1000 SF in tidal waters with no impacts to wetlands, saltmarsh, mudflats, or vegetated shallows.
4. Temporary structures in tidal waters with no impacts to SAS and in place ≤30 days.

Pre-Construction Notification Required

1. Activities (a) or (b) above are planned or scheduled, not an emergency response; or
2. Activities that are not eligible for SV and do not require an IP.

Notes:

1. For activities in the Connecticut River from the Turners Falls Dam to the MA/CT border, Merrimack River from the Essex Dam to the mouth, and remaining tidal waters that are not rivers, the permittee must contact the USACE at (978) 318-8338 before or as soon as possible after the work authorized under GP 12(a) - (c) commences for the USACE to address effects under the Endangered Species Act.
2. Permittees have until two weeks following commencement of the activities in GP 12 to submit the SV. However, an SV submittal is not required for booms used for spill prevention, or properly contained and cleaned de minimus oil or hazardous substance discharges into navigable waters of the U.S.

GP 13. CLEANUP OF HAZARDOUS AND TOXIC WASTE (Authorities: §10 and §404)

Specific activities required to affect the containment, stabilization, or removal of hazardous or toxic waste materials, including court ordered remedial action plans or related settlements, which are performed, ordered or sponsored by a government agency with established legal or regulatory authority.

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

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, and (b) not located in vegetated shallows and riffle and pool complexes; or
2. Activities in non-tidal waters that are approved under the Massachusetts Contingency Plan for clean-up.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $> 5,000$ SF, and (b) located in vegetated shallows and riffle and pool complexes.
2. Permanent and temporary impacts in tidal waters or navigable waters of the U.S.
3. Stream channelization, relocation, impoundment, or loss of streambed occurs, unless the activity is approved for clean-up under the Massachusetts Contingency Plan.
4. Activities that are not eligible for SV and do not require an IP.

Notes:

1. The SAS should be restored in place at the same elevation to the maximum extent practicable.
2. Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA, are not required to obtain permits under Section 404 of the CWA or Section 10 of the Rivers and Harbors Act.

GP 14. SCIENTIFIC MEASUREMENT DEVICES (Authorities: §10 and §404)

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 elevation, flow and/or 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 and the site restored to preconstruction elevations.

Not authorized under GP 14 (IP required): (a) Permanent impacts that are >5,000 SF in tidal and non-tidal waters of the U.S.; >1000 SF in tidal saltmarsh, mud flats, riffle and pool complexes; or >100 SF in tidal vegetated shallows; or (b) Temporary impacts in tidal waters that are >1 acre, unless the District Engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, (b) not located in riffle and pool complexes and non-tidal vegetated shallows.
2. In tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, (b) $\leq 1,000$ SF in mudflats and/or natural rocky habitat, (c) not located in saltmarsh and tidal vegetated shallows.
3. Temporary, non-biological sampling devices in waters that do not restrict or concentrate movement of aquatic organisms and will not adversely affect the course, condition, or capacity of a waterway for navigation.
4. Scientific measurement devices, and small weirs and flumes constructed primarily to record water quantity and velocity provided the discharge of fill is limited to 25 cubic yards.
5. Temporary measuring devices and associated structures (e.g., anchors, buoys, etc.) in tidal and non-tidal waters that do not require a PCN or IP.

Pre-Construction Notification Required

1. Biological sampling devices, weirs or flumes, or the activity restricts or concentrates movement of aquatic organisms.
2. Permanent towers located in navigable waters that record and measure scientific data.
3. Devices that are not eligible for SV and do not require an IP.

Notes: An SV submittal is not required for temporary measuring devices with a footprint of <10 SF, with a profile of <3 feet high measured from the substrate and located in water deeper than -10 feet MLW.

GP 15. SURVEY ACTIVITIES (Authorities: §10 and §404)

Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching, soil surveys, sampling, sample plots or transects for wetland delineations, and historic resources surveys.

Not authorized under GP 15 (IP required): (a) Permanent impacts that are >1 acre in tidal and non-tidal waters; >1000 SF in tidal saltmarsh, mud flats, or riffle and pool complexes; or >100 SF in tidal vegetated shallows; or (b) Temporary impacts in tidal waters that are >1 acre, unless the District Engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, (b) not located in riffle and pool complexes and non-tidal vegetated shallows.
2. In tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, (b) $\leq 1,000$ SF in mudflats and/or natural rocky habitat, (c) not located in saltmarsh and tidal vegetated shallows.

Pre-Construction Notification Required

1. Exploratory trenching (see Note 2) occurs in waterways (e.g., streams, tidal waters).
2. Activities associated with the recovery of historic resources, and the drilling and discharge of excavated material from test wells for oil and gas exploration.
3. Seismic exploratory operations occur in tidal waters, the Connecticut River from the Turners Falls Dam to the MA/CT border, or the Merrimack River from the Essex Dam to the mouth. This is to protect endangered species.
4. Activities that are not eligible for SV and do not require an IP.

Notes:

1. An SV submittal is not required for wetland delineations, and core sampling conducted for preliminary evaluation of dredge project analysis.
2. For the purposes of GP 15, 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.
3. The discharge of drilling mud and cuttings may require a permit under §402 of the CWA.

GP 16. LAND AND WATER-BASED RENEWABLE ENERGY GENERATION FACILITIES (Authorities: §10 and §404), AND HYDROPOWER PROJECTS (Authority: §10 and §404)

Structures and work in tidal waters and discharges of dredged or fill material into tidal and non-tidal waters for the construction, expansion, modification or removal of: (a) Land-based renewable energy production facilities (e.g., solar, wind, biomass, geothermal) and their attendant features; (b) Water-based wind or hydrokinetic renewable energy generation projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects. Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S. Upon completion of the pilot project (see note 2), the generation units, transmission lines, and other structures or fills associated with the pilot project must be removed to the maximum extent practicable.

Not authorized under GP 16 (IP required): (a) Permanent impacts that are >1 acre in non-tidal waters, >½ acre in tidal waters; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in vegetated shallows; or (b) Temporary impacts in tidal waters that are >1 acre; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows.

Self-Verification Eligible

In non-tidal waters, the combined permanent and temporary impacts for land-based activities are (a) ≤5,000 SF, (b) not located in riffle and pool complexes and non-tidal vegetated shallows.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts for land-based activities are (a) >5000 SF, or (b) located in vegetated shallows or riffle and pool complexes.
2. Permanent and temporary impacts in tidal waters.
3. Water-based wind or hydrokinetic renewable energy generation projects, and hydropower projects.
4. For all activities eligible for authorization under GP 16:
 - a. The activity occurs in tidal waters or in, over or under navigable waters.
 - b. Stream channelization, relocation, impoundment, or loss of streambed occurs.
5. Activities that are not eligible for SV and do not require an IP.

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 may be authorized by GP 6.
2. For the purposes of this GP, the term “pilot project” means an experimental project where the renewable energy generation units will be monitored to collect information on their performance and environmental effects at the project site.

GP 17. RESIDENTIAL, COMMERCIAL AND INSTITUTIONAL DEVELOPMENTS AND RECREATIONAL FACILITIES (AUTHORITIES: §404)

Discharges of dredged or fill material into non-tidal waters 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 such as playgrounds, playing fields, bikeways, trails, etc. This GP also authorizes attendant features that include, but are not limited to, roads, parking lots, garages, yards, and utility lines, and stormwater management facilities. This GP authorizes attendant features if they are necessary for the use of the project purpose.

Not authorized under GP 17 (IP required): (a) Permanent impacts that result in loss of non-tidal waters >1/2 acre, or >1000 SF in riffle and pool complexes or vegetated shallows; or (b) Subsurface sewerage disposal systems in non-tidal waters.

Self-Verification Eligible

In non-tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are (a) >5,000 SF, or (b) located in riffle and pool complexes and non-tidal vegetated shallows.
2. Stream and wetland crossings that require a PCN per GCs 20 TOY Restrictions and GC 31 Stream Work and Crossings & Wetland Crossings.
3. Stream channelization, relocation, impoundment, or loss of streambed occurs that is ≥200 LF.
4. Activities on USACE properties & USACE-controlled easements.
5. Activities that are not SV eligible and do not require an IP.

Notes:

1. Stream and wetland crossings include permanent and temporary crossings, including those built with construction mats; and modifications (including sliplining), replacements or extensions to existing crossings.
2. See GC 22 for information on temporary construction mats.

GP 18. AQUACULTURE (Authorities: §10 and §404)

(a) The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into navigable waters of the U.S.; (b) Discharges of dredged or fill material into tidal and non-tidal waters necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities; and (c) Shellfish seeding or brushing the flats projects. Any fill material imported to the project from offsite (this is limited to mineral growth medium used in culture trays) shall be clean and of comparable grain size to the native substrate. Activities authorized under this GP must have (a) their MA DMF Aquaculture Certificate letter for licensed shellfish aquaculture sites, (b) documentation that the applicant has coordinated with the U.S. Coast Guard regarding USCG Private Aids to Navigation standards, (c) their MEPA Certificate (if required), and (d) documentation that the applicant has contacted their local authorities (ex. harbormaster, select board, shellfish constable) for authorization of their facility.

Not authorized under GP 18 (IP required): (a) New, or expansions of, impoundments and semi-impoundments of tidal and non-tidal waters for the culture or holding of motile species such as lobster with an impounded area $> \frac{1}{2}$ acre; (b) Cultivation of a nonindigenous species (see Note 1) unless that species has been previously cultivated in the waterbody; (c) Cultivation of an aquatic nuisance species (see Note 1); (d) Attendant features such as docks, piers, boat ramps (see GP 4); (e) stockpiles, staging areas, or the deposition of shell material back into tidal and non-tidal waters as waste.

Self-Verification Eligible

1. In tidal waters, the combined permanent and temporary impacts are (a) ≤ 2 -acre, (b) are not located in salt marsh, natural rocky habitat, or tidal vegetated shallows.
2. Expansions of existing facilities that result in a cumulative total facility area of ≤ 2 -acre of impacts in tidal waters. This excludes expansions in salt marsh, natural rocky habitat, and tidal vegetated shallows.
3. Cages, racks that are elevated ≥ 2 feet above the ocean floor with legs within a lease site with ≤ 4 buoys marking the corners.
4. Floating cage strings with a single connecting line, ≤ 2 anchors and ≤ 2 end marker buoys per string within a lease site with ≤ 4 buoys marking the corners.
5. No activities located within 25 feet of tidal vegetated shallows.
6. Culture only indigenous species.
7. Not located in or within a distance of three times the authorized depth of an FNP.
8. Not located in or impinge upon the value of any National Lands or Federal Properties.
9. Floating upweller docks that total ≤ 600 SF in area.

Pre-Construction Notification Required

1. Discharges of fill material associated with aquaculture $> 5,000$ SF.
2. Research, educational, commercial-viability or experimental aquaculture gear activities $> 1,000$ SF.
3. Kelp or finfish aquaculture.
4. Land-based hatchery intakes > 3 inches in diameter.
5. Activities in water depths > 10 feet mean low lower water (MLLW).
6. Activities with in-water lines, ropes or chains that are not SV eligible (see #3-4).
7. Activities occur in the Connecticut River from the Turners Falls Dam to the MA/CT border or the Merrimack River from the Essex Dam to the mouth. This is to protect endangered species.
8. New, or expansions of, impoundments and semi-impoundments for the culture or holding of motile species such as lobster with an impounded area $\leq \frac{1}{2}$ acre.
9. Activities that do not require an IP. Activities that do not require a PCN or an IP may be SV eligible.

Note: The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 defines: (a) 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”; and (b) 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.”

GP 19. MINING ACTIVITIES (Authorities: §10 and §404)

Discharges of dredged or fill material into non-tidal waters for mining activities, except for coal mining and metallic mineral mining activities.

Not authorized under GP 19 (IP required): (a) Permanent impacts >1 acre in non-tidal waters; or (b) Activities in tidal waters.

Self-Verification Eligible

In non-tidal waters, the combined permanent and temporary impacts are (a) $\leq 5,000$ SF, and (b) not located in riffle and pool complexes, non-tidal vegetated shallows, and streams.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are (a) $> 5,000$ SF, or (b) located in riffle and pool complexes, non-tidal vegetated shallows, and streams.
2. The activity occurs in non-tidal navigable waters of the U.S.
3. Stream channelization, relocation, impoundment, loss of streambed, or discharge of tailings into streams occurs.
4. Work on USACE properties & USACE-controlled easements.
5. Activities that are not eligible for SV and do not require an IP.

GP 20. LIVING SHORELINES¹ (Authorities: §10 and §404)

Construction and maintenance of living shorelines to stabilize banks and shores in tidal waters. In non-tidal waters that are not subject to the ebb and flow of the tide, nature-based bank stabilization techniques such as bioengineering and vegetative stabilization may be authorized by GP 9. This GP authorizes those maintenance and repair activities in-kind that are necessary to address changing environmental conditions.

The following conditions must be met: (a) Coir logs, coir mats, stone, native oyster shell, native wood debris, and other structural materials must be adequately anchored, of sufficient weight, or installed in a manner that prevents relocation in most wave action or water flow conditions, except for extremely severe storms; (b) For living shorelines consisting of tidal or lacustrine fringe wetlands, native plants appropriate for current site conditions, including salinity and elevation, must be used if the site is planted by the permittee; (c) Discharges of dredged or fill material into waters of the U.S., and oyster or mussel reef structures in navigable waters, must be the minimum necessary for the establishment and maintenance of the living shoreline; (d) If sills, breakwaters, or other structures must be constructed to protect fringe wetlands for the living shoreline, those structures must be the minimum size necessary to protect those fringe wetlands; (e) The activity must be designed, constructed, and maintained so that it has no more than minimal adverse effects on water and sediment movement between the waterbody and the shore and the movement of aquatic organisms between the waterbody and the shore; and (f) The living shoreline must be properly maintained and monitored, which may require periodic repair of sills, breakwaters, or reefs, or replacing sand fills after severe storms or erosion events. Vegetation may be replanted to maintain the living shoreline.

