U.S. Army Corps of Engineers
NAE District
Section 404: Temporary Wetland Crossings

Lindsey Lefebvre
11 Mar 2016
Outline

- Jurisdiction
- Temporary Impacts
- GP-Thresholds
- General Conditions & BMPs
- Restoration
- Mitigation
- Compliance
- GP Updates
Clean Water Act-Section 404

- The discharge of dredged or fill material and discharges associated with excavation into waters of the U.S. (WoUS)

- Permanent impacts include WoUS that are permanently affected by filling, flooding, excavation, or drainage because of the regulated activity
  - Includes permanent discharges that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of waterbody

- The total temporary and permanent impact area is used to determine if a single and complete project is eligible for SV or requires a PCN
Temporary Impacts

- Temporary impacts include WoUS that are temporarily filled, flooded, excavated, drained or mechanically cleared because of the regulated activity (defined in GPs for MA)
- Temporary impacts are only authorized under MA GPs:
  - 6: Discharges of Dredged or Fill Material Incidental to the Construction of Bridges
  - 10: Linear Transportation Projects Including Stream Crossings
  - 14: Temporary Construction, Access, and Dewatering
- Temporary fill, construction mats and corduroy roads are considered temporary only if they are removed as soon as they are no longer needed to construct the authorized work (GC 15(e))
# Massachusetts General Permit

<table>
<thead>
<tr>
<th>Resource</th>
<th>SV Limits (SV Eligible)</th>
<th>PCN Limits (PCN Required)</th>
<th>IP Limits (IP Required)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-tidal waters of the U.S.</td>
<td>0 to 5,000 SF</td>
<td>&gt;5,000 SF to 1 acre</td>
<td>&gt;1 acre</td>
</tr>
<tr>
<td>Tidal waters of the U.S.</td>
<td>not eligible</td>
<td>all discharges ≤1/2 acre</td>
<td>&gt;1/2 acre</td>
</tr>
<tr>
<td>SAS* in tidal waters of the U.S. excluding vegetated shallows</td>
<td>not eligible</td>
<td>all discharges ≤1000 SF</td>
<td>&gt;1000 SF</td>
</tr>
<tr>
<td>SAS* in tidal waters of the U.S. consisting of vegetated shallows only</td>
<td>not eligible</td>
<td>all discharges ≤100 SF (compensatory mitigation is required)</td>
<td>&gt;100 SF</td>
</tr>
</tbody>
</table>

*Special Aquatic Sites (SAS) consist of wetlands, mud flats, vegetated shallows, sanctuaries and refuges, coral reefs, and riffle and pool complexes. These are defined at 40 CFR 230 Subpart E.*
GP 14: Temporary Construction, Access, and Dewatering

- Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites
- Growing period is from May 1 to Oct 1
- General Conditions 14-18 particularly relevant
  - 14. Heavy Equipment in Wetlands or Mudflats
  - 15. Temporary Fill
  - 16. Restoration
  - 17. Soil Erosion, Sediment and Turbidity Controls
  - 18. Time of Year Work Windows/Restrictions
GP 14-Temporary Construction Access and Dewatering

**SV**
- Meet the SV limits
  - Temporary discharges are in place for <2 years
- No temporary work and no impacts, including mats, in tidal waters of the U.S.
- No temporary structures in navigable waters

**PCN**
- Meet or exceed the PCN limits
  - Temporary discharges are in place for >2 years
- Temporary work or impacts, including mats, in tidal waters of the U.S. that are <1 acre, <5000 SF to tidal special aquatic sites, or <1000 SF of impacts to vegetated shallows
- Temporary structures in navigable waters
## GP 14 – Temporary Construction Mats and Spans in Non-Tidal WoUS

<table>
<thead>
<tr>
<th>SV</th>
<th>PCN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mats meeting the SV limits are in place for &lt; 2 years; and mats exceeding the SV limits are in place for:</td>
<td>Mats meeting the SV limits are in place for &gt; 2 years; and mats exceeding the SV limits are in place for:</td>
</tr>
<tr>
<td>▶ &lt;1 year when installed during the growing period</td>
<td>▶ &gt;1 year when installed during the growing period</td>
</tr>
<tr>
<td>▶ No portion of more than one growing period when installed outside the growing period</td>
<td>▶ Any portion of more than one growing period when installed outside the growing period</td>
</tr>
<tr>
<td>▪ Comply with the “Temporary Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document</td>
<td>▪ Do not comply with the BMP’s</td>
</tr>
<tr>
<td>▪ Do not involve underlying fill</td>
<td>▪ Involve underlying fill</td>
</tr>
</tbody>
</table>
CT & RI General Permit

Category 1
- Less than 5,000 s.f. of fill and secondary impacts in inland waters and/or wetlands

Category 2
- 5,000 s.f. to less than 1 acre of fill and secondary impacts
  - Temporary mats are not counted towards the 1 acre threshold provided they are adequately cleaned after previous use, removed immediately after completion of construction, and disposed of at an upland site
General Condition 14: Heavy Equipment in Wetlands or Mudflats

- Operating heavy equipment in wetlands shall be minimized
  - Requirements for low ground pressure, mats, and dry or frozen conditions

- Construction Mats
  - Manage in accordance with Construction Mat BMPs
  - Minimize wetland impacts during installation, use, and removal
  - Dragging mats is prohibited
  - May be used as a temporary bridge over a stream
  - Cut woody vegetation at or above ground level do not uproot
  - Clean mats before and after to remove soil and invasive species
General Condition 15: Temporary Fill

