

# 2021 DEPARTMENT OF ARMY STATE OF CONNECTICUT REGIONAL GENERAL PERMIT

CT ASSOCIATION OF WETLAND SCIENTISTS  
2022 ANNUAL MEETING

March 9, 2022



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# OVERVIEW OF PRESENTATION

- Regulatory Division Profile
- Electronic Correspondence Procedures
- Permit Authorities & Jurisdiction of
- Activities
- December 15, 2021, CT Regional General Permits
- Changes to CT RGP



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# NEW ENGLAND DISTRICT REGULATORY DIVISION

2021= multiple retirements and staff reductions that have not been backfilled

2021=4 Aug 19-Dec 14 without a GP

2022 = IIJA



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## REGULATORY DIVISION PROFILE



- 6 New England states
- 45 member interdisciplinary staff: biologists, civil & env. engineers, planners, physical scientists, admin
- Actions completed: **5000+** \*  
(GPs, SPs, compliance, enforcement NPR, mods, preapps, JDs)
- Permit actions: **3000+**



\*2020 actions

# NEW ENGLAND DISTRICT SUBMITTAL PROCESS



Please allow for  
administrative  
delay in processing  
of new applications



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## NEW ELECTRONIC CORRESPONDENCE PROCEDURES

Implementation of electronic correspondence procedures in response to COVID-19.

- 24 Mar 2020: Published a public notice and launched a webpage.
- Submit correspondence to state-specific emails or via DOD SAFE file exchange, or mail CD/DVD or USB flash drive.
- Positive feedback from staff and public.

**Latest News**


Public Notice for Regulatory Office operations in response to COVID-19 and request for electronic correspondence submittal (24 March 2020)

Public Notice for Proposed Revision of Compensatory Mitigation Standard Operating Procedures (Expires May 15, 2020)

EPA and Army Publish the Navigable Waters Protection Rule (21 April 2020)

Updated 5-11-2020

**Regulatory/Permitting Division**



The U.S. Army Corps of Engineers (Corps) regulates construction and other work in navigable waterways under Section 10 of the Rivers and Harbors Act of 1899, and has

**Regulatory Links**

Submitting Electronic Correspondence

Public Notices

**SPECIAL PUBLIC NOTICE**

REGULATORY DIVISION OPERATIONAL MODIFICATIONS

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

**Date:** March 24, 2020  
**In Reply Refer To:** Greg Penta  
**Phone:** (978) 318-8862  
**E-mail:** gregory.r.penta@usace.army.mil

**REGULATORY OFFICE OPERATIONS IN RESPONSE TO COVID-19 AND REQUEST FOR ELECTRONIC CORRESPONDENCE SUBMITTAL**

This public notice pertains to the U.S. Army Corps of Engineers, New England District, Regulatory Division. Its purpose is to:

- 1) advise the public of our status due to the Coronavirus (COVID-19) epidemic; and
- 2) request electronic correspondence for applications and other submittals.

Status

We are closely monitoring the effect of COVID-19 on our community. The Secretary of Defense

<https://www.nae.usace.army.mil/Missions/Regulatory/>

CONNECTICUT EMAIL INBOX: CENAE-R-CT@usace.army.mil



# PERMIT AUTHORITIES

- Section 10 - Rivers and Harbors Act of 1899
- Section 404 – Clean Water Act of 1972
- Section 103 – Marine Protection Research and Sanctuaries Act
- **Section 408 (33 USC 408) Section 14 – Rivers and Harbors Act of 1899**



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# USACE STATUTORY AUTHORITY

## Section 404 of the Clean Water Act (33 U.S.C. 1344)

*...Protect Aquatic Environment, Foster Balanced Development - 33 USC 1344*

- 1948 Federal Water Pollution Control Act
- 1972 Water Pollution Control Act (later the CWA)

Waters of the US/Navigable waters

Discharges dredged or fill material

Refuse Act to EPA (with FTEs)

Ocean Dumping Act -Section 103

- 1975 NRDC v. Calloway - All waters of United States



- ☐ All discharges of dredged or fill material in waters of the United States and adjacent wetlands requires a Corps permit
- ☐ Includes both permanent fill and temporary fill



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# WHEN IS A CORPS PERMIT REQUIRED?

## – ACTIVITY

- Discharge of dredged or fill material



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## “DISCHARGE”

Any addition, including re-deposit of dredged or excavated material, other than incidental fallback, within the Waters of the US (including wetlands).

Includes placement of dredged spoils or excavated stockpiles in waters or wetlands on site

Includes runoff or overflow from a contained land or water disposal area into a wetland or water

## “DREDGED MATERIAL”

Any material that is excavated or dredged from a Water of the U.S., including wetlands.

## “FILL MATERIAL”

Any material (e.g., rock, sand, soil, clay, plastics, construction debris, and wood chips, etc.) that has the effect of either replacing any portion of a Water of the U.S. with dry land, changing the bottom elevation or point-source discharge resulting in degradation of the aquatic feature through identifiable individual or cumulative adverse effect on any aquatic function - 33 CFR 323.2(d)(5)



# WHEN IS A CORPS PERMIT REQUIRED?

- The Corps must have both geographical jurisdiction over the aquatic feature AND the activity must be regulated.