Not authorized under GP 22 (IP required): (a) The activity is ≥ 1000 feet in length along the bank (≥ 2000 LF both banks); or (b) The activity involves land reclamation activities; or (c) Stream channelization or relocation activities; or (d) Breakwaters, groins, jetties, or artificial reefs; (e) Permanent impacts >1 acre in non-tidal waters, $>1/2$ acre in tidal waters, $>1,000$ SF in SAS (excluding vegetated shallows); or (f) Permanent impacts >100 SF in tidal vegetated shallows.

Self-Verification Eligible

1. Tidal and non-tidal living shorelines ≤ 100 LF for each bank (≤ 200 LF for both banks).
2. Combined permanent and temporary impacts $\leq 5,000$ SF in tidal waters, excluding salt marsh, tidal vegetated shallows, natural rocky habitat, and mudflats.

Pre-Construction Notification Required

1. Tidal and non-tidal living shorelines >100 LF to <1000 LF (>200 LF to <2000 LF for both banks).
2. Permanent and temporary impacts in salt marsh, tidal vegetated shallows, or mudflats.
3. Work on USACE properties & USACE-controlled easements.
4. Use of stone sills, native oyster shell, native wood debris, or other structural materials.

Notes:

1. PCNs may require monitoring for a minimum of 5 years in accordance with an approved restoration plan. The first year of monitoring will be the first year that the site has been through a full growing period after completion of construction and planting.
2. Applicants are encouraged to obtain a MEPA certificate prior to submitting a USACE permit application.

¹ A living shoreline has a footprint that is made up mostly of native material. It incorporates vegetation or other living, natural “soft” elements alone or in combination with some type of harder shoreline structure (e.g., oyster or mussel reefs or rock sills) for added protection and stability. Living shorelines should maintain the natural continuity of the land-water interface, and retain or enhance shoreline ecological processes. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures.

GP 21. AGRICULTURAL ACTIVITIES (Authority: §404)

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

Not authorized under GP 21 (IP required): (a) Permanent impacts that are >1 acre in non-tidal waters; or >1000 SF in riffle and pool complexes, or non-tidal vegetated shallows; (b) Work in tidal waters; or (c) Construction of farm ponds in perennial streams.

Self-Verification Eligible

In non-tidal waters, the combined permanent and temporary impacts are (a) ≤5,000 SF, and (b) not located in riffle and pool complexes and non-tidal vegetated shallows.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are (a) >5,000 SF, or (b) located in riffle and pool complexes and non-tidal vegetated shallows.
2. Activities occur in non-tidal navigable waters of the U.S.
3. Stream channelization, relocation, impoundment, loss of streambed, or farm ponds in non-perennial streams occurs.
4. Activities that are not eligible for SV and do not require an IP.

Note: Some discharges for agricultural activities may qualify for an exemption under Section 404(f) of the CWA (see 33 CFR 323.4). This GP authorizes the construction of farm ponds that do not qualify for the CWA §404(f)(1)(C) exemption because of the recapture provision at §404(f)(2).

GP 22. RESHAPING EXISTING DRAINAGE DITCHES, CONSTRUCTION OF NEW DITCHES, AND MOSQUITO MANAGEMENT (Authorities: §10 and §404)

Discharges to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in tidal and non-tidal waters, 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. Also authorized are mosquito reduction activities.

Not authorized under GP 22 (IP required): Stream channelization, relocation, impoundments, or loss of streambed.

Self-Verification Eligible

≤500 linear feet of drainage ditch will be reshaped provided excavated material is deposited in an upland area.

Pre-Construction Notification Required

1. >500 linear feet of drainage ditch will be reshaped, excavated material is deposited in a water of the U.S., or the reshaping of the ditch increases the drainage capacity beyond the original as-built capacity or expands the area drained by the ditch as originally constructed (i.e., the capacity of the ditch is not the same as originally constructed or drains additional wetlands or other waters of the U.S.).
2. Routine maintenance of existing ditches that results in the combined loss of ≥5,000 square feet of tidal and non-tidal waters.
3. Permanent and temporary impacts in tidal vegetated shallows.
4. New ditches or relocation of drainage ditches constructed in waters of the U.S. (i.e., the location of the centerline of the reshaped drainage ditch is not approximately the same as the location of the centerline of the original drainage ditch).
5. Activities that are not eligible for SV and do not require an IP.

Note: Some ditch activities are exempt under Section 404(f) of the CWA (see 33 CFR 323.4).

GP 23. LINEAR TRANSPORTATION PROJECTS AND WETLAND/STREAM CROSSINGS (Authorities: §10 & §404)

Activities¹ required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, railways, trails, airport runways, and taxiways) and attendant features. This GP also authorizes temporary structures, fills, and work, including the use of temporary mats (see Note 1), necessary to construct the linear transportation project.

Not authorized under GP 23 (IP required): (a) Permanent impacts for any single and complete project that are >1 acre in non-tidal waters; >½ acre in tidal waters; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in tidal vegetated shallows; (b) Temporary impacts in tidal waters that are >1 acre; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows; (c) Non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars (see GP 17); or (d) New tide gates.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are a) ≤5,000 SF; b) not located in riffle and pool complexes and non-tidal vegetated shallows; and c) meet the Massachusetts Stream and Wetland Crossing Standards.
2. Existing crossings (e.g., culverts, elliptical or arch pipes, etc.) are not modified by (a) decreasing the diameter of the crossing or (b) changing the friction coefficient, such as through slip lining (retrofitting an existing culvert by inserting a smaller diameter pipe), culvert relining or invert lining.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are a) >5000 SF; b) located in vegetated shallows or riffle and pool complexes; or c) do not meet the Massachusetts Stream and Wetland Crossing Standards (see note 4).
2. The activity occurs in tidal waters, salt marsh, or in, over or under navigable waters of the U.S.
3. Stream and wetland crossings that require a PCN per GC 20 TOY Restrictions and GC 31 Stream Work and Crossings & Wetland Crossings.
4. Stream channelization, relocation, or loss of streambed including impoundments, occurs that is >200 LF.
5. Work on USACE properties & USACE-controlled easements.
6. Activities that are not eligible for SV and do not require an IP.

Notes:

1. See GC 22 for information on temporary construction mats.
2. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the U.S. may be authorized under GP 8.
3. Loss of streambed does not require a PCN when bridge piers or similar supports are used.
4. In their PCN application submission to the USACE, applicants must explain why they are unable to meet the Massachusetts Stream and Wetland Crossing Standards.
5. For tidal crossings, modeling is encouraged as a method to verify the proposed crossing would not be undersized and resilient to the effects of sea level rise.

¹ Stream crossings must conform with the MA Stream Crossing Guidelines and GCs of this document (Section IV).

GP 24. TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING (Authorities: §10 and §404)

Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites that are not authorized under another GP activity.

Not authorized under GP 24 (IP required): (a) Permanent structures or impacts; (b) Temporary impacts in tidal waters that are >1 acre; >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows; (c) Use of cofferdams to dewater wetlands or other aquatic areas to change their use; (d) Temporary stream crossings (see GPs 6, 17, 23); (e) Structures or fill left in place after construction is completed.

Self-Verification Eligible

1. In non-tidal waters, the combined permanent and temporary impacts are a) ≤5,000 SF; b) not located in riffle and pool complexes and non-tidal vegetated shallows.
2. In tidal waters, the combined permanent and temporary impacts are a) ≤5,000 SF, b) ≤1,000 SF in mudflats and/or natural rocky habitat, and c) not located in saltmarsh and tidal vegetated shallows.
3. Structures in navigable waters of the U.S. provided no impacts occur in tidal SAS and they are left in place ≤30 days.

Pre-Construction Notification Required

1. In non-tidal waters, the combined permanent and temporary impacts are a) >5,000 SF; b) located in riffle and pool complexes or non-tidal vegetated shallows.
2. In tidal waters, the combined permanent and temporary impacts are a) >5,000 SF; b) >1,000 SF in mudflats and/or natural rocky habitat, or (c) located in saltmarsh and tidal vegetated shallows.
3. Activities in the Connecticut River from the Turners Falls Dam to the MA/CT border, or Merrimack River from the Essex Dam to the mouth, involving temporary impacts unless they are performed <5 feet waterward from OHW or HTL and in the dry. This is to protect endangered species; or
4. Activities not eligible for SV and do not require an IP.

Notes:

1. Turbidity or sediment resuspension is generally not considered to occur when properly using management techniques to work in dry conditions. See GC 25.
2. Total impact areas under SV Eligible 1-2 exclude use of temporary construction mats. See GC 22 for information on temporary construction mats.

GP 25. EMERGENCY SITUATIONS (Authorities: §10 and §404)

Structures or work in or affecting navigable waters of the U.S. and the discharge of dredged or fill material into waters of the U.S., including wetlands, necessary for repair or protection measures associated with an emergency situation¹. The activity shall be the minimum necessary to alleviate the immediate emergency unless that additional work would result in no more than minimal effects to aquatic environment and is necessary to reduce the potential for future failure or loss of the structure or site. Typical activities authorized under this GP include, but are not limited to, restoration of damaged areas; bank stabilization; temporary fills for staging, access, and dewatering; and, repair, replacement, or rehabilitation of existing structures and/or fills (i.e., roads, bridges, utility pipelines and flood control structures, including attendant features, and other existing structures located in waters of the U.S.).

For the restoration of areas damaged by storms floods, or other discrete events: (a) The restored area must not extend waterward of the ordinary high-water mark or high tide line that existed prior to the damage. (b) The slope of the restored area below the ordinary high-water mark or high tide line must not exceed the slope that existed prior to the damage. (c) The bottom elevation of the restored area must not exceed the bottom elevation that existed prior to the damage (i.e., the restored area must not result in a reduction in the depth of the waterbody that existed prior to the damage). (d) The restoration activities must be completed within 3 months of authorization under GP 25.

Not authorized under GP 25 (IP required): (a) Permanent impacts for a single and complete project >1/2 acre in tidal waters, unless the district engineer waives this criterion by making a written determination concluding that the activity will result in no more than minimal adverse environmental effects; >1000 SF in saltmarsh, mud flats, riffle and pool complexes, or non-tidal vegetated shallows; or >100 SF in tidal vegetated shallows; (b) Temporary impacts in tidal waters that are >5000 SF in saltmarsh, mud flats, or riffle and pool complexes; or >1000 SF in vegetated shallows; (c) New structures or fills that did not previously exist before the storm event or other discrete event (see other GPs).

Self-Verification Eligible

1. Activities that qualify under a Severe Weather Emergency Declaration issued by MassDEP and do not require a PCN elsewhere in this document; and
2. Minor deviations in the structure or fill area, including upgrades to existing structures or fills are authorized due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to alleviate the emergency situation.

Pre-Construction Notification Required

1. FEMA Declared Disaster.
2. Activities that are not eligible for SV and do not require an IP.

Notes:

1. See GC 22 for information on temporary construction mats.
2. Review the GCs (Section IV) to confirm if a PCN is not required elsewhere in this document.
3. Applicants must explain in writing why their proposed activity qualifies as an emergency situation to be eligible under GP 25.

¹ An emergency situation, as determined by this office and 33 CFR 325.2(e)(4), is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Department of the Army permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.

SECTION IV. GENERAL CONDITIONS:

To qualify for GP authorization, the applicant must comply with the following general conditions, as applicable, in addition to authorization-specific conditions imposed by the division or district engineer.

1. Other Permits
2. Federal Jurisdictional Boundaries
3. Single and Complete Projects
4. Use of Multiple General Permits
5. Suitable Material
6. Water Supply Intakes
7. Avoidance, Minimization, and Compensatory Mitigation
8. Water Quality
9. Coastal Zone Management
10. Federal Threatened and Endangered Species
11. Essential Fish Habitat
12. National Lands
13. Wild and Scenic Rivers
14. Historic Properties, Burial Sites & Tribal Rights
15. USACE Property and Federal Projects (§408)
16. Navigation
17. Permit/Authorization Letter On-Site
18. Storage of Seasonal Structures
19. Pile Driving and Pile Removal in Navigable Waters
20. Time of Year Restrictions
21. Heavy Equipment in Wetlands
22. Temporary Fill & Construction Mats
23. Restoration of Wetland Areas
24. Bank Stabilization
25. Soil Erosion and Sediment Controls
26. Aquatic Life Movements and Management of Water Flows
27. Spawning, Breeding, and Migratory Areas
28. Vernal Pools
29. Invasive Species
30. Fills Within 100-Year Floodplains
31. Stream Work and Crossings & Wetland Crossings
32. Utility Line Installation and Removal
33. Coral Reefs
34. Blasting
35. Inspections
36. Maintenance
37. Property Rights
38. Transfer of GP Verifications
39. Modification, Suspension, and Revocation
40. Special Conditions
41. False or Incomplete Information
42. Abandonment
43. Enforcement Cases
44. Previously Authorized Activities
45. Duration of Authorization

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

2. Federal Jurisdictional Boundaries.

- a. Applicability of these GPs shall be evaluated with reference to Federal jurisdictional boundaries. Activities shall be evaluated with reference to “waters of the U.S.” under the CWA (33 CFR 328) and “navigable waters of the U.S.” under §10 of the Rivers and Harbors Act of 1899 (33 CFR 329). Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice, and procedures to be used in determining the extent of the USACE jurisdiction. Note: Waters of the U.S. includes all waters pursuant to 33 CFR 328.3(a), and adjacent wetlands as that term is defined in 33 CFR 328.3(c).
- b. Wetlands shall be delineated in accordance with the USACE of Engineers Wetlands Delineation Manual and the most recent Northcentral/Northeast Regional Supplement. Wetland delineation and jurisdiction information is located at: www.nae.usace.army.mil/missions/regulatory/jurisdiction-and-wetlands and maps are located at www.nae.usace.army.mil/missions/regulatory/state-general-permits/massachusetts-general-permit.
- c. Vegetated shallows shall be delineated when present on the project site. Vegetated shallow survey guidance and maps are located at: www.nae.usace.army.mil/missions/regulatory/state-general-permits/massachusetts-general-permit.

