REVISED 5 APRIL 2021
*Tech correction to effect determination names
* Changed wait period to 14 days

NAO ESA Project Review Process

For use by Corps projects managers and their non-federal representatives (VDEQ and VDOT)

This is a streamlined version of FWS's Online Review Process.

1.Determine your PERMIT AREA

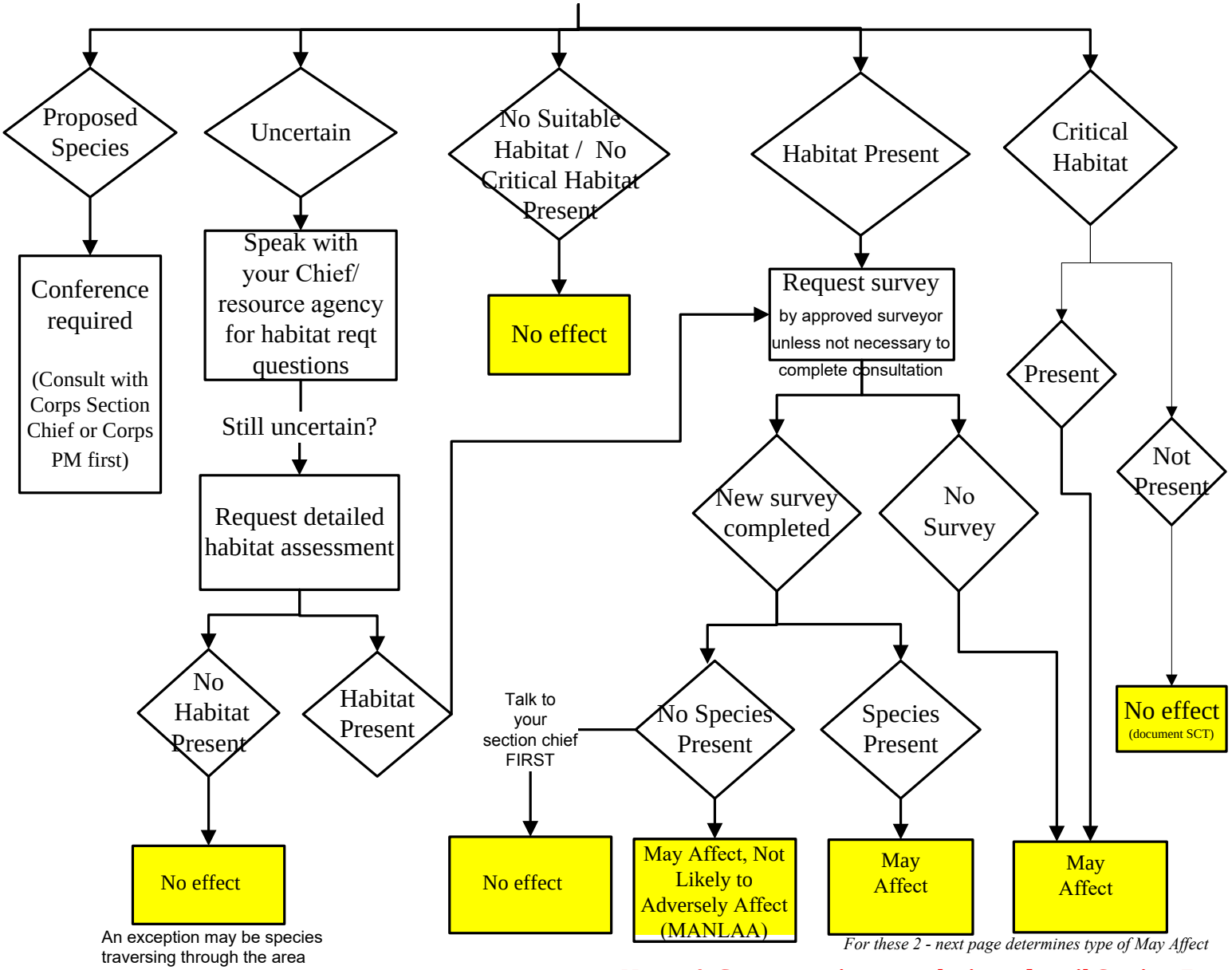
2. Determine your ACTION AREA.
Consider the nature of the work within the permit area and all project-specific (direct and indirect) effects that may extend outside of the permit area, such as light, sound, sedimentation, access, staging, etc.