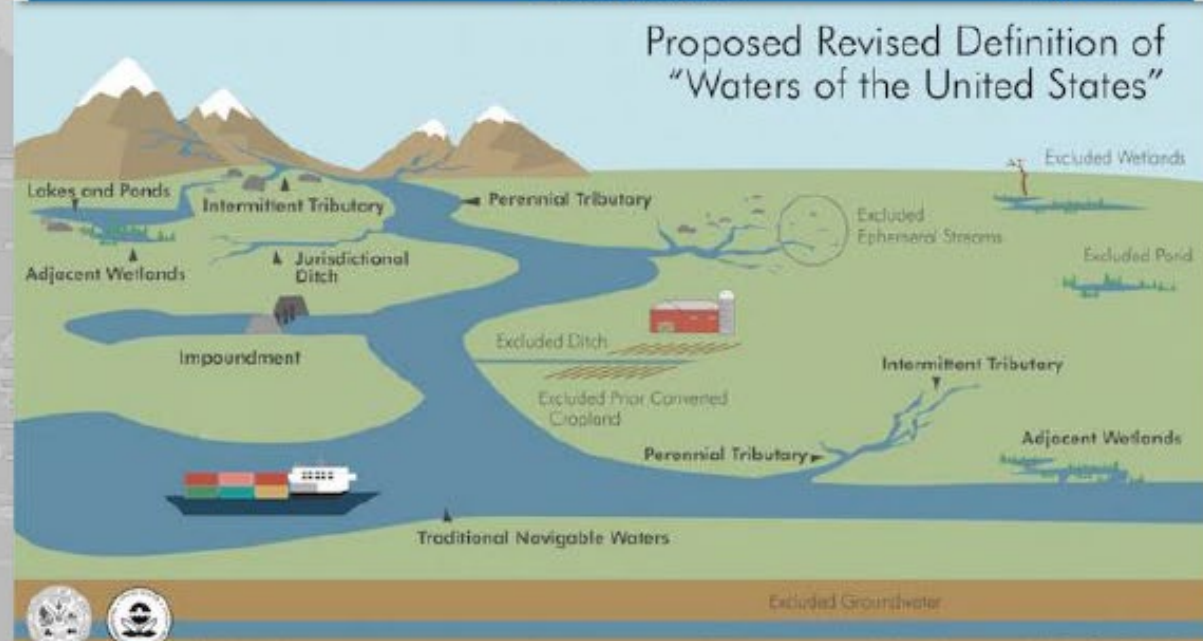
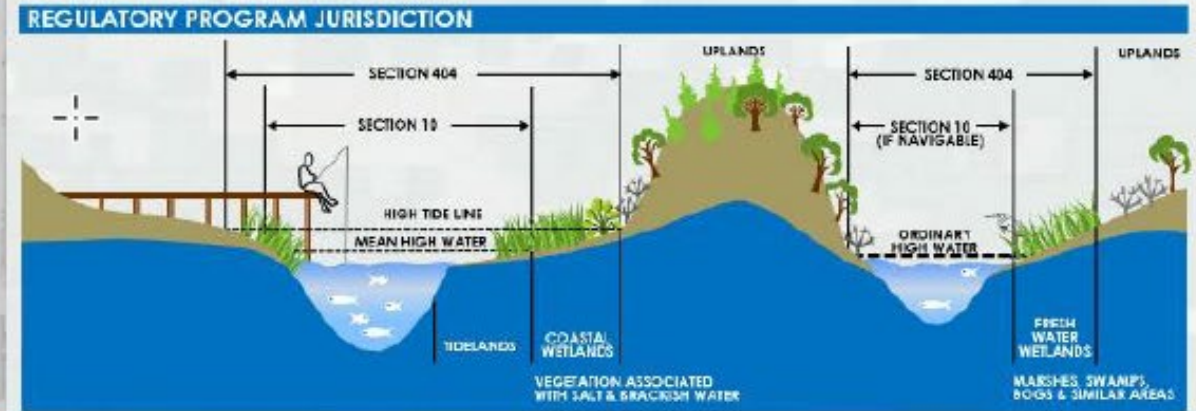
Corps CWA authority applies to all “waters of the United States” including Special Aquatic Sites designated by EPA:

- Wetlands
- Sanctuaries and refuges
- Mudflats
- Vegetated shallows
- Coral reefs
- Riffle and pool complexes



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## AUTHORITIES: CLEAN WATER ACT SECTION 404 RIVERS & HARBOR ACT OF 1899 SECTION 10 JURISDICTIONAL AREAS