3. Single and Complete Projects. The RGPs shall not be used for piecemeal work and shall be applied to single and complete 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.

- a. For non-linear projects, a single and complete project must have independent utility. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed, even if the other phases were not built, can be considered as separate single and complete projects with independent utility.
- b. Unless USACE determines the activity has independent utility, all components of a single project and/or all planned phases of a multi-phased project (e.g., subdivisions should include all work such as roads, utilities, and lot development) shall be treated together as constituting one single and complete project.
- c. For linear projects such as power lines or pipelines with multiple crossings, a “single and complete project” is all crossings of a single water of the U.S. (i.e., single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately. If any crossing requires a PCN review or an individual permit review, then the entire linear project shall be reviewed as one project under PCN or the individual permit procedures.

4. Use of Multiple General Permits. The use of more than one GP for a single and complete project is prohibited, except when the acreage loss of waters of the U.S. authorized by the GPs does not exceed the acreage limit of the GPs with the highest specified acreage limit. For example, if a road crossing over waters is constructed under GP 23, with an associated utility line crossing authorized by GP 6, if the maximum acreage loss of waters of the U.S. for the total project is ≥ 1 acre it shall be evaluated as an IP.

5. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see §307 of the CWA).

6. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

7. Avoidance, Minimization, and Compensatory Mitigation. To qualify under this GP, activities must comply with Section V Mitigation Standards and the following:

- a. Avoid and Minimize: 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. Avoidance and minimization are required to the extent necessary to ensure that the adverse effects to the aquatic environment (both area and function) are no more than minimal.
- b. Compensatory mitigation for unavoidable impacts to waters of the U.S., including direct, indirect, secondary, and temporal loss, will generally be required for permanent impacts that exceed the thresholds identified in Section V, and may be required for temporary impacts, to offset unavoidable impacts which remain after all appropriate and practicable avoidance and minimization has been achieved and to ensure that the adverse effects to the aquatic environment are no more than minimal. Proactive restoration projects or temporary impact work with no secondary effects may generally be excluded from this requirement.
- c. Mitigation proposals shall follow the guidelines found in the Compensatory Mitigation for Losses of Aquatic Resources; Final Rule April 10, 2008; 33 CFR 332. Applicants may purchase mitigation credits in-lieu of applicant-responsible mitigation as compensation for unavoidable impacts to waters of the U.S. in the Commonwealth of Massachusetts.

8. Water Quality. Permittees shall satisfy the conditions imposed in their Clean Water Act Section 401 WQC for these GPs ([INSERT LINK](#)), or in any Individual Section 401 WQC. The USACE may require additional water quality management measures to ensure that the authorized activity does not cause or contribute to a violation of water quality standards. All projects authorized by these GPs shall be designed, constructed, and operated to minimize or eliminate the discharge of pollutants.

9. Coastal Zone Management. Permittees shall satisfy conditions imposed by the Massachusetts Office of CZM in their CZM consistency concurrence for these GPs ([INSERT LINK](#)), or in any Individual CZM consistency concurrences. The USACE may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

10. Federal Threatened and Endangered Species

- a. No activity is authorized under any GP which:
 - i. Is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species (i.e., listed species), as identified under the Federal Endangered Species Act of 1973, as amended (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat or proposed critical habitat of such species.
 - ii. “May affect, not likely to adversely affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed by USACE or another lead action agency in coordination with USACE. The proposed activity may qualify for a

SV if consultation is completed prior to the SV application submittal, and a PCN is not required elsewhere in this document.

iii. “May affect, likely to adversely affect” a listed species or critical habitat unless Section 7 consultation has been completed by USACE or another lead action agency in coordination with USACE. A PCN or IP is required for activities that may adversely affect an ESA-listed species and/or their habitat; or

iv. Violates the ESA.

b. All applicants shall attach to their SV or PCN an Official Species List obtained from the USFWS’s Information for Planning and Consultation (IPAC) found at: <https://ecos.fws.gov/ipac/> and provide the email address of the person who generated the list.

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

d. Federal agencies shall follow their own procedures for complying with the requirements of the ESA while ensuring that USACE and any other federal action agencies are included in the consultation process. Federal agencies shall furnish documentation demonstrating that consultation under Section 7 ESA has been completed.

e. Non-federal entities that prepare a biological assessment shall follow the requirements as set forth in the ESA. Non-federal entities shall provide USACE with the appropriate documentation to demonstrate compliance with those requirements. The USACE will review this documentation and determine whether it is sufficient to address ESA compliance for the GP activity.

11. Essential Fish Habitat (EFH).

a. SV eligible activities have been determined to result in no more than minimal adverse effects, provided the permittee follows the terms and conditions of the MA GP. These activities do not require project specific EFH consultation.

b. For activities that require a PCN, applicants may be required to describe and identify potential adverse effects to EFH.

c. For proposed activities in EFH, applicants should refer to the NOAA Fisheries’ EFH Mapper found at: <https://www.fisheries.noaa.gov/resource/map/essential-fish-habitat-mapper>.

d. Federal agencies shall follow their own procedures for complying with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (EFH) while ensuring that USACE and any other Federal action agencies are included in the consultation process. Federal agencies shall furnish documentation demonstrating that consultation for EFH has been completed.

12. National Lands. Activities that impinge upon the value of any National Wildlife Refuge, National Forest, National Marine Sanctuary, or any area administered by the National Park Service, U. S. Fish and Wildlife Service (USFWS) or U.S. Forest Service are not eligible for SV and will require either a PCN or an Individual Permit.

13. Wild and Scenic Rivers. The following activities in designated river or study river segments in the National Wild and Scenic River (WSR) System require a PCN unless the Federal agency with direct management responsibility for such river, in Massachusetts this is generally the National Park Service, has determined in writing to the proponent that the proposed work will not adversely affect the WSR designation or study status:

a. Activities that occur in WSR segments, in and 0.25 miles up or downstream of WSR segments, or in tributaries within 0.25 miles of WSR segments;

b. Activities that occur in wetlands within 0.25 miles of WSR segments;

c. Activities that have the potential to alter free-flowing characteristics in WSR segments.

No GP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

As of **January 10, 2023**, the Taunton River, Sudbury/Assabet/Concord Rivers, Nashua River, Squannacook River, Nissitissit River, Lower Farmington River and Salmon Brook, Westfield River, Gendale Brook, Shaker Mill Brook, Depot Brook, Savery Brook, Watson Brook, and Center Pond Brook are designated rivers; and the Nashua River is a study river. The most up to date list of designated and study rivers and their descriptions may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

14. Historic Properties, Burial Sites & Tribal Rights

- a. For all SV and PCN applications, applicants shall follow the guidance set forth in Appendix A, Guidance for §106 NHPA Compliance in Massachusetts.
- b. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- c. No undertaking authorized by these GPs shall cause effects (defined in 33 CFR 325 Appendix C and 36 CFR 800) on properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places (NRHP)¹, including previously unknown historic properties within the permit area, unless the USACE or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act (NHPA). If another Federal agency completed Section 106 consultation, applicants must obtain the appropriate documentation and provide this information to the USACE to demonstrate compliance with the NHPA. The applicant shall not begin the activity until the USACE notifies the applicant in writing that the documentation provided satisfies Section 106 NHPA requirements.
- d. Many historic properties are not listed on the NRHP and may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with USACE, State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and/or the Massachusetts Board of Underwater Archaeological Resources (BUAR). Contact information for the SHPO, THPOs, and BUAR is provided in Appendix A and on the New England District Regulatory website located here: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>.

The SHPO, THPOs, BUAR, and National Register of Historic Places can assist with locating information on:

- i. Previously identified historic properties; and
 - ii. Areas with potential for the presence of historic resources, which may require identification and evaluation by qualified historic preservation and/or archaeological consultants in consultation with USACE, SHPO, THPO(s), and/or BUAR.
- e. Discovery of Previously Unknown Remains and Artifacts: If any previously unknown historic, cultural or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, you must immediately notify the USACE 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 USACE will initiate the Federal,

¹ See <https://www.nps.gov/subjects/nationalregister/index.htm>

State and tribal 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.

f. Section 110k: Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the USACE from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely effected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the USACE, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the USACE is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties effected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or effects historic properties on tribal lands or effects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

g. Burial Sites: Burial sites, marked or unmarked, are subject to state law (Massachusetts Unmarked Burial Law). Native American burial sites on federal or tribal land are subject to the provisions of Native American Graves Protection and Repatriation Act (NAGPRA). Regulated activities may not result in disturbance or removal of human remains until disposition of the remains has been determined by the appropriate authority under these laws, and the work is authorized by the USACE. Regulated activities which result in an inadvertent discovery of human remains must stop immediately, and the USACE, as well as the appropriate state and tribal authority, must be notified. Regulated work at inadvertent discovery sites requires compliance with state law and NAGPRA, as appropriate, prior to re-starting work.

h. Underwater Archaeological Resources: Under Massachusetts General Law Ch. 6, s.'s 179-180, and Ch. 91, s. 63, the BUAR has statutory jurisdiction within state waters and is the sole trustee of the Commonwealth's underwater heritage, charged with the responsibility of encouraging the discovery and reporting, as well as the preservation and protection, of underwater archaeological resources. Underwater archaeological resources located within the waters of the Commonwealth of Massachusetts are property of the Commonwealth, which holds title to these resources and retains regulatory authority over their use. Under Massachusetts General Law, no person, organization or corporation may "remove, displace, damage, or destroy" any underwater archaeological resources located within the Commonwealth's submerged lands except through consultation with the BUAR and in conformity with the permits it issues. <https://www.mass.gov/orgs/board-of-underwater-archaeological-resources>.

15. USACE Property and Federal Projects. (§408)

a. USACE projects and property can be found at: <https://www.nae.usace.army.mil/Missions/Civil-Works/>.

b. In addition to any authorization under these GPs, applicants shall contact the USACE Real Estate Division at (978) 318-8585 for work occurring on or potentially affecting USACE properties and/or USACE-controlled easements to initiate reviews and determine what real estate instruments are necessary to perform work. Work may not commence on USACE properties and/or USACE-controlled easements until they have received any required USACE real estate documents evidencing site-specific permission to work.

c. Any proposed temporary or permanent modification or use of a Federal project (including, but not limited to, a levee, dike, floodwall, channel, anchorage, breakwater, seawall, bulkhead, jetty, wharf, pier, or other work built or maintained but not necessarily owned by the United States), which may obstruct or impair the usefulness of the Federal project in any manner, is not eligible for SV and requires review and approval by the USACE pursuant to 33 USC 408 (Section 408).

- d. A PCN is required for all structures and work in, over, under, or within a distance of three times the authorized depth of a USACE FNP and may require permission under Section 408.
- e. Any structure or work that extends closer to the horizontal limits of any FNP than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future USACE dredging or the performance of periodic hydrographic surveys.
- f. Where a Section 408 permission is applicable, written verification for the PCN will not be issued prior to the decision on the Section 408 permission request.

16. Navigation

- a. No activity may cause more than a minimal adverse effect on navigation.
- b. Any safety lights and signals prescribed by the U.S. Coast Guard, must be installed, and maintained at the applicant's expense on authorized facilities in navigable waters of the U.S.
- c. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the applicant to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.
- d. The applicant understands and agrees that if future U.S. operations require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the applicant will be required, upon due notice from USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

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

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

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

19. Pile Driving and Pile Removal in Navigable Waters.

- a. Derelict, degraded or abandoned piles and sheet piles in navigable waters of the U.S., except for those inside existing work footprints for piers, must be completely removed, cut and/or driven to 3 feet below the substrate to prevent interference with navigation, and existing creosote piles that are affected by project activities shall be completely removed if practicable. In areas of fine-grained substrates, piles must be removed by the direct, vibratory or clamshell pull method¹ to minimize sedimentation and turbidity impacts and prevent interference with navigation from cut piles. Removed piles shall be disposed of in an upland location landward of MHW or OHW and not in wetlands, tidal wetlands or mudflats. Pile removal work is SV eligible under GP 2.
- b. A PCN is required for the installation or removal of structures with jetting techniques.
- c. A PCN is required for the installation of >12 inch-diameter piles or steel piles in tidal waters unless they are installed in the dry. If piles are not installed in the dry:
 - i. Impact pile driving shall commence with an initial set of three strikes by the hammer at 40% energy, followed by a one-minute wait period, then two subsequent 3-strike sets at 40% energy, with one minute waiting periods, before initiating continuous impact driving.
 - ii. Vibratory pile driving shall be initiated for 15 seconds at reduced energy followed by a one-minute waiting period. This sequence of 15 seconds of reduced energy driving, one-minute waiting period shall be repeated two additional times, followed immediately by pile-driving at full rate and energy.
 - iii. In addition to using a soft start at the beginning of the workday for pile driving as described in 19c(i-ii), a soft start must also be used at any time following a cessation of pile driving for a period of 30 minutes or longer.
- d. Bubble curtains may be used to reduce sound pressure levels during vibratory or impact hammer pile driving.