3. Draw your ACTION AREA in IPaC to get the FWS official species list (permits) or unofficial species list (pre-applications and JDs) and add all **federally-listed and proposed species/Critical Habitat (CH)** to the Species Conclusion Table (SCT).

NOTE - State species are not covered under ESA Also include any known NOAA species on the SCT.

4. Pull a project report in NAO's GIS Reporting Tool (DEQ will use DCR and VDGIF datasets) and add all federally-listed or proposed species/CH to the SCT with conclusion "Species Present"

5. Assess whether suitable habitat for each species listed on your SCT is found within the action area.



For these 2 - next page determines type of May Affect

Note: A Corps permit cannot be issued until Section 7 coordination is complete. You cannot provisionally issue a permit before Section 7 coordination is complete.

ESA Agency Coordination Procedures

No effect

Document on SCT. If this is the only effect determination being made, add SCT to record and move on with permit process.
NO EFFECT DETERMINATIONS DO NOT REQUIRE COORDINATION W/ the services ....USE MANLAA DETERMINATION IF UNSURE!!

Not likely to adversely affect

FWS (GPs): Email package (IPaC species list, GIS report, SCT and self cert letter) to VirginiaFieldOffice@fws.gov with subject line "SELF-CERTIFICATION LETTER: Project X.". After 14 days, make permit decision if you don't receive either (1) nonconcurrence or (2) project-specific concerns about the effect determination made within the Corps AA.

FWS (IP): Include the package listed above in the Public Notice.

NOAA: Submit MANLAA verification form and concurrence before proceeding

SPGP: If the agency provides comments or recommends conditions, request that the applicant respond within 30 days. If coordination between the applicant and the FWS results in agreed upon conditions, a special conditions form will be attached to the SPGP permit. If an agreement can not be reached the project will be forwarded to the Corps for formal consultation.

May affect

Initiate Consultation with FWS or NOAA using the "Letter_Online Project Review Request" template.

Most likely this will be formal consultation (MAY AFFECT, LIKELY TO ADVERSELY AFFECT), unless the Corps can negotiate special conditions with FWS/NMFS to reduce the project to a MANLAA.

Coordination must be performed by the lead agency, not a Federally-Designated Representative.

For SPGP applications, VDEQ shall forward to the Corps the necessary information for completing the coordination. Upon completion of the coordination, the Corps shall notify the VDEQ and provide the special conditions form to the VDEQ.

IPAC:
http://ecos.fws.gov/ipac/

Online Review Process:
http://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html

NAO GIS Tool (Corps only):
https://coe-naogss01nfk.nao.ds.usace.army.mil/e4portal/apps/webappviewer/index.html?id=37891ceec89b43ba9b66fb13684343bb

VDGIF TOYR Table (for planning purposes only):
https://www.dgif.virginia.gov/wp-content/uploads/VDGIF-Time-of-Year-Restrictions-Table.pdf

DCR National Heritage Resource abbreviations:
http://www.dcr.virginia.gov/natural-heritage/help

NAO Fish and Wildlife Coordination Act Project Review Process

In addition to federally-listed species, the following species must also be considered:

If you get a hit for:	Coordinate with:
Bald Eagles (nests, concentration areas or buffer)	No coordination required - Applicant must obtain permit. Add this language to permit (not a special condition, though): “Please note that you should either obtain a U.S. Fish and Wildlife Service (FWS) bald eagle take permit or a letter of concurrence from FWS indicating that a permit is not necessary prior to initiating construction activities. You should contact Thomas Wittig concerning this matter at 413-253-8577 or Thomas_wittig@fws.gov .”
Cold Water Stream Trout	VDGIF Exception - VDOT only has to comply with Trout MOU
Shellfish - oyster beds (GIS Reporting Tool)	If existing (biologically-active) beds are known within or adjacent to the project, coordinate with NOAA and cc: VMRC Link: https://webapps.mrc.virginia.gov/public/maps/chesapeakebay_map.php
Migratory Birds	Add language to permit (not a special condition, though): "If you feel your project will result in purposeful take of migratory birds, contact the Migratory Bird Program at 202-208-1050. If you are interested in voluntarily reducing impacts to migratory birds and their habitats, please consult https://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php for conservation measures."
State-listed species	State listed species should only be coordinated with DCR/VDGIF in extreme circumstances, where the impacts to state listed species may rise to the level of being contrary to the public interest and may require assertion of discretionary authority. If a state agency raises concern over a state listed species, we fully consider their comments, work with them and the applicant where appropriate to resolve concerns, and ultimately document those considerations in the NEPA document. Talk to your chief to make this decision.