- Shall be entirely removed as soon as they are no longer needed to construct the authorized work
- All temporary fill and disturbed soils shall be stabilized to prevent its eroding into WoUS
- Unconfined temporary fill authorized for discharge into WoUS shall consist of material that minimizes impacts to water quality (washed stone, stone, etc.)
- Appropriate measures must be taken to maintain normal downstream flows and minimize flooding
- No construction debris in WoUS
General Condition 16: Restoration

- Temporary fills must be removed in their entirety
- Restoration shall commence no later than the completion of the construction
- Affected areas must be restored to their pre-construction condition, function, and elevation
- Limit compaction to the minimum needed to promote a successful seedbed
- Construction Mat BMPs
  - May involve natural revegetation from existing root and seed stock of native plant species, and planting and a wetland seed mix over the matted area to supplement the existing seed and rootstock
  - Seed mixes and vegetation shall contain only native New England plant species
  - The use of mulch in wetlands shall consist of weed-free mulch to mitigate the risk of the spread of invasive species
Mitigation Guidance 2010

- Compensate for temporary and secondary impacts to prevent a net loss in aquatic resource functions
- Percentages may be reduced if appropriate project-specific BMPs are incorporated into the project.

<table>
<thead>
<tr>
<th>IMPACT</th>
<th>% OF STANDARD$^{13}$ AMOUNT$^{14}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary fill (swamp mats, fill over membrane) in forested wetlands; area to revegetate to forest.</td>
<td>10-25%</td>
</tr>
<tr>
<td>Temporary fill in emergent or scrub-shrub; area to revert to previous condition.</td>
<td>5-20%</td>
</tr>
<tr>
<td>Temporary fill in forest and will be permanently converted to scrub-shrub or emergent</td>
<td>15-45%$^{15}$</td>
</tr>
<tr>
<td>Permanent conversion of forested wetlands to other cover types</td>
<td>15-40%</td>
</tr>
<tr>
<td>Removal of forested wetland cover for new corridor</td>
<td>Project specific</td>
</tr>
<tr>
<td>Removal of forested cover of vernal pool buffer (w/in 250’ of pool) when percentage of disturbance exceeds 25% of the total VP buffer area</td>
<td>Project specific$^{16}$</td>
</tr>
<tr>
<td>Streams – clearing of upland forest and/or scrub-shrub vegetation within 100’ of stream bank or outermost channel of braided stream</td>
<td>Project specific$^{17}$</td>
</tr>
<tr>
<td>Wetlands within subdivisions</td>
<td>Project specific</td>
</tr>
</tbody>
</table>
Mitigation Guidance 2016

<table>
<thead>
<tr>
<th>IMPACT</th>
<th>% OF STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary fill (e.g., swamp mats, fill over membrane) in forested wetlands; area to revegetate to forest.</td>
<td>15%</td>
</tr>
<tr>
<td>Temporary fill in emergent wetlands; area to revert to previous condition.</td>
<td>5%</td>
</tr>
<tr>
<td>Temporary fill in scrub-shrub wetlands; area to revert to previous condition.</td>
<td>10%</td>
</tr>
<tr>
<td>Permanent conversion of forested wetlands emergent wetlands (with or without temporary fill)</td>
<td>30%</td>
</tr>
<tr>
<td>Permanent conversion of forested wetlands to scrub-shrub wetlands (with or without temporary fill)</td>
<td>15%</td>
</tr>
<tr>
<td>Removal of forested wetland cover for new corridor</td>
<td>Project specific</td>
</tr>
<tr>
<td>Secondary impact edge effects(^22):</td>
<td>25%</td>
</tr>
<tr>
<td>High level impact zone</td>
<td>10%</td>
</tr>
<tr>
<td>Remainder of impact zone</td>
<td></td>
</tr>
</tbody>
</table>
Non-Compliance
Non-Compliance
Non-Compliance
Compliance
General Permit Updates

- Anticipate:
  - GPs for MA
    - Public Notice March 2016
    - Reissue summer 2016
    - Simplify existing requirements
    - No substantial changes
  - CT GP
    - Public Notice March 2016
    - Reissue summer 2016
  - RI GP
    - Reissue Feb. 2017
Contact Information

Lindsey Lefebvre
New England District Corps of Engineers
Regulatory Division
696 Virginia Road
Concord, MA 01742
Lindsey.E.Lefebvre@usace.army.mil
(978) 318-8295
References

- New England District-Regulatory

- Construction Mat BMPs

- Compensatory Mitigation Guidance

- Stream Crossing BMPs
# General Condition 18: Time of Year (TOY)

<table>
<thead>
<tr>
<th>Non-tidal streams</th>
<th>TOY Restriction</th>
<th>Tidal Waters</th>
<th>TOY Work Window</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Oct 01 to Jun. 30</td>
<td>Feb. 14 to Nov. 15</td>
<td>Jul. 01 to Sep 30</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Nov. 16 to Feb. 15</td>
</tr>
</tbody>
</table>

- **Relevant for:**
  - Culverts
- **Not relevant (unless the work causes turbidity or sediment resuspension):**
  - Stream fords
  - Spans
  - Construction mats built in accordance with the Construction Mat BMPs