20. Time-of-Year (TOY) Restrictions. Activities that include in-water work must comply with the TOY Restrictions below, otherwise a PCN is required. PCN submittals shall contain written justification for deviation from the TOY Restrictions. The term “in-water work” does not include conditions where the work site is “in-the-dry” (e.g., intertidal areas exposed at low tide). The term “in-the-dry” includes work contained within a cofferdam so long as the cofferdam is installed and subsequently removed outside the TOY Restriction. The time-of-year restrictions stated in Appendix B of the MA DMF Technical Report TR-47² can apply instead if they are provided for a specific waterbody, less restrictive, and ESA-listed species are not mapped as present within the waterbody.

	TOY Restriction (No work)
Non-tidal Waters	October 1 – June 1
Tidal Waters	January 15 – November 15

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

21. Heavy Equipment in Wetlands.

¹ 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.

² The MA DMF Technical Report TR-47: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Massachusetts-General-Permit/>

- a. Operating heavy equipment (drill rigs, fixed cranes, etc.) within wetlands shall be minimized, and such equipment shall not be stored, maintained, or repaired in wetlands, to the maximum extent practicable. Where construction requires heavy equipment operation in wetlands, the equipment shall:
- i. Have low ground pressure (typically <4 psi);
 - ii. Be placed on swamp/construction/timber mats (herein referred to as “construction mats” or “mats”) that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation; or
 - iii. Be operated on adequately dry or frozen wetlands such that shear pressure does not cause subsidence of the wetlands immediately beneath the equipment and upheaval of adjacent wetlands. Construction mats are to be placed in the wetland from the upland or from equipment positioned on mats if working within a wetland. Dragging construction mats into position is prohibited. Other support structures that are capable of safely supporting equipment may be used with written USACE authorization. At a minimum, construction mats should be managed in accordance with the following construction mat best management practices (BMPs):
 1. Mats shall be in good condition to ensure proper installation, use and removal.
 2. Where feasible, place mats in a location that will minimize the amount needed for the wetlands crossing.
 3. To prevent the spread of invasive plant species construction mats are to be thoroughly cleaned before re-use.
 4. Minimize impacts to wetland areas during installation, use, and removal.
 5. Install adequate erosion & sediment controls at approaches to mats to promote a smooth transition to, and minimize sediment tracking onto, mats.
 6. In most cases, mats should be placed along the travel area so that the individual boards are resting perpendicular to the direction of traffic. No gaps should exist between mats. Place mats far enough on either side of the resource area to rest on firm ground.
- b. Construction equipment such as barges in tidal waters shall provide clearance above the substrate to avoid impacts to SAS during all tides.

22. Temporary Fill & Construction Mats.

- a. Temporary construction mats placed in an area of any size in non-tidal waters necessary to conduct activities do not count towards the SV or PCN area thresholds. Temporary construction mats in tidal SAS or >5000 SF in tidal waters require a PCN, but mats placed in an area of any size do not count towards the PCN area thresholds. This only applies to temporary construction mats, not other temporary fill.
- b. A PCN is required for construction mats and corduroy roads that involve underlying fill in excess of the GP threshold for that specific activity. For example, the construction mats associated with a culvert replacement under GP 23 would be subject to the GP 23 thresholds.
- c. All temporary fills and disturbed soils shall be stabilized to prevent its eroding into waters of the U.S. where it is not authorized. Work shall include phased or staged development to ensure only areas under active development are exposed and to allow for stabilization practices as soon as practicable. Temporary fill must be placed in a manner that will prevent it from being eroded by expected high flows.
- d. Unconfined temporary impact authorized for discharge into waters of the U.S. shall consist of material that minimizes impacts to water quality.
- e. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Materials shall be placed in a location and manner that does not adversely impact surface or subsurface water flow into or out of the wetland. Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric or other appropriate

material laid on the pre-construction wetland grade where practicable to minimize impacts and to facilitate restoration to the original grade. Construction mats are excluded from this requirement.

- f. Construction debris and deteriorated materials shall not be located in waters of the U.S.
- g. Temporary fills, construction mats, and corduroy roads shall be entirely removed as soon as they are no longer needed to construct the authorized activity and the disturbed areas be restored to pre-construction contours and conditions.

23. Restoration of Wetland Areas.

- a. Upon completion of construction, all disturbed wetland areas shall be stabilized with a wetland seed mix or plant plugs containing only plant species native to New England, and be appropriate for site conditions, including salinity and frequency of inundation, and shall not contain any species listed in the “Invasive and Other Unacceptable Plant Species” Appendix K in the New England District “Compensatory Mitigation Standard Operating Procedures” found at <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation.aspx>.
- b. The introduction or spread of invasive plant species in disturbed areas shall be prevented and controlled. Equipment shall be thoroughly cleaned before and after project construction to prevent the spread of invasive species. This includes, but is not limited to, tire treads and construction (swamp) mats.
- c. In areas of authorized temporary disturbance, if trees are cut, they shall be cut at or above ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.
- d. Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

24. Bank Stabilization.

- a. Projects involving construction or reconstruction/maintenance of bank stabilization structures within USACE jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. Where possible, bank stabilization projects shall optimize the natural function of the shoreline, including self-sustaining stability to attenuate flood flows, fishery, wildlife habitat and water quality protection, while protecting upland infrastructure from storm events that can cause erosion as well as impacts to public and private property.
- b. No material shall be placed in excess of the minimum needed for erosion protection.
- c. No material shall be placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas).
- d. Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization.
- e. The activity must be properly maintained, which may require repairing it after severe storms or erosion events.

25. Soil Erosion and Sediment Controls.

- a. Appropriate soil erosion and sediment controls¹ (hereinafter referred to as “controls”) must be installed prior to earth disturbance and maintained in effective operating condition during construction. Biodegradable wildlife friendly erosion controls should be used whenever practicable.

¹ Appropriate soil erosion, sediment and turbidity controls include cofferdams, bypass pumping around barriers immediately up and downstream of the work footprint (i.e., dam and pump), installation of

- b. Activities in streams (rivers, streams, brooks, etc.) and tidal waters that are capable of producing sedimentation or turbidity should be done during periods of low-flow or no-flow, when the stream or tide is waterward of the work, or when controls are used to obtain dry work conditions.
- c. A PCN is required for an activity that causes greater than minimal sedimentation or turbidity in streams or tidal waters. Turbidity or sediment resuspension is generally not considered to occur when properly using management techniques to work in dry conditions. PCN submittals must demonstrate in the project plans how best management practices (BMPs) are proposed to minimize or avoid turbidity or sedimentation.
- d. No dewatering shall occur with direct discharge to waters or wetlands. Excess water in isolated work areas shall be pumped or directed to a sedimentation basin, tank or other dewatering structures in an upland area adequately separated from waters or wetlands. Suspended solids shall be removed prior to discharge back into waters or wetlands from these dewatering structures. All discharge points back into waters and wetlands shall use appropriate energy dissipaters and erosion and sedimentation control BMPs.
- e. Temporary controls shall be removed upon completion of work, but not until all exposed soil and other fills, as well as any work waterward of OHW or the HTL, are permanently stabilized at the earliest practicable date. Sediment and debris collected by these devices shall be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland. Controls may be left in place if they are biodegradable and flows and aquatic life movements are not disrupted.

26. Aquatic Life Movements and Management of Water Flows.

- a. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies and wetlands shall be:
 - i. Suitably spanned, bridged, culverted, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species; and
 - ii. Properly aligned and constructed to prevent bank erosion or streambed scour both adjacent to and inside the crossing.
- b. To avoid adverse impacts on aquatic organisms, the low flow channel/thalweg shall remain unobstructed during periods of low flow, except when necessary to perform the authorized work.
- c. For work in tidal waters, in-stream controls (e.g., cofferdams) should be installed in such a way as to not obstruct fish passage.
- d. Riprap and other stream bed materials shall be installed in a manner that avoids organism entrapment in rock voids or water displaced to subterranean flow with crushed stone and riprap.
- e. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity shall not restrict or impede the passage of normal or high flows unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

27. Spawning, Breeding, and Migratory Areas.

sediment control barriers (i.e., silt fence, vegetated filter strips, geotextile silt fences, filter tubes, erosion control mixes, hay bales or other devices) downhill of all exposed areas, stream fords, retention of existing vegetated buffers, application of temporary mulching during construction, phased construction, and permanent seeding and stabilization, etc.

- a. Activities in spawning areas during spawning seasons must be avoided 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 under these GPs.
- b. Activities in waters of the U.S. that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- c. The applicant is responsible for obtaining any “take” permits required under the USFWS’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The applicant should contact the appropriate local office of the USFWS to determine if such “take” permits are required for a particular activity.
- d. Information on spawning habitat for species managed under the Magnuson-Stevens Fishery Conservation and Management Act (i.e., EFH for spawning adults) can be obtained from the NMFS website at: <https://www.fisheries.noaa.gov/region/new-england-mid-atlantic#habitat>.

28. Vernal Pools.

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

29. Invasive Species.

- a. The introduction, spread or the increased risk of invasion of invasive plant or animal species on the project site, into new or disturbed areas, or areas adjacent to the project site caused by the site work shall be avoided. Construction mats shall be thoroughly cleaned before reuse to avoid spread of invasive species.
- b. Unless otherwise directed by USACE, all applications for PCN non-tidal projects proposing fill in USACE jurisdiction shall include an Invasive Species Control Plan. Additional information can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/Invasive-Species/>, <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>.

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

31. Stream Work and Crossings & Wetland Crossings.

- a. When feasible, all temporary and permanent crossings of waterbodies and wetlands (hereinafter referred to as “crossings”) shall conform to the “Massachusetts Stream Crossings Handbook” located at: <https://www.mass.gov/doc/massachusetts-stream-crossing-handbook/download>. Projects that do not conform to these guidelines shall be reviewed under PCN or IP procedures.
- b. Crossings shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, maintain water quality, and not obstruct the movement of aquatic life indigenous to the waterbody beyond the duration of construction.
- c. Crossings shall be installed in such a manner as to preserve hydraulic capacity and flow, sediment transport, and organism passage at its present level, between the wetlands on either side of the road. The applicant shall take necessary measures to correct any wetland damage resulting from deficiencies in hydraulic capacity, sediment transport and organism passage.

- d. Stream crossings shall utilize a natural mixed grain-size streambed material composition that matches upstream and downstream substrates to create a stable streambed. Substrate should function appropriately during normal and high flows without washing out.
- e. Activities involving open trench excavation in flowing waters require a PCN. Work should not occur in flowing waters (requires using management techniques such as temporary flume pipes, culverts, cofferdams, etc.). Normal flows should be maintained within the stream boundary's confines when practicable. Projects utilizing these management techniques must meet all applicable terms and conditions of the GP, including the GCs in Section IV.
- f. Only maintenance or replacement of serviceable crossings with an exact replica crossing (no change in size, character, and scope) in the same footprint with no expansion or change in use/circumstances is considered as a maintenance project. Maintenance meeting these criteria are exempt from USACE regulation (33 CFR 323). Any deviation deems the crossing as "new", potentially requiring a new USACE authorization.

32. Utility Line Installation and Removal

- a. 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.
- b. When utility lines are installed via horizontal directional drilling, a frac-out contingency plan shall be present on site for the duration of construction. As necessary, the applicant shall immediately contain, control, recover, and remove drilling fluids released into the environment.
- c. 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 from the USACE is required if they are to remain in place, e.g., to protect sensitive areas or ensure safety.
- d. Utility lines shall not adversely alter existing hydrology, and trenches cannot be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a French drain effect). In wetland areas, structures such as ditch plugs, cut-off walls, clay blocks, bentonite, or other suitable material shall be used within utility trenches to ensure that the trench through which the utility line is installed does not drain waters of the U.S. including wetlands.

33. Coral Reefs. Impacts to coral reefs are not authorized under these GPs. Coral reefs consist of the skeletal deposit, usually of calcareous or siliceous materials, produced by the vital activities of anthozoan polyps or other invertebrate organisms present in growing portions of the reef.

34. Blasting. Blasting in waters of the U.S. associated with work such as dredging, trenching, pile installation, etc. is not authorized under these GPs.

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

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

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

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

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

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

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

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

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

44. Previously Authorized Activities.

- a. Completed projects that received prior authorization from USACE (SV or PCN), shall remain authorized in accordance with the original terms and conditions of those authorizations, including their terms, GCs, and any special conditions provided in a written verification.
- b. Activities authorized pursuant to 33 CFR 330.3 (activities occurring before certain dates) are not affected by these GPs.

45. Duration of Authorization.

- a. These GPs expire five years from the date issued as listed at the top of the cover sheet. Activities authorized by these GPs that have either commenced (i.e., are under construction) or are

under contract to commence in reliance upon this authorization will have an additional year from the expiration date to complete the work. The applicant must be able to document to USACE's satisfaction that the project was under construction or under contract by the expiration date of these GPs. If work is not completed within the one-year extended timeframe, the applicant must contact USACE. The USACE may issue a new authorization provided the project meets the terms and conditions of the MA GPs in effect at the time.

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

DRAFT

SECTION V: MITIGATION STANDARDS

1. Mitigation Types

For all activities, applicants must (a) demonstrate how the project has been designed to avoid or minimize impacts to aquatic resources; and (b) describe measures taken to avoid or minimize impacts to aquatic resources through construction techniques and/or site access. Please see <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/> for assistance with preparing mitigation in accordance with the 2008 Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (33 CFR 332.3), hereafter referred to as “2008 Mitigation Rule.”

Avoidance - Avoidance of impacts (direct and indirect) to aquatic resources means that project activities would not result in the placement of fill material or installation of a structure that could impact the resource area. Avoidance can include, but is not limited to, designing the project to avoid impacts to all or a portion of the aquatic resource areas.