NOAA FISHERIES COORDINATION PROCEDURES (Per MSA and FWCA)

Revised APRIL 2021

NO COORDINATION IS REQUIRED FOR EFH GIS HITS FOR:

18-RP-02 (unless adjacent to shellfish/SAV)** 18-RP-15 18-RP-17 18-RP-18 18-RP-19 (unless impacts > 0.5 acre)	**NOTE IN MFR:** The project area is within Essential Fish Habitat (EFH), however, NOAA Fisheries provided general concurrence for Regional Permit ***XX* (18-RP-XX)*** as reissued September 2018. Therefore, no further coordination with NOAA Fisheries is required.
17-NWP-1 17-NWP-2 17-NWP-3 17-NWP-4 17-NWP-5 17-NWP-6 17-NWP-7 17-NWP-8 17-NWP-9 17-NWP-10 17-NWP-11 17-NWP-12 17-NWP-13 17-NWP-14 17-NWP-15 17-NWP-16 17-NWP-17 17-NWP-18 17-NWP-19 17-NWP-20 17-NWP-22 17-NWP-23 17-NWP-25 17-NWP-28 17-NWP-31 17-NWP-32 17-NWP-33 17-NWP-35 17-NWP-36 17-NWP-37 17-NWP-47 17-NWP-48	**NOTE IN MFR:** The project area is within Essential Fish Habitat (EFH), however, NOAA Fisheries provided general concurrence for Nationwide Permit ***XX* (17-NWP-XX)*** as reissued March 2017. Therefore, no further coordination with NOAA Fisheries is required.

PM NOTE: A general concurrence identifies specific types of federal actions that may adversely affect EFH, but for which no further consultation is required because we have determined, through an analysis of that type of action, that the action will likely result in no more than minimal adverse effects both individually and cumulatively.

***** If using RP-2 and adjacent to shellfish beds or SAV, apply a TOYR and issue the permit: The TOYR for these resources are as follows:***

- ***Shellfish beds: March 1 through September 30***
- ***Submerged Aquatic Vegetation: March 1 through October 31***

2021 Nationwide Permits Requiring Individual Consultation

These permits have the potential for more than minimal adverse effects to EFH and other NOAA trust resources. Individual coordination with us including the submission of a PCN by the District and an EFH assessment is requested for the following NWPs in tidal waters and non-tidal areas that support the migration and spawning of anadromous fish (e.g., river herring, striped bass):

◯ NWP 27 –Aquatic Habitat Restoration, Establishment, and Enhancement Activities
◯ NWP 38 – Cleanup of Hazardous and Toxic Waste
◯ NWP 52 – Water-based Renewable Energy Generation Facilities
◯ NWP 53 – Removal of Low Head Dams
◯ NWP 54 – Living Shorelines
◯ NWP 55 – Seaweed Mariculture Activities
◯ NWP 56 – Finfish Mariculture Activities

GIS HIT FOR ANADROMOUS FISH USE WATERS	
Activity type	No anadromous fish TOYR is required and no coordination is required with NOAA Fisheries if:
SHORELINE & BANK STABILIZATION PROJECTS (Sections 10 & 404; tidal and non-tidal waters of the U.S.) Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes bulkheads, seawalls, riprap, revetments or slope protection & similar structures as well as vegetative planting, soil bioengineering or alternative techniques that are a combination of the two (e.g. living shorelines), specifically for the purpose of shoreline protection.	The activity extends ≤48 feet channelward of MHW. **AND** The width of the waterway (measured from MLW to MLW) is ≥ 330 feet.
PILE-SUPPORTED STRUCTURES & FLOATS, INCLUDING BOAT LIFTS/HOISTS & OTHER MISCELLANEOUS STRUCTURES & WORK (Section 10; navigable waters of the U.S.) New, expansions, reconfigurations or modifications of structures for navigation access including floats, stairs, and boat/float lifts.	Piles are installed in the dry.
	Piles are timber and ≤14” in diameter, and installed with a cushioned impact hammer. **AND** The opposite shoreline (MLW) extends > 492 feet beyond the most channelward pile.
	Piles are timber and ≤20” in diameter, and installed with a vibratory hammer. **AND** The opposite shoreline (MLW) extends > 384 feet beyond the most channelward pile.
TEMPORARY OR PERMANENT MOORING OR SURVEY BUOYS (Section 10; navigable waters of the U.S.)	The mooring anchors and associated cable/chain are not placed in/on SAV, oyster reefs, shellfish beds or live hard bottom communities.
DREDGING (Section 10; navigable waters of the U.S.)	Extent of dredge impacts including turbidity plume (https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/turbiditytablenew.html) will not prohibit passage of anadromous fish.