# WHEN IS A CORPS PERMIT REQUIRED?

## – GEOGRAPHIC JURISDICTION:

- OHWM, bed & bank
- Relatively permanent flow
- Wetland

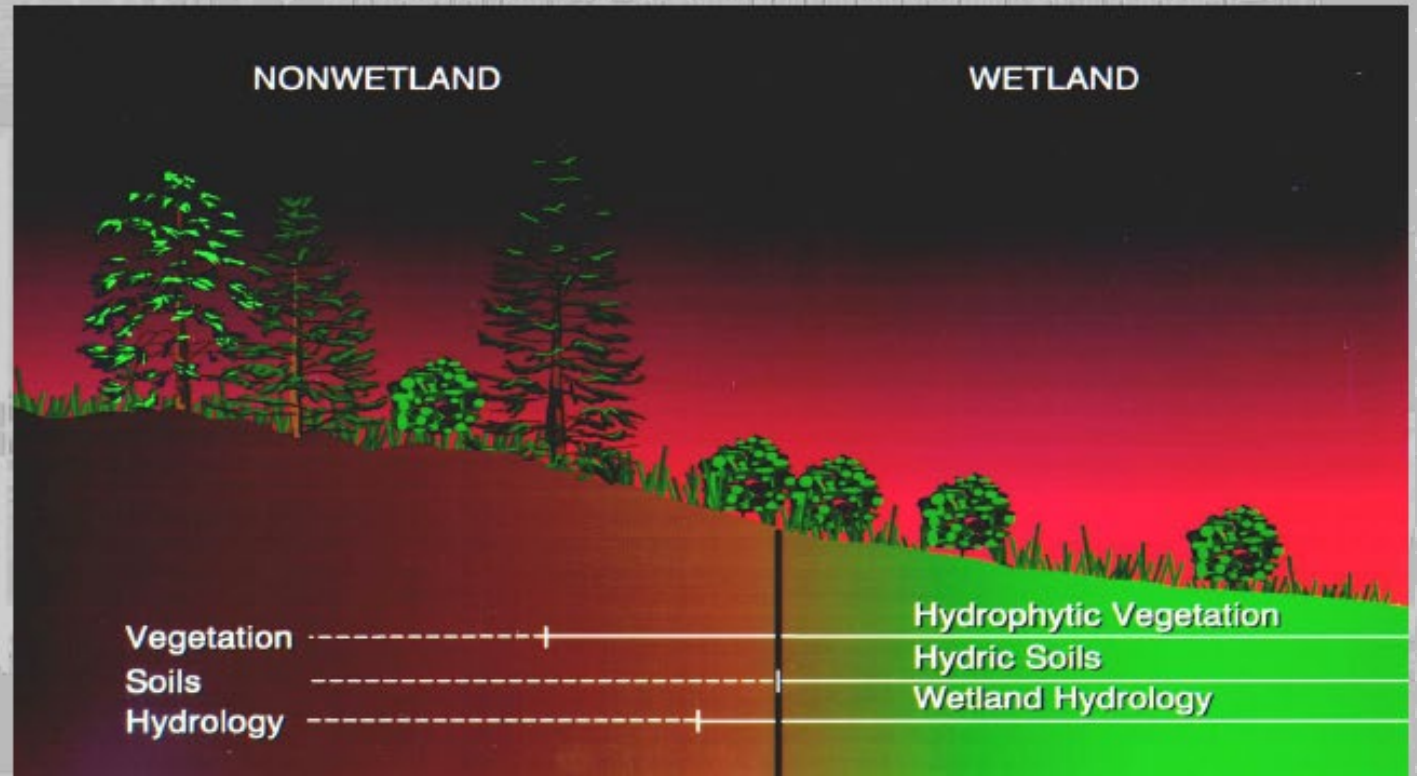
3 parameters required except in *atypical* or *disturbed situations*

- Hydrophytic vegetation
- Hydric soils
- Wetland Hydrology
- Dominated by species tolerant of prolonged inundation or soil saturation
- Exhibit characteristics that develop under permanent or periodic soil saturation
- Evidence of ongoing wetland conditions

1987 Delineation Manual Section F

<https://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/wlman87.pdf> & NCNE supplement Ch. 5

<https://www.nae.usace.army.mil/Portals/74/docs/regulatory/JurisdictionalLimits/RegionalSupplement2012.pdf>



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# ACTIVITIES THAT RESULT IN A DISCHARGE

- Bedding, backfill, leveling and grading
- Side-casting & stockpiling
- Roadway/driveway crossings
- Bank stabilization
- Soil remediation, unless SUPERFUND
- Culvert scour protection

Does this activity require a Corps permit? ►

Grubbing that substantially disturbs the root system, involves mechanized pushing and/or dragging that can result in a re-deposit of excavated soil in waters or wetlands should be evaluated on a case-by-case basis by the Corps.



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# ACTIVITIES GENERALLY NOT CONSIDERED A DISCHARGE

- Cutting of vegetation above ground (chain saw, brush hog, rotary cutter) with no soil disturbance/stump removal, etc.
- Snow removal that does not result in discharge of sand/gravel into WOTUS
- *De minimis* activities
  - Incidental discharges of dredged material associated with any activity that does not destroy or degrade (de minimis)
  - Narrow interpretation limited to “trifling” or “inconsequential” effects (Alabama Power Co v. Costle 636 F2d at 360 (DC 1979))



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# TYPES OF CORPS PERMITS

## – CT GENERAL PERMIT

- Umbrella coverage for minimal impact categories of activities of a defined nature
- Expedited based upon project proposal's compliance with the acreage limits, federal regulation & the permit's general terms and conditions
- Two categories: Self-verification (SV) & Pre-construction Notification (PCN)

## – STANDARD/INDIVIDUAL PERMIT

- Larger, more controversial or an activity not covered by a General Permit category
- Requires public notice & purpose-based analysis of alternatives both on and off-site
- Requires National Environmental Policy Act (NEPA) Public Interest Review and compliance with the **CWA 404(b)(1) Guidelines**



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Applicant: General Public, State of Connecticut

Effective Date: August 19, 2016  
Expiration Date: August 19, 2021

Expiration  
Date

### DEPARTMENT OF THE ARMY GENERAL PERMITS FOR THE STATE OF CONNECTICUT & LANDS LOCATED WITHIN THE BOUNDARIES OF AN INDIAN RESERVATION<sup>1</sup>

The New England District of the U.S. Army Corps of Engineers (Corps) hereby issues twenty-one (21) General Permits (GPs), listed below, for activities subject to Corps jurisdiction in waters of the United States (U.S.), including navigable waters, within boundaries of the State of Connecticut and lands located within the boundaries of an Indian reservation. These GPs are issued in accordance with Corps regulations at 33 CFR 320 - 332 [see 33 CFR 325.5(c)(1)], and authorizes activity-specific categories of work that are similar in nature and cause no more than minimal individual and cumulative adverse environmental impacts. These GPs will provide protection to the aquatic environment and the public interest while effectively authorizing activities that have no more than minimal individual and cumulative adverse environmental effects.

#### GENERAL CRITERIA

In order for activities to qualify for these GPs, they must meet the terms and eligibility criteria and stipulations listed in Appendix A – General Permits as well as the Appendix B General Conditions.