Minimization - Minimization of impacts (direct and indirect) to aquatic resources means that measures are taken to ensure the amount and duration of impacts are limited to the maximum extent practicable. There are many minimization measures that could be implemented, prior to, during, or after the proposed activity, to ensure impacts are minimized. Examples include, but are not limited to:

- Permanent preservation of avoided aquatic features and buffer zone, in perpetuity. In these cases, the preserved area would be under a conservation easement and managed by conservation oriented third-party manager.
- Utilization of best management practices (BMPs) to ensure impacts are limited, and do not result in adverse impacts to the integrity and long-term functions of preserved/avoided features.

Compensatory Mitigation - Compensatory mitigation is generally required for all activities in which the impacts to the aquatic resources have been avoided and minimized to the maximum extent practicable but would still result in unavoidable adverse effects. *Whatever the case may be, compensatory mitigation is no substitute for avoidance and minimization.*

2. Thresholds for Compensatory Mitigation

The basic objective of compensatory mitigation in the USACE Regulatory Program is to offset environmental losses resulting from unavoidable impacts to waters of the U.S. authorized by Department of the Army permits. Compensatory mitigation is required to ensure that a project will not result in more than minimal impacts to the aquatic environment.

Compensatory mitigation at a minimum one-for-one ratio will be required for all aquatic resource losses that are >5,000 SF and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For aquatic resource losses <5,000 SF that require a PCN, the District Engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

Per the 2008 Mitigation Rule (33 CFR 332.3(f)(1)) “the amount of required compensatory mitigation must be, to the extent practicable, sufficient to replace lost aquatic resource functions. In cases where appropriate functional or condition assessment methods or other suitable metrics are available, these methods should be used where practicable to determine how much compensatory mitigation is required. If a functional or condition assessment or other suitable metric is not used, a minimum one-to-one acreage or linear foot compensation ratios must be used.”

3. Compensatory Mitigation Hierarchy

Compensatory mitigation should follow the hierarchy as outlined in 33 CFR 332.3(b)(2-6) or current regulation. This hierarchy in order of preference includes: (1) Mitigation Bank credits, (2) In-Lieu Fee program credits, (3) permittee-responsible mitigation under a watershed approach, (4) permittee-responsible mitigation through on-site and in-kind mitigation, and (5) permittee-responsible mitigation through off-site and/or out-of-kind mitigation. If the proposed mitigation deviates from this mitigation hierarchy, the applicant **must** justify in writing why the proposed mitigation is environmentally preferable to the preferred method of compensatory mitigation (See 2008 Mitigation Rule). **In order for your application to be considered complete, you must provide a statement that discusses how your project will compensate for the loss or impact to aquatic resources.** If you are proposing permittee responsible mitigation, the 12 components of a mitigation plan (33 CFR 332.4(c)(2-14) must be addressed for your application to be considered complete. Prospective applicants are encouraged to contact the USACE with questions at any time. Addressing the 12 components of a mitigation plan is commensurate with the amount of compensatory mitigation required, and USACE can assist prospective applicants with the level of information needed to satisfy each component.

For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

4. In-Lieu Fee (ILF)

The purchase of credits from the Massachusetts In-Lieu Fee Program (MA ILFP) is the **preferred** method of compensatory mitigation in Massachusetts at this time as there are currently no mitigation banks in Massachusetts. The applicant shall develop a mitigation plan that addresses the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

The MA ILFP is administered by the Massachusetts Department of Fish & Game (DFG) in accordance with the 2008 Mitigation Rule at 33 CFR 332. The Mitigation Rule governs in-lieu fee compensatory mitigation associated with USACE permits under §404 of the Clean Water Act and/or §9 or §10 of the Rivers and Harbors Act of 1899.

MA ILFP Website: <https://www.mass.gov/in-lieu-fee-program>

Acceptance of an ILF payment into the ILFP established by the 2014 MA ILFP Instrument (link below) is an acknowledgement by DFG that it assumes all legal responsibility for satisfying the mitigation requirements of the USACE (i.e., the implementation, performance, and long-term management and monitoring of the compensatory mitigation project(s) approved under this Instrument and subsequent Compensatory Mitigation Plans). This transfer of legal responsibility is established by: 1) the approval of this In-Lieu Fee Instrument; 2) receipt by the district engineer of

a Notice of Credit Sale and Transfer of Legal Responsibility to DFG that is signed by the DFG and the permittee and dated; and 3) the transfer of fees from the permittee to DFG.

MA ILFP Fact Sheet: <https://www.mass.gov/files/documents/2017/01/sj/ilfp-fact-sheet-ma-ilfp-fees.pdf>

MA ILFP Instrument: <https://www.mass.gov/files/documents/2016/08/nd/ilfp-final-instrument-dfg.pdf>

5. Permittee-Responsible

The USACE may determine that the proposed permittee-responsible compensatory mitigation is appropriate on a case-by-case basis. As described in the Compensatory Mitigation Hierarchy section above, applicants must justify in writing why the proposed mitigation is environmentally preferable to the purchase of ILF credits. Applicants are encouraged to contact the USACE prior to submission of a permit application to seek further guidance regarding USACE mitigation requirements.

Applicants will demonstrate their proposed compensatory mitigation in writing by addressing the 12 components of a mitigation plan (33 CFR 332.4(c)(2-14). *Please note that all elements must be addressed, or the permit application will be deemed incomplete.* In certain circumstances, the district engineer may determine that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). Guidance on how to address these components can be found on the New England District Mitigation webpage: <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>

Performance standards will be used to measure the successfulness of the mitigation project. A successful mitigation project is one that is self-sustaining. For a mitigation project that will restore, enhance, or create wetlands, proper performance standards must address hydrology, hydric soils, and hydrophytic vegetation. The mitigation proposal must include an explanation of quantitative methods used to measure the success of performance standards (i.e., percent cover may be measured using vegetation plots, hydrology may be measured using data loggers, soil cores may be taken and evaluated for hydric soil indicators).

Monitoring methods should include quantitative sampling methods following established, scientific protocols. Sampling documentation, as part of monitoring reports, should include maps and coordinates (also shapefiles, if available) showing locations of sampling points, transects, quadrats, etc. In addition, permanent photo stations should be established coincident with sampling locations.

SECTION VI: FEDERAL & STATE AGENCY CONTACT INFORMATION & ORGANIZATIONAL WEBSITES

Federal Agencies

U.S. Army Corps of Engineers

Regulatory Division

696 Virginia Road

Concord, Massachusetts 01742-2751

(978) 318-8338 (phone); (978) 318-8303 (fax)

www.nae.usace.army.mil/missions/regulatory

U.S. Army Corps of Engineers

Navigation Division – Section 408

696 Virginia Road

Concord, Massachusetts 01742-2751

See link below for contact information:

<https://www.nae.usace.army.mil/Missions/Section-408/>

National Marine Fisheries Service

55 Great Republic Drive

Gloucester, Massachusetts 01930

(978) 281-9300 (phone)

(Federal endangered species & EFH)

U.S. Fish & Wildlife Service

70 Commercial Street, Suite 300

Concord, New Hampshire 03301

(603) 223-2541 (phone)

(Federal endangered species)

National Park Service

15 State Street

Boston, Massachusetts 02109

(617) 223-5191 (phone)

(Wild and Scenic Rivers)

Bureau of Ocean and Energy Management

1849 C Street, NW

Washington D.C. 20240

202-208-6474 (phone)

(Offshore Wind Facilities)

Chief, Risk Analysis Branch

FEMA Region 1

99 High Street, 6th Floor

U.S. Department of Homeland Security

Boston, Massachusetts 02110

(617) 956-7576 (phone)

Commander (dpb)

First Coast Guard District

Battery Building

One South Street

New York, New York 10004-1466

(212) 514-4331 (phone); (212) 514-4337 (fax)

(Bridge permits)

U.S. Environmental Protection Agency

5 Post Office Square

Suite 100 (OEP06-3)

Boston, Massachusetts 02109-3912

(617) 918-1692 (phone)

State Agencies in Massachusetts

<u>Massachusetts Department of Environmental Protection (MassDEP)</u>	
<u>DEP Division of Wetlands & Waterways</u>	One Winter Street Boston, Massachusetts 02108 (617) 292-5695
<u>Northeast Region</u>	205B Lowell Street Wilmington, Massachusetts 01887 (978) 694-3200
<u>Southeast Region</u>	20 Riverside Drive, Route 105 Lakeville, Massachusetts 02347 (508) 946-2800
<u>Central Region</u>	8 New Bond Street Worcester, Massachusetts 01606 (508) 792-7650
<u>Western Region</u>	436 Dwight Street Springfield, Massachusetts 01103 (413) 784-1100

<u>Massachusetts Office of Coastal Zone Management (CZM)</u>	
Emails may be sent to: czm@mass.gov	
<u>MA Office of Coastal Zone Management</u>	100 Cambridge Street, Suite 900 Boston, Massachusetts 02114 (617) 626-1200
<u>North Shore Region</u>	2 State Fish Pier Gloucester, Massachusetts 01930 (978) 281-3972
<u>South Shore Region</u>	175 Edward Foster Road Scituate, Massachusetts 02066
<u>Cape Cod and Islands Region</u>	3195 Main Street, P.O. Box 220 Barnstable, MA 02630
<u>South Coastal Region</u>	81-B County Road, Suite E Mattapoisett, MA 02739

<u>Massachusetts Board of Underwater Archaeological Resources (BUAR)</u>	
Emails may be sent to: david.s.robinson@mass.gov	
Office Location:	100 Cambridge Street, Suite 900 Boston, Massachusetts 02114 (617) 626-1014

SECTION VII: Definitions & Acronyms

Artificial or Living Reef: A structure which is constructed or placed in waters for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

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. In contrast, degradable plastics break down into plastic fragments that remain 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. Photodegradable, UV degradable or Oxo-(bio)degradable plastics are not considered biodegradable under this GP.

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

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

Construction mats: 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 Impacts: The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7). 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 230.11(g).

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

Direct Impacts: The change to or loss of an aquatic ecosystem within the footprint of the discharge of dredged or fill material. Effect caused by the proposed action and occurring at the same time and place. (40 CFR 1508.7)

Dredging:

Improvement Dredging: For the purposes of these GPs, this is dredging deeper than previously

authorized by the USACE and dredged under that authorization.

Maintenance Dredging: For the purposes of these GPs, this is dredging from an area previously authorized by the USACE and dredged under that authorization. The USACE may require proof of authorization and dredging. Maintenance dredging typically refers to the routine removal of accumulated sediment to maintain the design depths of serviceable navigation channels, harbors, marinas, boat launches and port facilities. Maintenance dredging is conducted for navigational purposes and does not include any expansion of the previously dredged area. The USACE may review a maintenance dredging activity as new dredging if sufficient time has elapsed to allow for the colonization of SAS, shellfish, etc.

New Dredging: For the purposes of these GPs, this is a) first time the USACE authorizes dredging of a particular location or b) dredging has not occurred for an extended period of time, and this has allowed for aquatic resources (i.e., eelgrass, shellfish, etc.) to redevelop in the area.

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

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

Ephemeral stream: A stream with flowing water only during, and for a short duration, after precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

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

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

Expansions: Work that increases the footprint of fill, structures, depth of basin or drainage features, or floats, or slip capacity.

Essential Fish Habitat (EFH): The Federal Magnuson-Stevens Fishery Management and Conservation Act broadly defines EFH to include those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. See

www.greateratlantic.fisheries.noaa.gov/habitat for more information.

Fill material & discharge of fill material: 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. Fill material does not include any pollutant discharged into the water primarily to dispose of waste. These are defined at 33 CFR 323.2 (e) & (f).

Federal navigation projects (FNPs): These areas are maintained by the USACE; authorized, constructed and maintained on the premise that they will be accessible and available to all on equal terms; and comprised of USACE Federal anchorages, Federal channels and Federal turning basins. The buffer zone is equal to three times the authorized depth of a FNP. The following are FNPs in MA and more information, including the limits, is provided at

www.nae.usace.army.mil/missions/navigation >> Navigation Projects:

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	Lagoon Pond	Rockport Harbor
Cuttyhunk Harbor	Little Harbor Woods Hole	Salem Harbor
Dorchester Bay and Neponset River	Lynn Harbor	Sandy Bay Harbor of Refuge
Duxbury Harbor	Malden River	Saugus River
Edgartown Harbor	Menemsha Creek	Scituate Harbor
Essex River	Merrimack River	Sesuit Harbor
Fall River Harbor	Mystic River	Taunton River
Falmouth Harbor	Nantucket Harbor of Refuge	Vineyard Haven Harbor
Gloucester Harbor and Annisquam River	New Bedford and Fairhaven Harbor	Wareham Harbor
Green Harbor	Newburyport Harbor	Wellfleet Harbor
Hingham Harbor	Oak Bluffs Harbor	Westport River and Harbor
Hyannis Harbor	Pigeon Cove Harbor	Weymouth Back River
Ipswich River	Plymouth Harbor	Weymouth Fore and Town Rivers
Island End River (Chelsea, MA)	Pollock Rip Shoals, Nantucket Sound	Winthrop Harbor
Kingston Harbor	Provincetown Harbor	Woods Hole Channel
	Red Brook Harbor	

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

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

Frac out: During horizontal directional drilling (HDD) 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 and may affect surface waters.

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

High Tide Line (HTL): The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides 58 that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds. (33 CFR 328). Refer to the highest predicted tide for the current year at the nearest NOAA tide gage. <https://tidesandcurrents.noaa.gov/map/index.html>

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

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

In the dry: Work that is done under dry conditions, e.g., work behind cofferdams or when the stream or tide is waterward of the work.

