

U.S. Army Corps of Engineers

NAE District

Section 404: Temporary Wetland Crossings

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US Army Corps of Engineers
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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

Resource	SV Limits (SV Eligible)	PCN Limits (PCN Required)	IP Limits (IP Required)
Non-tidal waters of the U.S.	0 to 5,000 SF	>5,000 SF to 1 acre	>1 acre
Tidal waters of the U.S.	not eligible	all discharges \leq 1/2 acre	>1/2 acre
SAS* in tidal waters of the U.S. excluding vegetated shallows	not eligible	all discharges \leq 1000 SF	>1000 SF
SAS* in tidal waters of the U.S. consisting of vegetated shallows only	not eligible	all discharges \leq 100 SF (compensatory mitigation is required)	>100 SF

*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

SV

- Mats meeting the SV limits are in place for < 2 years; and mats exceeding the SV limits are in place for:
 - ▶ <1 year when installed during the growing period
 - ▶ No portion of more than one growing period when installed outside the growing period
- Comply with the “Temporary Crossings in Non-Tidal Streams” section of the Stream Crossing BMP document
- Do not involve underlying fill

PCN

- Mats meeting the SV limits are in place for > 2 years; and mats exceeding the SV limits are in place for:
 - ▶ >1 year when installed during the growing period
 - ▶ Any portion of more than one growing period when installed outside the growing period
- Do not comply with the BMP’s
- Involve underlying fill



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

TABLE 2 - RECOMMENDED COMPENSATORY MITIGATION FOR TEMPORARY AND/OR SECONDARY IMPACTS

IMPACT	% OF STANDARD ¹³ AMOUNT ¹⁴
Temporary fill (swamp mats, fill over membrane) in forested wetlands; area to revegetate to forest.	10-25%
Temporary fill in emergent or scrub-shrub; area to revert to previous condition.	5-20%
Temporary fill in forest and will be permanently converted to scrub-shrub or emergent	15-45% ¹⁵
Permanent conversion of forested wetlands to other cover types	15-40%
Removal of forested wetland cover for new corridor	Project specific
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	Project specific ¹⁶
Streams – clearing of upland forest and/or scrub-shrub vegetation within 100' of stream bank or outermost channel of braided stream	Project specific ¹⁷
Wetlands within subdivisions	Project specific

- 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.



Mitigation Guidance 2016

IMPACT	% OF STANDARD¹⁹ AMOUNT²⁰
Temporary fill (e.g., swamp mats, fill over membrane) in forested wetlands; area to <u>revegetate</u> to forest.	15%
Temporary fill in emergent wetlands; area to revert to previous condition.	5%
Temporary fill in scrub-shrub wetlands; area to revert to previous condition.	10%
Permanent conversion of forested wetlands emergent wetlands (with or without temporary fill)	30%
Permanent conversion of forested wetlands to scrub-shrub wetlands (with or without temporary fill)	15%
Removal of forested wetland cover for new corridor	Project specific ²¹
Secondary impact edge effects ²² : High level impact zone Remainder of impact zone	25% 10%



Non-Compliance



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Non-Compliance



Non-Compliance



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Compliance



Compliance



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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



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References

- New England District-Regulatory
 - ▶ <http://www.nae.usace.army.mil/Missions/Regulatory.aspx>
- Construction Mat BMPs
 - ▶ <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/StateGeneralPermits/NEGP/BMPConstructionMats21Jan2015.pdf>
- Compensatory Mitigation Guidance
 - ▶ <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/CompensatoryMitigationGuidance.pdf>
- Stream Crossing BMPs
 - ▶ <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/StateGeneralPermits/NEGP/BMPStreamCrossings21Jan2015.pdf>



General Condition 18: Time of Year (TOY)

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

- 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