Projects may qualify for the following:

- Self-Verification (inland) - Self-Verification Notification Form (SVNF) is required
- Self-Verification (coastal) - SVNF NOT required. Corps relies on CT DEEP, OLISP submittals.
- Pre-Construction Notification (PCN) -
  - Inland - Application to and written approval from the Corps is required.
  - Coastal - Notification to Corps provided by CT DEEP, OLISP or by applicants as necessary. Written approval from the Corps is required.

If your project is ineligible for Self-Verification (SV) Individual Permit. The thresholds for activities eligible Appendix A. These GPs do not affect the Corps Individual Permit regulation.



### PUBLIC NOTICE

US Army Corps  
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New England District  
696 Virginia Road  
Concord, MA 01742-2701

Comment Period Begins: July 11, 2019  
Comment Period Ends: August 11, 2019  
File Number: NAE-2018-00556  
In Reply Refer To: Cori M. Rose  
Phone: (978) 318-8386  
E-mail: cori.m.rose@usace.army.mil

The District Engineer has received a permit application to conduct work in waters of the United States from **WHEELBRATOR PUTNAM INCORPORATED**, 209 Technology Park Drive, Putnam, Connecticut 06260. This work is proposed in inland wetlands adjacent to an unimpaired tributary of the Quabbin River at 344 River Road, Putnam, Connecticut. The site coordinates are: Latitude 41.8772° North and Longitude -71.9385° West.

**All permanent and temporary discharges of dredged or fill material in waters of the United States and adjacent wetlands requires a Corps permit**



# DECEMBER 15, 2021, CONNECTICUT GENERAL PERMITS

## FORMAT CHANGES

### -APPENDIX A PERMIT MATRICES

- Added GP nos. 22 and 23 for coastal mosquito control drainage and inland agricultural activities
- Split out each permit category into *Inland* and *Coastal* (e.g. GP#2A or GP#2B)
- Identifies whether submittal of the self-verification(SV) form is required in left hand column
- Changes to self-verification impact thresholds for many categories, both inland and coastal
- New time-of-year restrictions in some situations
- New SV form & submittal requirements for ESA & Sec. 106



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#### APPENDIX A - GENERAL PERMITS FOR THE STATE OF CONNECTICUT & TRIBAL LANDS

All Self-Verification and Pre-Construction Notification activities must comply with all applicable terms, general conditions, and any additional eligibility requirements below.	
“INLAND” as written in this appendix refers to non-tidal and non-navigable waters and wetlands, which are defined as waters that are regulated under Section 404 of the CWA, including rivers, streams, lakes, ponds, and wetlands. These resource areas exclude Section 10 Navigable Waters of the U.S., which are defined in Appendix F. The jurisdictional boundaries are the ordinary high water mark (OHW) in the absence of adjacent wetlands; beyond OHW to the limit of adjacent wetlands when adjacent wetlands are present; and the wetland limit when only wetlands are present.	
“COASTAL” as written in this appendix refers to tidal, coastal & navigable waters of the U.S. These waters, subject to Section 10 of the Rivers and Harbors Act of 1899, are those waters subject to the ebb and flow of the tide in addition to the non-tidal portions of the Connecticut River from Long Island Sound to the Massachusetts state border. The jurisdictional limits are the mean high water mark (MHW) in tidal waters and OHW in non-tidal portions of the federally-designated navigable rivers. For the purposes of these GPs, fill placed in the area between MHW and the high tide line (HTL), in the bordering and contiguous wetlands to tidal waters, are also reviewed in the “coastal” sections below. Work in these waters that includes a discharge of dredged or fill material is regulated under Section 404 of the CWA seaward of HTL.	
GP Activity #	Category of Activity
GP 1	Aids to navigation & temporary recreational structures ( <i>Coastal only</i> )
GP 2	Repair or maintenance of existing currently serviceable, authorized, or grandfathered structures & fills and removal of structures ( <i>Coastal and Inland</i> )
GP 3	Moorings ( <i>Coastal only</i> )
GP 4	Pile-supported structures & floats, including boat lifts/hoists & other miscellaneous structures & work ( <i>Coastal only</i> )
GP 5	Boat ramps and marine railways ( <i>Coastal and Inland</i> )
GP 6	Utilities including lines, outfall and intake structures and appurtenant features ( <i>Coastal and Inland</i> )
GP 7	Dredging, transport & disposal of dredged material, beach nourishment & rock removal and rock relocation ( <i>Coastal only</i> )
GP 8	Discharges of dredged or fill material incidental to the construction of bridges ( <i>Coastal only</i> )
GP 9	New shoreline and bank stabilization projects and Living Shorelines ( <i>Coastal and Inland</i> )
GP 10	Aquatic habitat restoration, establishment, and enhancement activities ( <i>Coastal and Inland</i> )
GP 11	Fish and wildlife harvesting activities ( <i>Coastal and Inland</i> )
GP 12	Oil spill and hazardous material response operations ( <i>Coastal and Inland</i> )
GP 13	Clean up of hazardous and toxic waste and removal of contaminated soil ( <i>Coastal and Inland</i> )
GP 14	Scientific measurement and monitoring devices ( <i>Coastal and Inland</i> )
GP 15	Survey and exploratory survey activities ( <i>Coastal and Inland</i> )
GP 16	Aquaculture & Mariculture Activities ( <i>Coastal only</i> )
GP 17	New and expansion of recreational, residential, institutional, and commercial developments ( <i>Inland only</i> )
GP 18	Wetland crossings for linear transportation projects ( <i>Inland only</i> )
GP 19	Stream river and brook crossings (not including wetland crossings) ( <i>Coastal and Inland</i> )
GP 20	Energy generation and renewable energy facilities and hydropower projects ( <i>Coastal and Inland</i> )
GP 21	Temporary fill not associated with a regulated General Permit activity ( <i>Inland only</i> )
GP 22	Modification and Improvement of Existing Minor drainage features and Mosquito Control ( <i>Coastal only</i> )
GP 23	Agricultural Activities ( <i>Inland only</i> )