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

Indirect impacts: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

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.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Intertidal: The area in between mean low water and the high tide line.

Living reef: See the definition of “artificial or living reef.”

Living shoreline: A term used to describe a low-impact approach with a substantial biological component to shoreline protection and restoration along coastal shores, riparian zones, lacustrine fringe wetlands, or oyster or mussel reef structures. This approach integrates natural features to restore, enhance, maintain, or create habitat, functions, and processes while also functioning to mitigate flooding or shoreline erosion. Living shorelines may stabilize banks and shores with small fetch and gentle slopes that are subject to low-to mid-energy waves. A living shoreline has a footprint that is made up mostly of native material. It incorporates vegetation or other living, natural “soft” elements alone or in combination with some type of harder shoreline structure (e.g., oyster or mussel reefs or rock sills) for added protection and stability. Living shorelines should maintain the natural continuity of the land-water interface and retain or enhance shoreline ecological processes.

Loss of waters of the United States: Waters of the U.S. that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation 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 or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that maybe used to offset losses of aquatic functions and services. 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 that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the U.S..

Maintenance: The repair, rehabilitation, or in-kind replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3 – “Activities occurring before certain dates,” provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Maintenance includes minor 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 that are necessary to make repair, rehabilitation, or replacement are authorized. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Maintenance Exemption: In accordance with 33 CFR 323.4(a)(2), any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404 of the CWA: “Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design.”

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

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

Metallic mineral: Any ore or material to be excavated from the natural deposits on or in the earth for its metallic mineral content to be used for commercial or industrial purposes. “Metallic mineral” does not include thorium or uranium.

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.

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

Navigable waters or Navigable waters of the U.S.: These waters are subject to section 10 of the Rivers and Harbors Act of 1899 and are defined as those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (33 CFR Part 329). Work or structures in navigable waters require permits pursuant to §9 and §10 of the Rivers and Harbors Act of 1899. Also see the definition of “waters of the U.S.” below.

Note: Currently the following non-tidal waters have been determined to be navigable waters of the U.S. subject to permit jurisdiction in Massachusetts: Merrimack River, Connecticut River, and Charles River to the Watertown Dam.

Nearshore disposal: This 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.

Non-regulated activity: Only structures or fills that were previously authorized and are in compliance with the terms and condition of the original authorization can be maintained as a non-regulated activity under 33 CFR 323.4(a)(2). Minor deviations from the previously authorized footprint do not qualify as a non-regulated activity and require new authorization from the USACE. The state’s maintenance provisions may differ from the USACE and a project may require reporting and written authorization from the state.

Non-tidal wetlands: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the HTL (*i.e.*, spring HTL). Also see the definition of “Waters of the U.S.” below.

Oil or natural gas pipeline: Any pipe or pipeline for the transportation of any form of oil or natural gas, including products derived from oil or natural gas, such as gasoline, jet fuel, diesel fuel, heating oil, petrochemical feedstocks, waxes, lubricating oils, and asphalt.

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

Overall project: The overall project, for purposes of these GPs, includes all regulated activities that are reasonably related and necessary to accomplish the project purpose. Also see the definition of “single and complete linear project.”

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

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.

Preconstruction notification (PCN): A request submitted by the project proponent to the USACE 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. Preconstruction 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.

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

Real estate subdivision: Includes circumstances where a landowner or developer divides a tract of land into smaller parcels for the purpose of selling, conveying, transferring, leasing, or developing said parcels. This would include the entire area of a residential, commercial or other real estate subdivision, including all parcels and parts thereof

Reconfiguration zone: A USACE 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.

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

Reference Site: Reference sites - Compensatory restoration, rehabilitation, and creation mitigation projects should seek to duplicate the features of reference aquatic resources or enhance connectivity with adjacent natural upland and aquatic resource landscape elements. Performance standards related to reference sites are encouraged. Mitigation project sites must be selected based on their ability to be, and continue to be, resistant to disturbance from the surrounding landscape, by locating them adjacent to refuges, buffers, green spaces, and other preserved natural elements of the landscape. In general, aquatic resource mitigation projects must be designed to be self-sustaining, natural systems within the landscape and climate in which they are located, with little or no ongoing maintenance and/or hydrologic manipulation.

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

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

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

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 §404 action is taken by permitting authorities. Some examples of secondary effects on an aquatic ecosystem are: aquatic areas drained, flooded, fragmented; fluctuating water levels in an impoundment and downstream associated with the operation of a dam; septic tank leaching and surface runoff from residential or commercial developments on fill; and leachate and runoff from a sanitary landfill located in waters of the U.S. See 40 CFR 230.11(h).

Sedimentation: Sedimentation is defined as the process of deposition of a solid material from a state of suspension. Deposited sediments may accumulate and have temporal impacts to aquatic resource areas. See secondary effects definition above. For the purposes of this document, “greater than minimal sedimentation” is generally not considered to occur when using proper erosion controls (GC 25) or when sedimentation is considered “de minimis” 33 CFR 323.2(d)(6).

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.

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. A single and complete non-linear project must have independent utility (see the definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in a GP authorization.

Special aquatic sites (SAS): 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 230.3 and listed in 40 CFR 230 Subpart E.

Streambed: The profile and substrate of the stream channel between the OHW marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the streambed, but outside of the OHW marks, are not considered part of the streambed.

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 U.S.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

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).

Temporary impacts: Temporary impacts include, but are not limited to, waters of the U.S. that are temporarily filled, flooded, excavated, or drained because of the regulated activity. Impacts are considered temporary when they are removed immediately after the authorized activities are complete. Note: An impact is considered temporary when the aquatic resource is restored to pre-project conditions, but effects to archaeological and/or tribal resources may be permanent in duration.

Tidal wetlands: A wetland that is subject to the ebb and flow of the tide. See the definition of “Waters of the U.S.” below.

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

Turbidity: A measure of the level of particles such as sediment, plankton, or organic by-products, in a body of water. As the turbidity of water increases, it becomes denser and less clear due to a higher concentration of these light-blocking particles. Suspended solids are more likely to carry toxic chemicals, and can also negatively affect aquatic organisms, water temperature, and dissolved oxygen levels.

Utility line: Any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. A utility line also includes 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 (*Zostera marina*) and widgeon grass (*Ruppia maritima*) in marine systems (does not include salt marsh) as well as a number of freshwater species in rivers and lakes. These are a type of SAS defined at 40 CFR 230.43. Vegetated shallows are commonly referred to as submerged aquatic vegetation or SAV. Vegetated shallow survey guidance is located at www.nae.usace.army.mil/missions/regulatory/jurisdiction-

[and-wetlands](http://www.nae.usace.army.mil/missions/regulatory/state-general-permits/massachusetts-general-permit). Maps of vegetated shallows in Massachusetts are located at www.nae.usace.army.mil/missions/regulatory/state-general-permits/massachusetts-general-permit.

Vernal pools: For the purposes of these GPs, vernal pools are depressional wetland basins that typically dry up 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). In most years, vernal pools 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.

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.

Waters of the United States (U.S.) These waterbodies are the waters where permits are required for the discharge of dredged or fill material pursuant to §404 of the CWA. These waters include but are not limited to navigable waters of the U.S. and tidal wetlands and include many non-tidal wetlands and other waterbodies. See definitions for navigable waters of the U.S., tidal wetlands, waterbody, and non-tidal wetlands. (33 CFR 328)

Waterbody: Examples of "waterbodies" include oceans, coastal waters, rivers, streams, ditches, lakes, ponds, and wetlands. If a wetland is adjacent to a waterbody determined to be a water of the U.S., that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

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 and allows water to flow over the top. Weirs are commonly used to alter the flow regime of a river, prevent flooding, measure discharge and help render a river navigable.

Wetland: Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The Corps of Engineers Wetlands Delineation Manual in conjunction with the associated regional supplement should be used to determine if a wetland is present and delineate wetland boundaries.

Acronyms

BMPs	Best Management Practices
BUAR	Massachusetts Board of Underwater Archaeological Resources
CWA	Clean Water Act
CZM	Coastal Zone Management
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
MassDEP	Massachusetts Department of Environmental Protection
MA DMF	Massachusetts Division of Marine Fisheries
MHC	Massachusetts Historical Commission
MHW	Mean High Water
MLLW	Mean Lower Low Water
MLW	Mean Low Water

NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
OHW	Ordinary High Water Mark
PCN	Preconstruction Notification
SAS	Special Aquatic Sites
SF	Square Feet
SV	Self-Verification
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
USFWS	U.S. Fish and Wildlife Service
USCG	U.S. Coast Guard
USFS	U.S. Forest Service
USGS	U.S. Geological Service
WQC	Water Quality Certification

DRAFT

Appendix A: Guidance for §106 NHPA Compliance in Massachusetts

1. Purpose & Applicability. This provides guidance to the regulated public when notifying the SHPO, THPOs and BUAR of projects proposed in Massachusetts. This notification process serves as an important step to evaluate the presence of historic properties and tribal resources in the project area, which is a requirement of Section 106 of the National Historic Preservation Act (54 CFR 306108). This guidance applies to projects that require authorization under Section 404 Clean Water Act and/or Section 10 of the Rivers and Harbors Act.

2. Procedures

a. Self-Verification (SV) and Pre-Construction Notification (PCN) Procedures

i. Applicants shall mail the Project Notification Form¹⁴, project narrative, plans, and information on historic properties and tribal resources to the MHC. The MHC does not accept submissions via email. Applicants shall email or mail this information to the applicable THPOs with interests in the project location and BUAR. Emailed file attachments should be <10MB. Any files >10MB will need to be delivered via a file exchange system or the hard copy documents shall be mailed. Preferred historic resource agency and tribal contact information, including areas of interest, can be found below.

ii. **When sending this information, applicants must also document proof of receipt OR proof the information was delivered.** Proof of receipt constitutes a certified mail receipt, read email receipt, or other mail/email/online tracking services that document the information has reached the intended recipient(s). Proof the information was delivered constitutes a certificate of mailing, email delivery receipt, or other mail/email/online services that document the information was sent at a particular time.

iii. When mailing or emailing the application materials, applicants should include the following statement: "Please send responses to this notification directly to the USACE via email: cenae-r-ma@usace.army.mil or address regular mail responses to: Regulatory Division, U.S. Army Corps of Engineers, New England District, 696 Virginia Road, Concord, Massachusetts 01742-2751." Email responses to the USACE are strongly preferred. The SHPO, THPO(s), and BUAR will contact the USACE and cc the applicant(s) within 30 days of receiving the notification if their records indicate that historic properties are located in the project vicinity, and additional review and/or surveys should be completed to ensure NHPA compliance. If the SHPO, THPOs, and/or BUAR do not respond within 30 days of receiving the notification, it is presumed that all historic properties and tribal resources on site are known and the USACE has sufficient information to make an effect determination. The USACE may determine the project to have no adverse effect on historic properties and tribal resources if there are none present on site.

iv. The project *may* have the potential to affect historic properties and/or tribal resources if 1) historic resource agencies and/or tribes respond within 30 calendar days of notification with concerns, 2) historic properties eligible for listing, or potentially eligible for listing in the NRHP, are present or 3) tribal resources are known to be present. The USACE may need to further review the project to confirm potential effects to historic properties and/or tribal resources. A PCN is required for any activity that will adversely affect a historic property and/or tribal resource.

¹⁴ <https://www.sec.state.ma.us/mhc/mhcform/formidx.htm>

Contact Information:

1. Massachusetts Historical Commission

The Massachusetts Archives Building
220 Morrissey Boulevard
Boston, Massachusetts 02125

No email. Must send project information via certified mail and submit the certified mail receipt to the USACE or send via regular mail and submit proof of delivery.

Area of concern: All of Massachusetts.

2. Massachusetts Board of Underwater Archaeological Resources (BUAR)

100 Cambridge Street, Suite 900
Boston, Massachusetts 02114
Email: david.s.robinson@mass.gov

Submit materials via email (**strongly preferred**) or regular mail and provide proof of receipt or proof of delivery. Email attachments no greater than 10 MB or send via a file exchange system if larger than 10 MB.

Area of concern: All waterbodies in Massachusetts.

3. Wampanoag Tribe of Gay Head (Aquinnah)

Bettina Washington
Tribal Historic Preservation Officer (THPO)
20 Black Brook Road
Aquinnah, Massachusetts 02535
Email: bettina@wampanoagtribe.net

Submit materials via email (**preferred**) or regular mail and provide proof of receipt or proof of delivery. Email attachments no greater than 10 MB or send via a file exchange system if larger than 10 MB.

Area of concern: All of Massachusetts.

4. Mashpee Wampanoag Tribe

ATTN: David Weeden
Tribal Historic Preservation Officer (THPO)
483 Great Neck Road South
Mashpee, Massachusetts 02649
Email: 106review@mwtribe-nsn.gov

Submit materials via email (**preferred**) or regular mail and provide proof of receipt or proof of delivery. Email attachments no greater than 10 MB or send via a file exchange system if larger than 10 MB.

Area of concern: All of Massachusetts.

5. Narragansett Indian Tribe

ATTN: John Brown
Tribal Historic Preservation Officer (THPO)
Narragansett Indian Longhouse
4425 South County Trail
Charlestown, Rhode Island 02813
Email: tashtesook@aol.com

Submit materials via email (**preferred**) or regular mail and provide proof of receipt or proof of delivery. Email attachments no greater than 10 MB or send via a file exchange system if larger than 10 MB.

Area of concern: Massachusetts east of the Connecticut River.