GIS HIT FOR SAV	
Activity type	No SAV coordination is required if:
Piers	Terminus of pier head and all mooring structures (areas where boat traffic is anticipated) extend beyond limits of SAV mapped by VIMS' most recent survey year and 5 year composite (in GIS).
Dredging	Extent of dredge impacts including turbidity plume (https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/consultation/turbiditytablenew.html) will not extend into SAV mapped by VIMS' most recent SAV survey year and 5 year composite (in GIS).
Aquaculture	Placing on-bottom cages (≤ 12 inches above the bottom) where SAV has not been mapped by VIMS' most recent survey year and 5 year composite (in GIS).
	Siting cages in deeper water (>1 m) as this generally avoids conflicts with SAV.

Notes on Aquaculture and SAV interaction:

NOAA recommends siting new aquaculture operations in areas where SAV has not been mapped by VIMS most recent survey year (2016, 2017 preliminary) or the current 5-year composite map (VIMS, 2011-2015 data). In general, areas of deeper water (>1 m) throughout the lower Chesapeake Bay and its tributaries typically do not support persistent SAV beds due to limited light availability on the bottom. The Virginia Institute of Marine Science (VIMS) submerged aquatic vegetation (SAV) monitoring program surveys can be found here: *http://mobjack.vims.edu/sav/savwabmap/* and in Corpsmaps. If siting additional oyster cages in deeper water to avoid SAV is not possible within the confines of an existing aquaculture lease, the cultivation and harvest of oysters employing specific off-bottom aquaculture technology, such as the SEAPA system that incorporates long-lines supported by poles to suspend oyster baskets 2-ft. off the bottom, may be determined by the Corps to be a compatible use of State-owned bottom and water column in areas which have been mapped by VIMS as supporting very sparse (0-10% cover) to sparse (10-40% cover) SAV coverage for the most recent survey year and 5-year composite. This variance should only be considered for off-bottom aquaculture technologies in areas where SAV is absent or density is characterized as very sparse or sparse and the proposed aquaculture operation is not anticipated to have a significant adverse effect on SAV. On-bottom, caged aquaculture in areas where SAV has been mapped as described above should continue to be avoided. Traditionally, commercial shellfish aquaculture in Virginia has utilized on-bottom cages (not to exceed 12-inches above the bottom) to grow oysters (Crassotrea virginica). The placement of on-bottom cages in areas of mapped SAV is not currently authorized by either Virginia Marine Resources Commission or the NAO District Corps.

http://www.mrc.virginia.gov/regulations/onbottom.shtm

http://www.nao.usace.army.mil/Portals/31/docs/regulatory/RPSPdocs/13-RP-19.pdf

However, certain species of SAV (e.g. Ruppia maritima) are known to be transient or ephemeral and typically lack the persistence and density of some other seagrass species (e.g. Zostera marina). VIMS survey data may provide useful information in making these types of on-bottom aquaculture permit decisions. The NAO Corps may determine that placement of on-bottom cages in areas supporting SAV is acceptable under certain situations provided these areas are mapped as SAV being absent or very sparse (0-10% cover) during the most recent VIMS survey and where 50% or more of the last 5-year composite (3 or more years) mapped SAV as either absent or very sparse (0-10% cover). Under these specific site conditions, NAO Corps may determine authorization of these projects provides valuable information over time regarding the interactions between aquaculture operations and SAV, such as the expansion, reduction or unchanged aerial extent or density of SAV which may then help inform future commercial aquaculture permit decisions. While NOAA typically prefers the exclusion of aquaculture operations from all areas supporting SAV, we recognize there are gaps in our current scientific understanding regarding the potential ecological benefits and detriments of commercial aquaculture on the establishment, growth and persistence of submerged aquatic vegetation. Much of the information regarding aquaculture-SAV interactions is anecdotal, and we encourage additional scientific study to increase our understanding of the biogeochemical interactions that occur between SAV and caged aquatic organisms grown in commercial aquaculture.