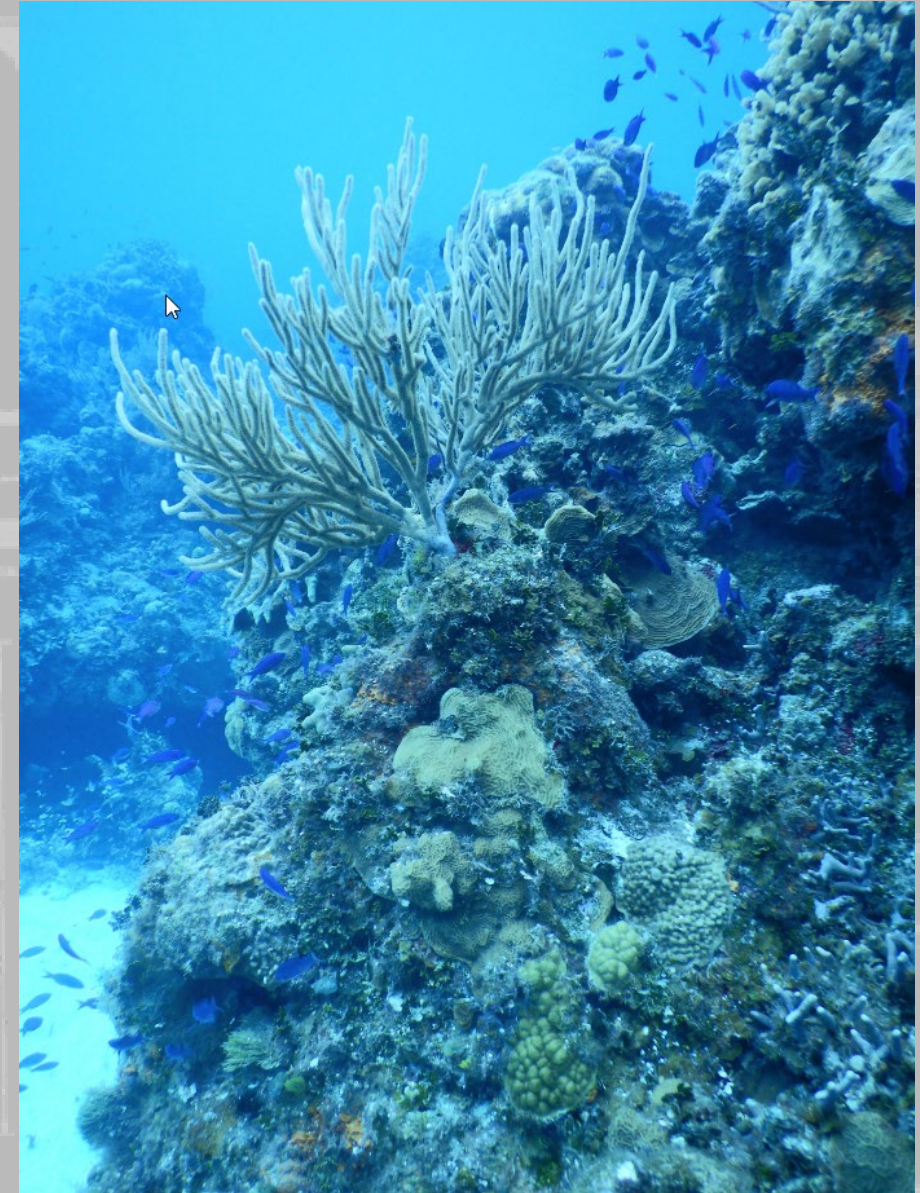
# DECEMBER 15, 2021, CONNECTICUT GENERAL PERMITS WATER QUALITY CERTIFICATION

## -NO MORE STANDALONE 401 WQC TABLE!

- 401 WQC Waived for GP Nos. 10 through 15
- CT DEEP LWRD conditionally granted WQC and FCC for all other GPs (GPs 1-9 and 16-23)
- The Corps requires a 401 WQC concurrence determination or receipt of an Individual 401 WQC (if one is required) from CT DEEP before it can make a permit determination for a project under the CT GP



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# DOES MY PROJECT QUALIFY FOR SELF-VERIFICATION?

## FIVE STEP SCREENING PROCESS

1. Check Appendix A definition for coverage
2. Check Appendix A GP# SV eligibility criteria
3. Check Appendix B all General Conditions
4. Check CT DEEP 401 WQC conditions
5. Confirm no potential to impact Federal listed resources (i.e. ESA, NHPA, WSRs, FEMA. Etc. )

