



August 17, 2017

New Hampshire Department of Environmental Services

Response to Comments

WQC # 2017-404P-001

Activity Name	Activities covered under General Permits issued by the U.S. Army Corps of Engineers in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act
Activity Location	State of New Hampshire
Owner/Applicant	Regulatory Division U.S. Army Corps of Engineers 696 Virginia Road Concord, MA 01742-2751

On July 6, 2017, the New Hampshire Department of Environmental Services (NHDES or DES) released a draft water quality certification (WQC # 2017-404P-001) for public comment regarding the U.S. Army Corps of Engineers New England District's (Corps) proposal to issue 23 General Permits (GPs) under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, that will cover projects involving minimal wetland impacts in coastal and inland waters and wetlands in New Hampshire. The public comment period ended on August 11, 2017. Comments were received from New Hampshire Rivers Council (NHRC). NHDES' response to comments are provided below. In some cases, comments have been paraphrased. A copy of the original comments may be obtained from NHDES upon request (contact Gregg Comstock at Gregg.Comstock@des.nh.gov).

RESPONSE TO COMMENTS

A. Comments received from NHRC

Comment A.1: Although the Corps's Schedule B calls for consideration of indirect and cumulative impacts of projects, NHDES says New Hampshire's statutes do not allow them to do the same. This constitutes a gap in NHDES's ability to act fully in conformance with federal regulations which is necessary to be eligible to assume Programmatic General Permitting responsibilities.

NHDES Response: *No changes made. The Corps reviews application decisions rendered by NHDES on a weekly basis. Schedule B was added at the request of the Corps to help them determine if the*

project should be covered under the PGP or if it would require a Corps Section 404 Individual Permit. Schedule B is not used as part of NHDES' application review process.

Comment A.2: Have there been violations of state or federal regulations while the Corps has been operating under the existing (soon to expire) General Permits? Who would have that information? Is it available publicly?

NHDES Response: No changes made. *Yes, there have been violations of state wetland permits covered under the Programmatic General Permit (PGP). For violations of federal regulations we recommend contacting the U.S. Army Corps of Engineers New England District office at (978) 318-8832 . To obtain information regarding violations of specific NH wetlands permits we recommend contacting the NHDES Public Information Permitting Unit (<http://www.des.nh.gov/organization/commissioner/pip/index.htm>) to request a file review, or submitting a Right-to-Know request under RSA 91A (<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-VI-91-A.htm>).*

Comment A.3: Does NHDES perform any oversight of Corps projects to see if proper controls are maintained? State review of Corps projects would ensure conditions of state and federal requirements are being met.

NHDES Response: No changes made. *NHDES inspects permitted projects, including Corps projects, to determine compliance with permits and permit conditions. These inspections are performed as resources allow.*