If your project does not meet the no coordination required thresholds of the above categories (general concurrence, Anadromous Fish or SAVs):

Then you will need to analyze the impacts of the project on anadromous fish and/or EFH as appropriate, including impacts from construction.

PMs should evaluate the impact of the project on EFH/anadromous fish/SAV resources in their decision document to include type, extent and degree of impact and their rationale for requesting either TOYR waiver or compensatory mitigation to offset SAV impacts. For anadromous fish consider type of activity, timing, materials, equipment, noise (ensonification), maximum channelward encroachment, width of water body, etc. For SAV consider type of activity, direct and secondary impacts, anticipated turbidity, species, and recent trends in density, aerial extent and persistence of SAV. Send analysis using the agency coordination form (SOP folder 14) to David O'Brien, NOAA Fisheries Service (david.l.obrien@noaa.gov) for review and concurrence.

In most cases where there is a hit for anadromous fish that does not meet the criteria above, a TOYR (February 15 – June 30) will be a special condition of the permit to protect the species. Should an applicant request that the TOYR be removed after you issue the verification, coordinate with NMFS and written concurrence from NMFS is required.

TOY Restrictions:

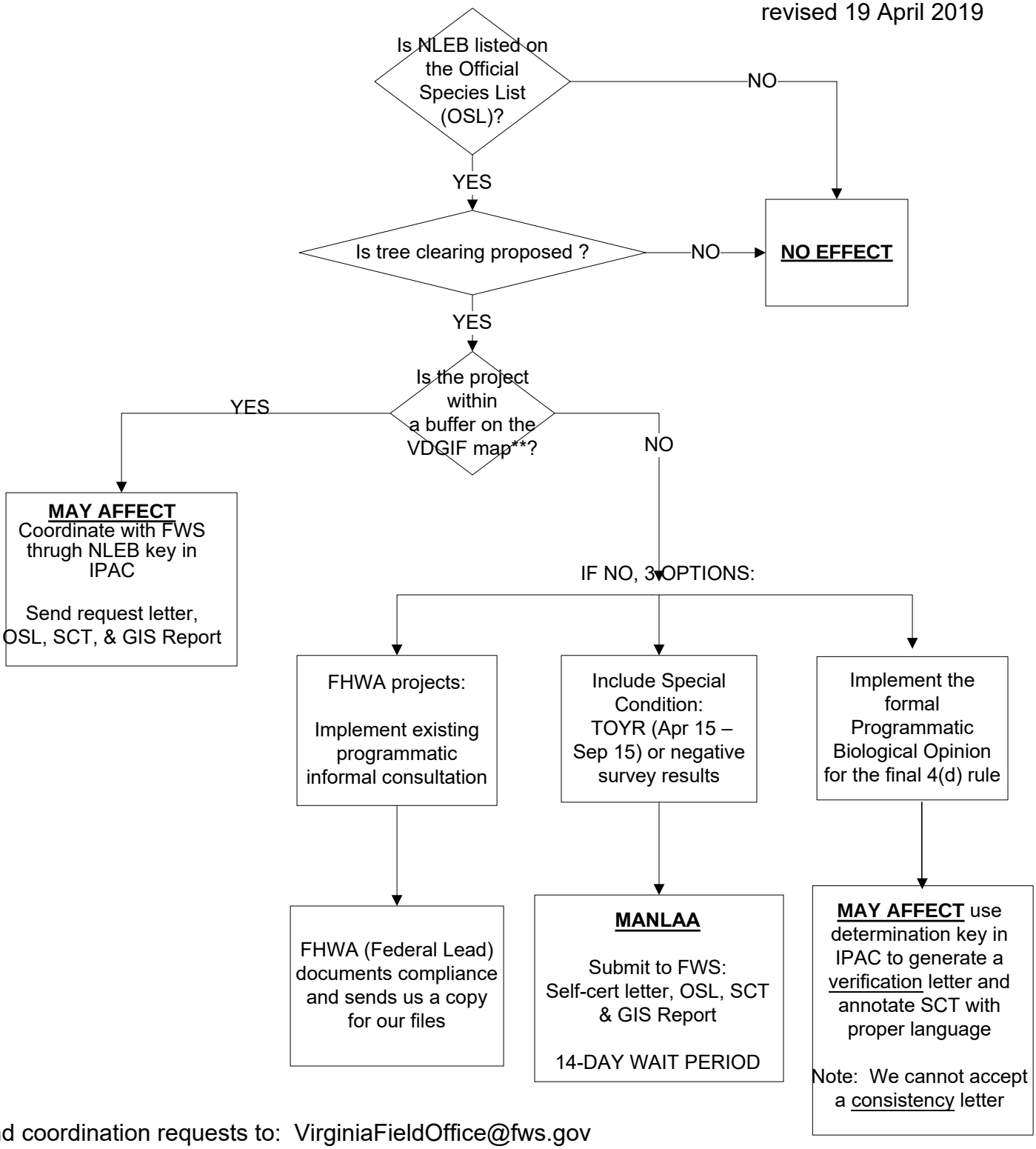
Sandbar Shark (HAPC): Peak mating and birthing of sandbar shark occurs from April through July throughout the species range. Neonates and juveniles will then be present in the nursery areas until early fall when water temperatures drop. Therefore, in the lower Chesapeake Bay we recommend a TOYR on dredging activities in sandbar shark HAPC from May 1 through September 15 of any year.