	SELF-VERIFICATION (SV)
<b>GP 2(A) INLAND</b>	<p><b>Not eligible for SV:</b></p> <ul style="list-style-type: none"> <li>• Permanent fill &gt; 1,000 SF.</li> <li>• Temporary fill &gt; 5,000 SF.</li> <li>• Additional riprap beyond the existing, previously authorized footprint.</li> <li>• Unconfined fill in waterways identified as habitat for Atlantic sturgeon and shortnose sturgeon including designated critical habitat, foraging, and overwintering areas. (See GC 12 for a hyperlink to the NOAA ESA maps).</li> <li>• Fill in riffle and pool complexes and non-tidal vegetated shallows with <i>Vallisneria americana</i> (also known as water celery, American eelgrass or tapegrass), or a <u>vernal pool depression that is located within waters of the U.S.</u></li> <li>• <u>Unconfined work in streams with diadromous fish occurring between April 1 and June 30. (see Appendix H)</u></li> </ul> <p><b>Eligible for SV:</b></p> <ul style="list-style-type: none"> <li>• Permanent fill ≤ 1,000 SF.</li> <li>• Temporary fill ≤ 5,000 SF.</li> <li>• Replacement of existing riprap is permitted if it does not extend beyond the previously authorized footprint or that which is required to key in the toe.</li> <li>• Drawdown of impoundment for dam/levee repair provided it does not exceed 18 months and one growing season (April through September).</li> <li>• Stream channel modification is limited ONLY to the minimum necessary to complete repair, rehabilitation, or replacement of the serviceable structure or fill.</li> <li>• Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary discharges, such as sandbag cofferdams, access fills, etc. are necessary for construction activities or dewatering of construction sites.</li> <li>• Temporary fill must consist of materials that minimize impacts to water quality and be placed in a manner, that will not be eroded by expected high flows. Upon completion of work all temporary fill must be removed in their entirety and the affected area(s) returned to pre-construction elevation, condition, and re-vegetated as appropriate.</li> </ul>

An SVN is required.

Construction mats of any area necessary to conduct activities do not count towards the impact thresholds and should be removed as soon as work is completed.

### **GP 2. REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDEATHERED STRUCTURES & FILLS. REMOVAL OF STRUCTURES. (Section 10 & 404: tidal and non-tidal waters of the U.S.)**

Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, 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. Includes removal of structures and fill and accumulated sediment/debris. Stream, river, brook, or other watercourse crossings are not eligible under GP 2 (see GP 19). Maintenance dredging, beach nourishment or beach restoration are not eligible under GP 2 (see GP 7).



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# DOES MY PROJECT QUALIFY FOR SELF-VERIFICATION?

## SECTION 1 INLAND WATERS & WETLANDS

- Proposed work must be regulated by either the town IWWC/CC or CTDEEP to qualify for SV
- Must be SV eligible & meet all SV criteria in Appendix A
- Must meet all general conditions (GC) of the GP
- Must meet the CT DEEP 401 WQC conditional requirements
- Must comply with all other federal laws including ESA, NHPA and WSRA (need to review Appendix B details for this information) and comply with SV submittal requirements.
- Minimal impact to the aquatic environment



No Local or State Permit



Impact > Activity Category Sq. ft. Threshold



Excluded from Appendix A SV Definition or not listed at all



ESA or NHPA



Does not meet all Terms & conditions



Eastern long-eared bat (*Myotis septentrionalis*)



Eastern spadefoot toad (*Scaphiopus holbrookii*)



Traditional Cultural Property - Ceremonial Stone Landscape



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# SELF VERIFICATION FORM

- If project qualifies for an SV fill out CTGP Appendix E SV form and submit **at least** 14-days before anticipated start date
- Affix location map and project plans
- Include ESA Official species lists for USFWS & NOAA Fisheries (see GC 12) – **note email requirement for FWS!**
- Include documentation of Sec. 106 SHPO and THPO notification transmittals
- Include any state or local approvals/license
- Email to [cenae-r-ct@usace.army.mil](mailto:cenae-r-ct@usace.army.mil)
- If the project is eligible for SV coverage, a letter of verification will be sent back, usually within 10-days of submittal.
- **If the project is not SV eligible, it may still be eligible under PCN. In such case, you will be informed as to whether a PCN or Individual Permit will be required.**



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The Corps can verify SV applicability  
with a permit need determination. If  
you are unsure, just ask!



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## Appendix E: Self-Verification Notification Form

This form is required for all inland projects in Connecticut, but it is not required if work is done within boundaries of Mashantucket Pequot or Mohegan Tribal Lands. At least two weeks before work commences, complete all fields (write "none" if applicable) below, send this form, Official Species List (see GC 12), documentation of THPO and SHPO notifications if applicable, site location map, project plans (not required for projects involving the installation of construction mats only) and any State or local approval(s) to:

Describe the specific work that will be undertaken in waters and wetlands: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have the THPOs and the CT SHPO been notified of the proposed work per the procedures in GC 11? If so, attach any responses received to this form.  
Yes \_\_\_\_\_ date contacted \_\_\_\_\_ No \_\_\_\_\_

Are there Federally listed endangered/threatened species, other than the northern long-eared bat, present? (see GC 12) Yes \_\_\_\_\_ No \_\_\_\_\_

Confirm no SAVs are present or will be impacted: Yes \_\_\_\_\_ No \_\_\_\_\_

Applicable to GPs:

2 5 6 9 10 11 12 13 14 15 17 18 19 21

Confirm no unconfined work with impact to diadromous fish (see App. H): Yes \_\_\_\_\_ No \_\_\_\_\_

Applicable to GPs:

2 5 6 9 10 19

Confirm work complies with Stream Crossing BMPs (see App. G): Yes \_\_\_\_\_ No \_\_\_\_\_

Applicable to GPs:

2 6 17 19

If GP 19 and work does not comply with Appendix G, identify date of Interagency Meeting where waiver was granted: Date of Meeting: \_\_\_\_\_

Identify interagency participants: CT DEEP: \_\_\_\_\_ USACE: \_\_\_\_\_

**Will your project include any secondary effects?** (Secondary effects include, but are not limited to, non-tidal waters or wetlands drained, flooded, fragmented, or mechanically cleared resulting from a single and complete project. See Appendix F - Definitions.) If YES, describe here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your signature below, as permittee, indicates that you accept and agree to comply with the terms, eligibility criteria, and general conditions for Self-Verification under the Connecticut GPs.

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



# SECONDARY EFFECTS

## SELF VERIFICATION FORM

How will I know if my project has secondary effects?



