



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

696 Virginia Road
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PUBLIC NOTICE

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REVISED FRESHWATER WETLAND COMPENSATORY MITIGATION THRESHOLD FOR THE NEW ENGLAND DISTRICT REGULATORY DIVISION – STATE OF MAINE

This notice informs the public of a proposed modification to the U.S. Army Corps of Engineers (“Corps”), New England District Compensatory Mitigation Standard Operating Procedures. This modification applies to activities requiring Corps authorization under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. This modification will include standardizing the compensatory mitigation threshold requirement across the New England District (“District”) for mitigation of adverse impacts to aquatic resources.

Compensatory mitigation thresholds have been established to ensure that no more than minimal adverse effects to the aquatic environment occur, both individually and cumulatively. Activities that result in greater than 5,000 square feet of permanent unavoidable freshwater wetland impact will require a pre-construction notification and compensatory mitigation. This modification will take effect throughout the District’s area of responsibility. The updated thresholds, once in effect, will supersede the general compensatory mitigation thresholds found in General Condition 9 (Mitigation) of the current Corps General Permits for the state of Maine “Maine GPs”, which became effective October 14, 2020. The reissuance of the Maine GPs will occur prior to October 14, 2025 and will reflect updated mitigation thresholds.

The freshwater wetland threshold update is being proposed for the following reasons:

- To address the Corps’ concerns regarding the cumulative rate of freshwater wetland permanent losses and to allow the continued use of streamlined permitting mechanisms within the state of Maine. To maintain use of the streamlined Maine GPs, which requires a determination of minimal cumulative impacts, the Corps has determined reducing the compensatory mitigation threshold would ensure no more than minimal cumulative effects.
- To achieve consistency with the Corps’ National Regulatory Program. In 2007, HQ USACE published the Nationwide Permits (“NWP”) establishing that compensatory mitigation would be required when adverse impacts exceed 0.10 acre (4,356 SF) to ensure that no more than minimal individual and cumulative impacts occur. The NWP mitigation threshold allows for reasonable development and provides a tool for avoidance, minimization, and compensation. The revision of the District’s mitigation SOP would allow the District to be more consistent with national policy and ensure the continued use of all New England District GPs.

- To achieve consistency across the New England District states with the proposed modification to the New England District Compensatory Mitigation Standard Operating Procedures (“SOP”) “Appendix O – Thresholds”. The revised SOP establishes that activities resulting in greater than 5,000 square feet of unavoidable adverse impact to freshwater wetlands will require compensatory mitigation to offset lost wetland functions. All the New England states except Maine implement a 5,000 square foot compensatory mitigation for freshwater wetlands. It is important for the District to implement consistent permitting practices across all six New England states.

The regulated public is encouraged to review and provide comments on the corresponding public notice entitled, “REVISED COMPENSATORY MITIGATION THRESHOLD FOR THE NEW ENGLAND DISTRICT REGULATORY DIVISION” also dated April 25, 2023. Compensatory mitigation proposals will be required to follow the SOP which can be found at <https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/>.

During the 30-day comment period, the public has an opportunity to provide comments to the District regarding this proposed modification. All submitted comments will be reviewed and become part of the evaluation process before a decision is finalized.



Tammy R. Turley
Chief, Regulatory Division

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

NAME: _____

ADDRESS: _____