6. Stockbridge-Munsee Community Band of Mohican Indians

ATTN: Jeff Bendremer
Tribal Historic Preservation Manager
Stockbridge-Munsee Community
Tribal Historic Preservation Extension office
86 Spring Street
Williamstown, Massachusetts 01267
413-884-6048

Email: thpo@mohican-nsn.gov

Submit materials via email (**preferred**) or regular mail and provide proof of receipt or proof of delivery. Email attachments no greater than 10 MB or send via a file exchange system if larger than 10 MB.

Area of concern: West of the Connecticut River and Northfield, Montague, Miller's Falls, Turner's Falls, Sunderland, Amherst, Hadley, South Hadley, Chicopee, Springfield and Longmeadow.

7. U.S. Army Corps of Engineers

ATTN: Massachusetts Branch
696 Virginia Road
Concord, Massachusetts 01742-2751
(978) 318-8862

<https://www.nae.usace.army.mil/Missions/Regulatory/Submitting-Electronic-Correspondence/>

APPENDIX B ENG 4345 FORM

INSERT in PDF document. 3 pages intentionally left blank (p 67-69)

DRAFT

DRAFT

DRAFT



APPENDIX C: SV APPLICATION CHECKLIST

The following information shall be submitted for all SVs. This checklist is offered as a tool to assist applicants with submitting a complete application.

1. ☐ Complete the ENG 4345 Form.
2. ☐ Describe the overall project and the activities located in Waters of the U.S. (WOTUS) that you are seeking authorization for.
3. ☐ For aquaculture projects, identify the proposed aquaculture gear type (buoys, floats, racks, trays, nets, lines, tubes, cages, containers, and other structures) and impacts per #4 below.
4. ☐ Identify the following for project impacts in WOTUS:
 - a. ☐ Direct, indirect, secondary impacts¹⁵ within WOTUS.
 - b. ☐ The size of each impact (square feet or acres, linear feet).
 - c. ☐ For discharges of fill material (§404), specify the volume of fill material to be discharged (cubic yards).
 - d. ☐ The impact duration from each activity, permanent or temporary (xx days).
5. ☐ Submit project plans that depict all impacts¹⁶ in WOTUS and include the following:

General Information

- a. ☐ Plan view and typical cross-section view sheets that show the existing and proposed conditions. These illustrations should each be identified with a figure number, date of the map, the project title, the name of the applicant and the type of illustration (vicinity map, plan view, or cross section).
- b. ☐ Drawings, sketches, or plans that are legible, reproducible (color is encouraged, but features must be distinguishable in black and white), drawn to scale, and no larger than 11"x17" and 10 MB when submitted in digital format. Numeric and graphic/bar scales must agree, and plan details must be measurable using a standard engineer's scale on printed plans. Reduced plans are not acceptable.
- c. ☐ The north arrow and remove miscellaneous non-wetland or water project related features such as conduits, utility poles, guardrails, etc.
- d. ☐ Names or numbers of all roads in the site's vicinity and ownership and numbers of abutting parcels.
- e. ☐ Datum in plan and elevation views. The horizontal datum shall be in the NAD 83 Massachusetts State Plane Coordinate System (INSERT) in U.S. survey feet. The vertical data in coastal projects shall be referenced to either MLLW or the North American Vertical Datum of 1988 (NAVD 88). Both the distance and depth units shall be U.S. survey feet and specified on the project plans.

Aquatic Resources & Project Impacts

- f. ☐ USACE jurisdictional boundaries including (OHWM), high tide line (HTL), mean high water (MHW), mean low water (MLW), mean lower low water (MLLW), as applicable.
 - i. Non-tidal: OHWM and/or wetland boundaries.
 - ii. Tidal (structures/work only): MHW, MLW.
 - iii. Tidal (Fill and Structures/work): HTL, MHW, MLW.
 - iv. Tidal (Dredging/Beach Nourishment): HTL, MHW, MLW, MLLW.

¹⁵ See definitions section for the definitions of direct, indirect, secondary impacts.

¹⁶ See [this link](#) for example formats of project plans.

- g. ☐ The direction of ebb and flood in tidal waters and direction of flow in non-tidal waters.
 - h. ☐ Delineation of all aquatic resource types on site including salt marsh; other special aquatic sites (vegetated shallows, mudflats, riffles and pools, coral reefs, and sanctuaries and refuges); other waters, such as lakes, ponds, vernal pools, natural rocky habitat (tidal only), and perennial, intermittent, and ephemeral streams.
 - i. ☐ Identify the substrate type (cobble/gravel, organic detritus, sand/shell, silt, mud) and the approximate percentage of each substrate type on site. Grain sizes shall be based on Wentworth grain size classification scale for granules, pebbles, cobbles, and boulders. Sediment samples with a content of 10% or more of pebble-gravel-cobble and/or boulder in the top layer (6-12 inches) should be delineated and material with epifauna/macroalgae should be differentiated from bare pebble-gravel-cobble and boulder.
 - j. ☐ In tidal waters, the project boundary distance from special aquatic sites identified in 5h above if within 25 feet from that resource.
 - k. ☐ Identification of each aquatic resource with a unique name (ex. Wetland 1, Wetland 2, Tributary 1, Beaver Brook, Atlantic Ocean) and the size of each aquatic resource within the project area (square feet or acres).
 - l. ☐ Impacts to each aquatic resource with captions denoting the size of each impact (square feet, acres, or linear feet) and the duration of the impact (ex. Permanent, Temporary (xx days)).
 - m. ☐ Clearly draw the overall limits of the work, staging areas, disposal sites, access routes, and any permittee responsible mitigation sites. These areas may include both aquatic resources and upland areas.
 - n. ☐ For aquaculture projects, identify the coordinates for lease area corners (in degrees decimal) and gear configuration area on the project plans.
6. ☐ Per Appendix A of the 2023 MA GP, submit information on historic properties and tribal resources to the USACE. Include any responses from this notification in the SV application.
 7. ☐ Per GC 10, provide a USFWS IPaC Official Species List from <https://ecos.fws.gov/ipac> and the email of the individual who generated the list.
 8. ☐ Per GC 10 as applicable, provide a species list from the NMFS Section 7 Endangered Species Act mapper at <https://noaa.maps.arcgis.com/apps/webappviewer/index.html>.
 9. ☐ Per GC 11 as applicable, provide a species list from the NMFS Essential Fish Habitat Mapper at https://www.habitat.noaa.gov/apps/efhmapper/?page=page_3.
 10. ☐ The proposed activity must not trigger a PCN for GC 13 Wild and Scenic Rivers, GC 15 USACE Property and Federal Projects (§408), and GC 20 Time of Year Restrictions.
 11. ☐ For a GP 18 to be valid, applicants must have (a) their MA DMF Aquaculture Certification letter for licensed shellfish aquaculture sites, (b) documentation that the applicant has coordinated with the U.S. Coast Guard regarding USCG Private Aids to Navigation standards, (c) their MEPA Certificate (if required), and (d) documentation that the applicant has contacted their local authorities (ex. harbormaster, select board, shellfish constable) for authorization of their facility.



APPENDIX D: PCN APPLICATION CHECKLIST

The following information shall be submitted for all PCNs for USACE to properly evaluate your application. Some applications may require more information and this checklist is offered as a tool to assist applicants with submitting a complete application.

SECTION 1: GENERAL APPLICATION INFORMATION

1. ☐ Complete the ENG 4345 Form.
2. ☐ Specify which local/state/federal authorizations are required for the project and if any have been obtained or applied for at the time of USACE application submittal.
3. ☐ Is another Federal Agency funding and/or involved with the project? If so, provide any relevant information in the application submission. This may include documentation from that Federal Agency, identifying the person of contact at the non-USACE Federal Agency, and/or a brief description of the funding source.
4. ☐ Is this part of a larger project that is being implemented in phases? If so, describe the project schedule and how each phase will be implemented.
5. ☐ Describe the existing conditions on the site and the general land use in the vicinity of the project at the time application submittal.
6. ☐ Provide any historic information available that you may have of project area, e.g., existing USACE permit numbers, the names under which the permits were obtained if the permit numbers are unknown, construction dates and proof of prior existence (aerials, photos, town hall records, affidavits, state or local permits, etc.) to verify that the project predates regulation and is "vested".¹⁷
7. ☐ The anticipated start and end dates for construction.

SECTION 2: WETLAND DELINEATION

8. ☐ Data used to support aquatic resource boundary determinations (delineation forms, delineation map(s) that show the locations of each aquatic resource in the project area, aerial and ground photographs, LIDAR imagery, national wetland inventory maps, soil maps, national hydrography dataset maps, floodplain maps, historical imagery, etc.). A sample delineation map is shown here: [LINK](#).
9. ☐ Photographs of the wetland(s) and/or waterway(s) where impacts are proposed. Photos at low tide are preferred for work in tidal waters.
10. ☐ Indicate the relationship of the project area to waters of the U.S., i.e., adjacent wetlands, tidal influence or hydraulic connectivity through culverts, or other conveyances, etc.
11. At minimum the delineation map/figure should include the following:
 - a. Contour lines showing topography.
 - b. North arrow.
 - c. Bar and text scale.
 - d. Legend.
 - e. Drawn project boundary.
 - f. High tide line, mean high water, mean low water, ordinary high water mark, and/or wetland boundaries.
 - g. Captions with a unique name for each aquatic resource and the area or length of the aquatic resource within the project area.

¹⁷ Vested is exempt (someone or something) from a new law or regulation.

- h. Appropriate landmarks and features (e.g., culverts, special aquatic sites, etc.).
- i. Points showing the paired upland and wetland delineation locations for tidal and non-tidal wetlands only.

SECTION 3: AVOIDANCE & MINIMIZATION

- 12. ☐ Describe specific measures taken to avoid impacts to aquatic resources or describe why aquatic resources could not be avoided while achieving the project purpose and need.
- 13. ☐ For impacts to aquatic resources that could not be avoided, describe specific considerations/measures taken to minimize the area of proposed impacts to aquatic resources in designing the project.
- 14. ☐ Describe specific measures taken to avoid and minimize the proposed direct, indirect, and secondary impacts to aquatic resources and their functions through construction techniques and timing.
- 15. ☐ If applicable, provide a restoration plan that describes how all temporary fills and structures will be removed and the area restored to pre-impact conditions (see GC 22).
- 16. ☐ If applicable, provide an Invasive Species Control Plan (see GC 29). For sample control plans, see www.nae.usace.army.mil/missions/regulatory/invasive-species.
- 17. ☐ If applicable, describe how the proposed wetland/waterbody crossing is compliant with GC 31, Stream Work and Crossings, and Wetland Crossings.

SECTION 4A: PROJECT IMPACTS

- 18. ☐ Describe the overall project and the activities located in Waters of the U.S. (WOTUS) that you are seeking authorization for.
- 19. ☐ Identify the following for project impacts in WOTUS:
 - a. ☐ Direct, indirect, secondary impacts¹⁸ within WOTUS.
 - b. ☐ The size of each impact (square feet or acres, or linear feet).
 - c. ☐ For discharges of fill material (§404), specify the volume of fill material to be discharged (cubic yards).
 - d. ☐ The impact duration from each activity, permanent or temporary (X days).

SECTION 4B: PROJECT PLANS

- 20. ☐ Submit project plans that depict all impacts in WOTUS. On the project plans, applicants shall provide¹⁹:

General Information

- a. ☐ Plan view and typical cross-section view sheets that show the existing and proposed conditions. These illustrations should each be identified with a figure number, date of the map, the project title, the name of the applicant and the type of illustration (vicinity map, plan view, or cross section).
- b. ☐ Drawings, sketches, or plans that are legible, reproducible (color is encouraged, but features must be distinguishable in black and white), drawn to scale, and no larger than 11"x17" and 10 MB when submitted in digital format. Numeric and graphic/bar scales must agree, and plan details must be measurable using a standard engineer's scale on printed plans. Reduced plans are not acceptable.

¹⁸ See definitions section for the definitions of direct, indirect, secondary impacts.

¹⁹ See [this link](#) for example formats of project plans.

- c. ☐ Clearly draw the overall limits of work, staging areas, disposal sites, access routes, and any permittee responsible mitigation sites. These areas may include both aquatic resources and upland areas.
- d. ☐ The north arrow and remove miscellaneous non-wetland or water project related features such as conduits, utility poles, guardrails, etc.
- e. ☐ Names or numbers of all roads in the site's vicinity and ownership and numbers of abutting parcels.
- f. ☐ Datum in plan and elevation views. The horizontal datum shall be in the NAD 83 Massachusetts State Plane Coordinate System (INSERT) in U.S. survey feet. The vertical data in coastal projects shall be referenced to either MLLW or the North American Vertical Datum of 1988 (NAVD 88). Both the distance and depth units shall be U.S. survey feet and specified on the project plans.

Aquatic Resources & Project Impacts

- g. ☐ Delineation of all aquatic resource types on site including salt marsh; other special aquatic sites (vegetated shallows, mudflats, riffles and pools, coral reefs, and sanctuaries and refuges); other waters, such as lakes, ponds, vernal pools, natural rocky habitat (tidal only), and perennial, intermittent, and ephemeral streams.
- h. ☐ Identify the substrate type (cobble/gravel, organic detritus, sand/shell, silt, mud) and the approximate percentage of each substrate type on site. Grain sizes shall be based on Wentworth grain size classification scale for granules, pebbles, cobbles, and boulders. Sediment samples with a content of 10% or more of pebble-gravel-cobble and/or boulder in the top layer (6-12 inches) should be delineated and material with epifauna/macroalgae should be differentiated from bare pebble-gravel-cobble and boulder.
- i. ☐ The direction of ebb and flood in tidal waters and direction of flow in non-tidal waters.
- j. ☐ In tidal waters, the project boundary distance from special aquatic sites identified in 20g above if within 25 feet from that resource.
- k. ☐ USACE jurisdictional boundaries including ordinary high-water mark (OHWM), high tide line (HTL), mean high water (MHW), mean low water (MLW), mean lower low water (MLLW), as applicable.
 - Non-tidal: OHWM and/or wetland boundaries.
 - Tidal (structures/work only): MHW, MLW.
 - Tidal (Fill and Structures/work): HTL, MHW, MLW.
 - Tidal (Dredging/Beach Nourishment): HTL, MHW, MLW, MLLW.
- l. ☐ Identification of each aquatic resource with a unique name (ex. Wetland 1, Wetland 2, Tributary 1, Beaver Brook, Atlantic Ocean) and the size of each aquatic resource within the project area (square feet or acres).
- m. ☐ Impacts to each aquatic resource with captions denoting the size of each impact (square feet, acres, or linear feet) and the duration of the impact (ex. Permanent, Temporary (xx days)).