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Does your project include any secondary effects? Yes \_\_\_\_\_ No \_\_\_\_\_  
(Secondary effects include, but are not limited to non-tidal waters or wetlands drained, flooded, fragmented, or mechanically cleared resulting from a single and complete project. See Appendix F - Definitions.) If YES, describe here: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

40 CFR § 230.11: Secondary effects: Secondary effects 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.

Examples: 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.* Activities to be conducted on fast land created by the discharge of dredged or fill material in waters of the U.S. may have secondary impacts within those waters.



# DOES MY PROJECT QUALIFY FOR SELF-VERIFICATION?

## SECTION 2 COASTAL WATERS & WETLANDS

- Proposed work must be regulated by the CTDEEP to meet SV eligibility
- Must meet all SV criteria in Appendix A
- Must meet all general conditions (GC) of the GP
- Must meet the CT DEEP 401 WQC conditional requirements
- Must comply with all other federal laws including ESA, NHPA and WSRA (need to review Appendix B details for this information) and comply with SV submittal requirements.



Photo by Kenneth Wiedemann



Photo by Ryan Hagerty  
U.S. Fish and Wildlife Service



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# DOES MY PROJECT QUALIFY FOR SELF-VERIFICATION?

## APPENDIX B GENERAL CONDITIONS

### -OFTEN OVERLOOKED

- GC 8 Corps property & Federal projects
- GC 10 NPS and Wild & Scenic River sign-off
- GC 11 NHPA Tribal cultural landscapes coordination
- GC 13 Pile Removal/Installation & TOYRs
- GC 23 Spawning, breeding & migratory areas
- GP 32 Transfer of permit/property validation if property is sold prior to completion of work

### -OFTEN MISUNDERSTOOD

- GP 6 Single and complete projects
- GP 21 Aquatic life movements & water flows



#### 21. Spawning, Breeding, and Migratory Areas

a. Jurisdictional activities and impacts such as excavations, discharges of dredged or fill material, and/or suspended sediment producing activities in jurisdictional waters that provide value as fish migratory areas, fish and shellfish spawning or nursery areas, or amphibian and migratory bird breeding areas, during spawning or breeding seasons shall be avoided and minimized to the maximum extent practicable.

b. Jurisdictional activities in waters of the U.S. that provide value as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act of the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

#### 10. Wild and Scenic Rivers

a. The following activities in designated rivers of the National Wild and Scenic River (WSR) System, or in a river designated by Congress as a "study river" for possible inclusion in the system, require a PCN or IP unless the National Park Service (NPS) has determined in writing to the proponent that the proposed work will not adversely affect the WSR designation or study status:

- (1) Activities that occur in WSR segments, in and 0.25 mile up or downstream of WSR segments, or in tributaries within 0.25 miles of WSR segments;
- (2) Activities that occur in wetlands within 0.25 mile of WSR segments; or
- (3) Activities that have the potential to alter free-flowing characteristics in WSR segments. The District Engineer will coordinate the application with the NPS or its designee with direct management responsibility for that river.



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# DOES MY PROJECT QUALIFY FOR SELF-VERIFICATION UNDER THE CT GP?

## APPENDIX B GENERAL CONDITIONS

GP 19 Culverts

1100 sf/500 sf

GP 18 Road through Wetland

1600 sf

GP 6 Utilities &  
Access

3,300 3 crossings

2,100 temp access  
road

### GC 6 Single and Complete Project

- Required to consider all direct, indirect and cumulative impacts of project fill on the aquatic environment
- Scope of Analysis**



A single and complete project must have independent utility. Portions of a multi-phase project that depends upon other phases of the project do not have independent utility. If any of multiple components are not eligible for the GP category being considered, all components must be evaluated at the next of review (i.e. PCN or Standard Permit)



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# APPENDIX B CHANGES TO GENERAL CONDITIONS

## CHANGES OR ADDITIONS:

- GC 5 Compliance with FEMA CT floodplain requirements
- GC 12 ESA requirements for NOAA & FWS species lists and updated list of tidal/freshwater rivers potentially used as foraging, overwintering or designated as “Critical Habitat” for sturgeon\*
- GC 26 PCN required for discharges of fill in vernal pool that is a WOTUS-difficult to interpret conditions pertaining to critical upland habitat removed.



\* This list is for assistance only and should not take the place of the NOAA Fisheries species list from the ESA Mapper



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# CHANGES

## APPENDIX B GENERAL CONDITIONS

### -OFTEN OVERLOOKED

- GC 8 Corps property & Federal projects
- GC 10 NPS and Wild & Scenic River sign-off
- GC 11 NHPA Tribal cultural landscapes coordination
- GC 23 Spawning, breeding & migratory areas
- GP 32 Transfer of permit/property validation if property is sold prior to completion of work

### -OFTEN MISUNDERSTOOD

- GP 6 Single and complete projects
- GP 21 Aquatic life movements & water flows



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# PRE-CONSTRUCTION NOTIFICATION (PCN)

## CORPS ENG 4345 APPLICATION FORM & PCN SUBMITTAL\*

### -SECTION 3 CONTENT OF PCN

- Reworked Checklist
- Will be used to determine if the application is complete for review and interagency processing
- May be attached to additional information request letter or email