Summer Flounder: March 1 through September 30

ESA Section 7 Process for Northern Long Eared Bat (NLEB)

Tuesday, March 08, 2016

revised 19 April 2019



Send coordination requests to: VirginiaFieldOffice@fws.gov

****VDGIF Map**:
http://dgif-virginia.maps.arcgis.com/apps/webappviewer/index.html?id=32ea4ee4935942c092e41ddcd19e5ec5

NLEB SCT Tables

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	A documented maternity colony or hibernacula may be in the action area	May affect	

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	Suitable habitat present	No Effect/Not Likely to Adversely Affect	Implementing a TOYR on tree clearing from April 15 -Sept 15. **OR** Survey conducted and no bats were documented.

Species/Resource Name	Conclusion	ESA Section 7/Eagle Act Determination	Note/Documentation
Northern long-eared bat	Suitable habitat present	May affect	Relying upon the findings of the 1/5/2016 Programmatic Biological Opinion for Final 4(d) Rule on the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions to fulfill our project-specific section 7 responsibilities.

Review project to see if Voluntary Conservation Measures may apply. If so, suggest to applicant.

- NLEB surveys should be done according to the most recent summer survey guidelines.
- Manage forests to ensure a continual supply of snags and other suitable maternity roosts trees.
- Conduct prescribed burns outside of the pup season (June 1-July 31) and/or the active season (April 1-October 31). Avoid high-intensity burns (causing tree scorch higher than NLEB roosting heights) during the summer maternity season.
- Perform bridge repair, retrofit, maintenance, and/or rehabilitation work outside of the NLEB active season (April 15-September 15) in areas where NLEB are known to roost on bridges or where such use is likely.
- Do not use military smoke and obscurants within forested suitable NLEB habitat during the pup season (June 1-July 31) and/or the active season (April 15-September 15).
- Minimize use of herbicides and pesticides. If necessary, spot treatment is preferred over aerial application.
- Evaluate the use of outdoor lighting during the active season and seek to minimize light pollution by angling lights downward or via other light minimization measures.

NMFS CONSULTATION DOCUMENTS

Activities that can be coordinated through this process:

1. Aquaculture (shellfish) and artificial reef creation
2. Routine maintenance dredging (includes NEW dredging less than 2 acres) and disposal/beach nourishment
3. Piers, ramps, floats, and other structures
4. Transportation and development (e.g., culvert construction, bridge repair)
5. Mitigation (fish/wildlife enhancement or restoration)
6. Bank stabilization and dam maintenance

All other activities will need to be coordinated through the Expedited Review Process.

NOTE: NMFS defines maintenance dredging as any footprint that has been previously dredged, independant of any changes in depth.

NO EFFECT MATRIX REVISED 12 Oct 2017

Use this document as guidance to make a no effect determination for the activities authorized by GPs, LOPs & SPs.