SECTION 4C: PROJECT PLANS - SPECIFIC PROJECT INFORMATION

- 21. ☐ For projects involving Navigation, Structures, Dredging, and/or Beach Nourishment, the applicant shall also address the following:

Navigation

- a. ☐ Identify the locations of adjacent Federal navigation project (FNP) and/or state/local navigation projects on the project plans.

- b. ☐ Specify the distance between the FNP and proposed project boundary, the authorized depths of the FNP, and state plane coordinates of seaward end(s) of project structures near an FNP.

Structures

- a. ☐ Identification of the piling type (steel, timber, concrete) and diameter to be removed and/or installed.
- b. ☐ Specify the minimal height of the structures' frame over saltmarsh. To meet the SV threshold, piers must be ≤ 4 feet in width and this minimal height must achieve a 1.5:1 ratio (i.e., a 4-foot-wide pier is 6 feet above a saltmarsh).
- c. ☐ For floats, the methods of securing them (piles, bottom anchors) and for keeping them off substrate (skids, stops) at low water. To meet the SV threshold, a minimum depth of 18-inches of water should be maintained below a floating dock/structure at lower tide levels.

Dredging

- a. ☐ The area (SF, acre) and volume (CY) of material to be dredged waterward of MHW for each dredge location.
- b. ☐ Dredge boundaries.
- c. ☐ Bathymetry for existing, proposed, and historical (include dates and USACE permits) dredge depths.
- d. ☐ The likely final angle of repose of the side cuts based on the physical characterization of the material to be dredged and based upon the high/ medium/low, wave or current energy of the location.
- e. ☐ Label area whether the dredging is new, maintenance, improvement, or a combination.
- f. ☐ Location of the disposal site (include location sheet). NOTE: For projects proposing open water, nearshore disposal, or beach nourishment, contact the USACE as early as possible for sampling and testing protocols. Sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing may be required. Sampling and testing of sediments without such contact should not occur and if done, will be at the applicant's risk.
- g. ☐ The methods and areas used to retain or prevent dredged material from running back into the wetland or waterway. Provide the capacity of the storage area and points of runback, including the overflow route, into the aquatic system.
- h. ☐ For open-water disposal, explain why inland or beneficial reuse sites are not practicable.
- i. ☐ Show the finished top elevation of the disposal site.

Beach Nourishment

- a. ☐ For beach nourishment, identify the disposal footprint, existing and proposed nourishment profiles (multiple profiles are appropriate if the site is more than 150 feet long or non-contiguous), total fill area (SF) and volume (CY), fill area and volume waterward of the HTL, and delineation of dunes, banks, existing beach vegetation, and contours.
- b. ☐ For beach nourishment identify the substrate type (fine sand, sand, cobble, boulder) and/or grain-size of existing material.

SECTION 5: STRUCTURES

- 22. ☐ For projects with the removal of existing pilings identify the number, type (steel, timber, concrete) and diameter of pilings to be removed and the methodology for removal (cut off at mud line, pulling, vibratory, etc.).
- 23. ☐ For projects with the installation of new pilings identify the number, type (steel, timber, concrete) and diameter of pilings to be installed and the methodology for installation (vibratory hammer, impact hammer etc.).
- 24. ☐ Identify any existing structures and moorings in waters adjacent to the proposed activity, their dimensions, and the distance to the limits and coordinates of any proposed mooring field or reconfiguration zone. For reconfiguration zone and mooring fields, provide the coordinates for all corners based on the Massachusetts State Plane Coordinate System. Specify the maximum number of slips and/or moorings within proposed reconfiguration zones or anchorage areas.
- 25. ☐ The dimensions of the structure or work and extent of encroachment waterward of MHW and from affixed point on the shoreline or upland.
- 26. ☐ Shoreline of adjacent properties and property boundary offset for structures. In narrow waterbodies, the distance to opposite shoreline, waterway width, and structures across from proposed work.
- 27. ☐ For new commercial boating facilities, anchorage areas or reconfiguration zones, provide a description of the type of vessels that would use the facility, and any plans for sewage pump-out facilities, fueling facilities and contingency plans for oil spills.
- 28. ☐ See Sections 4A-C above.

SECTION 6: AQUACULTURE

- 29. ☐ Identify the coordinates for lease area corners and gear configuration area on the project plans.
- 30. ☐ Identify the proposed aquaculture gear type (buoys, floats, racks, trays, nets, lines, tubes, cages, containers, and other structures). Provide the impacts for each aquaculture gear type (see Section 4A 19a-d).
- 31. ☐ For a GP 18 to be valid, applicants must have (a) their MA DMF Aquaculture Certification letter for licensed shellfish aquaculture sites, (b) documentation that the applicant has coordinated with the U.S. Coast Guard regarding USCG Private Aids to Navigation standards, (c) their MEPA Certificate (if required), and (d) documentation that the applicant has contacted their local authorities (ex. harbormaster, select board, shellfish constable) for authorization of their facility.
- 32. Provide information on site the operation, maintenance, and access. Will the site be accessed via boat, kayak, etc.? Will cages be removed in the winter? How often will gear be checked on? Is there an operations plan for the proposed aquaculture area?
- 33. ☐ See Sections 4A-C above.

SECTION 7: DREDGING

- 34. ☐ Sampling plan requests for new, improvement or maintenance dredging must submit completed [Dredged Material Evaluation checklist found at Dredged Material Evaluation Checklist, Sampling and Analysis Plan Requirements from Applicant \(army.mil\)](#) and identify the method of handling/transporting the dredged material.
- 35. ☐ Identify grain-size of material to be dredged (e.g., silty sand) and provide any existing sediment grain size and bulk sediment chemistry data from the proposed project or nearby projects. Include information on any recent spills of oil and/or other hazardous materials

and/or nearby outfalls. Document the information source, e.g., EPA database, the harbormaster or fire chief. If there are none, state “none”.

36. ☐ See Section 4A, 4B and 4C, Dredging 21(a-i) above.

SECTION 8: WETLAND/WATERBODY CROSSINGS

37. ☐ For the stream crossing, identify the crossing methodology on the project plan (e.g., dam and pump, dry, wet, etc.). Submit a waterway crossing sequencing plan with the application.
38. ☐ If the project includes a permanent crossing of a tidal waterway, your project design should be modified to match the velocity, depth, cross-sectional area, and substrate of the existing waterbody adjacent to the crossing and provide documentation (hydraulic analysis including low lying property analysis) that the size of the crossing will not restrict tidal flow over the full natural tide range and will not adversely affect abutting infrastructure.
39. ☐ If the work includes a permanent crossing of a non-tidal stream, your project design should be modified to match the culvert gradient of the existing stream channel profile, provide clearance for ≥ 1.2 times bank full width and conveyance should be embedded ≥ 1 -2 feet for box culverts and pipe arches or ≥ 1 -2 feet and at least 25 percent for rounded pipes/culverts in accordance with the Massachusetts Stream Crossing Standards. Provide the basis for any variation to this requirement.
40. ☐ If the work includes a permanent crossing of a non-tidal stream, the structure should be designed to include a natural bottom substrate within the conveyance that matches the characteristics of the substrate in the natural stream channel and the character of the banks (mobility, slope, stability, confinement, grain and rock size). The conveyance should be designed with a minimum openness ratio ≥ 0.82 -feet (0.25-meters). For how to calculate openness ratio and stream simulation ecological approach for road and stream crossings, see <https://www.nae.usace.army.mil/Missions/Regulatory/Stream-and-River-Continuity/>.

SECTION 9: COMPENSATORY MITIGATION

41. ☐ Does the project require Compensatory Mitigation²⁰ for impacts to Waters of the U.S.? (See Section V in the 2023 Massachusetts General Permit)
42. ☐ If the project requires mitigation, does the selected compensatory mitigation option (i.e., In-Lieu Fee, permittee-responsible mitigation) deviate from the order of the options presented in §332.3(b)(2)-(6)? If so, please explain why. <https://www.ecfr.gov/current/title-33/chapter-II/part-332/section-332.3>
43. ☐ For any compensatory mitigation that involves preservation, the applicant must use a site protection instrument to preserve the parcel in perpetuity. (Conservation Easement, Deed Restriction, etc.) <https://www.mass.gov/service-details/conservation-restriction-review-program>.

SECTION 10: HISTORIC PROPERTIES & NOTIFICATIONS TO SHPO, THPOs, BUAR

44. ☐ Notify the SHPO, Massachusetts Historical Commission, of the Project via Certified Mail and include proof of delivery or receipt in the application package (See Appendix A).
45. ☐ As applicable, notify the THPOs, Narragansett Indian Tribe, Wampanoag Tribe of Gay Head (Aquinnah), and Mashpee Wampanoag Tribe, of the Project via email OR mail and include proof of delivery or receipt in the application package (See Appendix A).
46. ☐ As applicable, notify the BUAR via email (*strongly preferred*) OR mail and include proof

²⁰ Your mitigation proposal must be consistent with the December 29, 2020 Compensatory Mitigation Standard Operating Procedures at <https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/Compensatory-Mitigation-SOP-2020.pdf> and 2008 Mitigation Rule.

of delivery or receipt in the application package (See Appendix A).

- 47. ☐ Include responses to this notification in the permit application.
- 48. ☐ As applicable, information on historic properties (Tribal and Archaeological) within the project area should be provided in the permit application.

SECTION 11: ENDANGERED SPECIES & ESSENTIAL FISH HABITAT

- 49. ☐ Provide a USFWS Information for Planning and Consultation (IPaC) Official Species List from <https://ecos.fws.gov/ipac> and the email of the individual who generated the list (see GC 10 of the 2023 Massachusetts General Permit for more information).
- 50. ☐ Provide a species list from the NMFS Section 7 Endangered Species Act mapper at <https://noaa.maps.arcgis.com/apps/webappviewer/index.html>.
- 51. ☐ Provide a species list from the NMFS Essential Fish Habitat Mapper at https://www.habitat.noaa.gov/apps/efhmapper/?page=page_3.
- 52. ☐ If the project will generate turbidity, describe the extent of turbidity and if erosion controls will be used to contain turbidity. If turbidity controls are not operationally feasible, explain the basis for your conclusion and identify any other measures that you will implement to minimize resuspension of sediment.
- 53. ☐ Identify the substrate type and any aquatic resources that will be affected by the proposed action. (SAV, salt marsh, sand, silt/clay, rocky/hard bottom)
- 54. ☐ For projects which will include the installation of pilings/sheet-piles, identify the substrate at the project site (sand, cobble, silt/mud/clay), the installation method (vibratory hammer, impact hammer, combination) and indicate whether the following “soft start” procedures at beginning of the workday and after a 30-minute period of rest will be deployed:
 - a. ☐ Vibratory Pile Installation: pile driving will be initiated for 15 seconds at reduced energy followed by a one-minute waiting period. This sequence of 15 seconds of reduced energy driving, one-minute waiting period will be repeated two additional times, followed immediately by pile-driving at full rate and energy.
 - b. ☐ Impact Pile Installation: pile driving will commence with an initial set of three strikes by the hammer at 40% energy, followed by a one-minute wait period, then two subsequent 3-strike sets at 40% energy, with one-minute waiting periods, before initiating continuous impact driving.
- 55. ☐ If the project involves dredging, describe any dredge history, number of dredge events to be covered by the permit, erosion/sediment controls, dredge type, intake structures (mesh screen size), dredged material disposal site.
- 56. ☐ For project activities associated with structures, identify the number, type (drill barge, work boat, tugboat, etc.), and size of any temporary vessels that will be used. Specify measures that will be implemented to ensure vessels are not berthed in shallow water or will “ground out” at low tide.
- 57. ☐ For aquaculture projects identify whether any component of the gear is seasonal (will be removed annually) or will be in place year-round. If gear will be present year-round and will be variably managed (e.g., floating in summer, bottom in winter) identify month/date for such configurations.
- 58. ☐ For aquaculture projects identify whether the project will involve use of an existing vessel or new vessel. Identify the length for all work vessels and identify the distance round trip from vessel berthing location and aquaculture area.
- 59. ☐ For project activities associated with docking structures (either commercial, industrial, or recreational) identify the number, type (motorized/non-motorized, jet-ski, sailboat, kayak, canoe, other that will be berthed there and the sizes of each.
- 60. ☐ Information required for Section 305(b)(2) of the Magnuson-Stevens Fishery

Conservation and Management Act:

- a. Results of an eelgrass survey completed per the INSERT.
 - b. Essential Fish Habitat Assessment to determine project-related impacts to essential fish habitat, using guidance developed by the National Marine Fisheries Service.
61. ☐ A document containing the following information (requirements of 50 CFR §600.920(e)(3)):
- a. Description of proposed action.
 - b. Analysis of potential adverse effects on essential fish habitat.
 - c. Conclusions regarding the effects of the action on essential fish habitat.
 - d. If applicable, proposed mitigation.
 - e. Analysis of alternatives to the proposed action.
 - f. Other:

DRAFT