**\* Must submit the LWRD Transmittal Form and Application Form L to CTDEEP**



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#### SECTION 3

##### CONTENT OF PRECONSTRUCTION NOTIFICATION

#### I. INFORMATION REQUIRED FOR ALL PROJECTS

- The USACE application form ([ENG Form 4345](#)) is required for all inland activities. The form can be obtained electronically at [www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit](http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit). The CT DEEP LWRD Structures, Dredging & Fill or Certificate of Permission applications can be substituted for the USACE application form for activities in coastal waters provided it includes all the information required below. Submit a copy of the CT DEEP application directly to USACE.
- All anticipated direct, indirect, and secondary impacts, both permanent and temporary, to waters of the U.S. (in wetlands, and waterward of OHW in inland waters and the HTL in coastal waters) in square feet, acres, or linear feet (for stream and bank impacts), and cubic yards or other appropriate units of measure. The USACE New England District's Compensatory Mitigation Standard Operating Procedures document is a resource for assessing secondary impacts (<https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation>).
- For any activity that will alter or temporarily or permanently occupy or use a USACE Federally authorized Civil Works project, the PCN must include a statement confirming that the project proponent has submitted a written request for Sec. 408 permission from USACE. See GC 8(c) and (d).
- Information on historic properties (see GC 11), including a copy of the CT SHPO form found at: [https://portal.ct.gov/-/media/DECD/Historic-Preservation/01\\_Programs\\_Services/Environmental-Review/ProjectNotificationForm\\_2021.pdf](https://portal.ct.gov/-/media/DECD/Historic-Preservation/01_Programs_Services/Environmental-Review/ProjectNotificationForm_2021.pdf)

<https://www.nae.usace.army.mil/Missions/Regulatory/State-GeneralPermits/Connecticut-General-Permit> or

<https://portal.ct.gov/DEEP/Permits-and-Licenses/Land-and-Water-Resource-Division-LWRD-Applications>



# CORPS ENG 4345

## APPLICATION FORM

### EXAMPLE IMPACT TABLE FORMAT

- RECOMMENDED  
METHOD TO DISPLAY  
APPLICATION BLOCKS 22  
& 23 PROJECT IMPACTS




Direct Impact			
Permanent Fill	Temporary Fill	Secondary Impact	Purpose
13,065 SF 1600 CY gravel base Placed by backhoe on swamp mat	Swamp Mat 1,245 SF	1245 Tree cutting for Swamp Mat Equipment access	Area 1 – Future dam access roadway - wetland crossing
0	0	32,385 SF 2,663 CY Backhoe access from adjacent upland	Area 2 – Excavation in Former Impoundment
	1,320 SF 250 CY Swamp Mat		Area 3 - Haul Road (in the former impoundment)
9,668 SF 145 CY Type 2 riprap			Area 4 – Foundation Scour Protection/void fill
1,146 sf Gravel base and sand	822 SF Sand bags & steel sheet		Area 5 – Upgrade (widen) existing roadway for large machinery, Temporary impact is discharge for coffer dam to enable water management



# AVOIDING UNNECESSARY DELAYS

- Fill out all fields on the Corps ENG 4345 Form
- Be cognizant to focus on Corps jurisdictional areas and regulated activities, only
- Make sure you provide the Corps with a copy of the CT DEEP 401 WQC application
- For IP's submit an analysis of alternatives up front
- If GP, check the CTGP PCN application list one last time before you submit
- Don't forget the Signature!

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

 ☐ ☐ 4/22/19

SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.





# PRE-CONSTRUCTION NOTIFICATION (PCN)

## COMPLIANCE WITH OTHER FEDERAL LAWS

### – CORPS REGULATION REQUIRE COORDINATION WITH OTHER AGENCIES DURING PROJECT REVIEW

- § 401 of the Clean Water Act (CT DEEP Water Quality Certification)
  - § 307 (c) of the Coastal Zone Management Act of 1972,
  - National Historic Preservation Act of 1966
  - Endangered Species Act
  - Magnuson-Stevens Fishery Conservation and Management Act
  - §7(a) of the Wild and Scenic Rivers Act
- If § 401 or CZM Consistency is denied, the Corps permit **MUST BE** denied (without prejudice)
  - If other state or local approvals are denied, the Corps permit **MAY** be denied (without prejudice)



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– IN SOME CASES CORPS MAY EXPAND  
PERMIT AREA REVIEW TO ADDRESS  
OTHER FEDERAL LAWS



Dwarf wedgemussel (*Alasmidonta heterodon*)





# FEDERAL REGULATORY CONTROL & RESPONSIBILITY

## -SCOPE OF ANALYSIS

- Strength of the relationship between regulated activity impacts and other factors

## Scope of Analysis for Subdivision - Case D

Scope of Analysis

- Substantial Direct Impacts
- Indirect Impacts Close to Permitted Activities
- Several Activities Require Permits
- Federal Control Over Much of Project

● = Historical/Cultural Resource

● = T/E Species/Critical Habitat



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# CONTACT INFORMATION

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New England District Regulatory Webpage  
<http://www.nae.usace.army.mil/Missions/Regulatory.aspx>  
Corps Headquarters Webpage  
<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>



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**QUESTIONS?**



Hawksbill Sea Turtles, Yucatan 2021



# UPDATES

## EPA 401 Rule

*-Vacated and being reconsidered*

## NWPR Vacatur in Pascua Yaqui Tribe v. U.S. Environmental Protection Agency

*-halted implementation of NWPR nationwide and are interpreting “waters of the US” consistent with the pre-2015 regulatory regime*

*-USACE districts may no longer finalize any regulatory action that relies on a NWPR AJD to document jurisdiction*

*-Persons holding NWPR AJDs can no longer rely on those AJDs as accurately depicting jurisdictional waters within the review area of the AJD under the now-applicable regulations*

## NWPL Updates

- *Aconitum noveboracense (blue monkshood) – listed as FAC*
- *Dalea foliosa (leafy prairie clover) – listed as FAC*
- *Peucedanum palustre (milk parsley) – listed as OBL*
- *Platanthera praeclara (white fringed orchid) - FACW*
- *Celastrus orbiculatus (oriental bittersweet) – listed as FACU*



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