AIDS TO NAVIGATION & TEMPORARY RECREATIONAL STRUCTURES (Section 10; navigable waters of the United States) The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard (see 33 CFR, chapter I, subchapter C, part 66)

No effect: All GPs, LOPs & SP activities.

REPAIR OR MAINTENANCE OF EXISTING CURRENTLY SERVICEABLE, AUTHORIZED OR GRANDFATHERED 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 techniques, 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.

No effect:

Self Verified

For all SV activities; piles are non-steel and ≤12" in diameter; and work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

For PCN activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever; piles installed in the dry, or piles are non-steel and ≤12" in diameter; and work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

PMs, for PCN activities, also check ESA PC due to the listed various activities that may occur. When in doubt, use NLAA form.

MOORINGS (Section 10; navigable waters of the U. S.) New private, non-commercial, non-rental, single-boat moorings & temporary moorings including moorings to facilitate construction or dredging; minor relocation of previously authorized moorings and mooring field expansions, boundary reconfigurations or modifications of previously authorized mooring fields and maintenance and replacement of moorings.

No effect: All GPs, LOPs & SP activities except for mooring fields/expansions.

PILE-SUPPORTED STRUCTURES & FLOATS, INCLUDING BOAT LIFTS/HOISTS & OTHER MISCELLANEOUS STRUCTURES & WORK (Section 10; navigable waters of the U.S.) New, expansions, reconfigurations or modifications of structures for navigation access including floats, stairs, and boat/float lifts.

No effect:

1. For activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever.
2. Piles are installed in the dry or are non-steel and are ≤12" in diameter, and ≤25 piles installed below mean high water.
3. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

BOAT RAMPS & MARINE RAILWAYS (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities required for the construction of boat ramps and marine railways, including excavation and fill.

No effect for all SV activities.

UTILITY LINE ACTIVITIES (Sections 10 & 404; tidal & non-tidal waters of the U.S.) Activities required for (a) The construction, maintenance, relocation, repair, & removal of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for utility lines; (b) The construction, maintenance or expansion of utility line substation facilities associated with a power/utility line in non-tidal waters; and (c) The construction and maintenance of foundations for overhead utility line towers, poles, and anchors provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

No effect: Not applicable.

DREDGING (Section 10; navigable waters of the U.S.), TRANSPORT &DISPOSAL OF DREDGED MATERIAL (Sections 10, 404 &103; tidal waters of the U.S.), BEACH NOURISHMENT (Sections 10 & 404; tidal waters of the U.S.); ROCK REMOVAL (Section 10, navigable waters of the U.S.) &ROCK RELOCATION (Sections 10 & 404; tidal waters of the U.S.) New, improvement and maintenance dredging, including: (a) Disposal of dredged material at a confined aquatic disposal, beach nourishment, near shore, designated open water or ocean water disposal site, provided the Corps finds the dredged material to be suitable for such disposal; (b) Beach nourishment not associated with dredging; (c) Rock removal and relocation for navigation.

No effect: SVs not in critical habitat.

SHORELINE & BANK STABILIZATION PROJECTS (Sections 10 & 404; tidal and non-tidal waters of the U.S.) Bank stabilization activities necessary for erosion protection along the banks of lakes, ponds, streams, estuarine and ocean waters, and any other open waters. Includes bulkheads, seawalls, riprap, revetments or slope protection & similar structures as well as vegetative planting, soil bioengineering or alternative techniques that are a combination of the two (e.g. living shorelines), specifically for the purpose of shoreline protection.

No effect:

1. For activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever.
2. Piles are installed in the dry or are non-steel, are ≤12" in diameter and ≤25 piles installed below mean high water
3. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

AQUATIC HABITAT RESTORATION, ESTABLISHMENT & ENHANCEMENT ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities in waters of the U.S. associated with the restoration, enhancement and establishment of non-tidal and tidal wetlands and riparian areas, including invasive, non-native or nuisance species control; the restoration and enhancement of non-tidal streams and other non-tidal open waters; the relocation of non-tidal waters, including non-tidal streams & associated wetlands for reestablishment of a natural stream morphology and reconnection of the floodplain; the restoration and enhancement of shellfish, finfish and wildlife; and the rehabilitation or enhancement of tidal streams, tidal wetlands and tidal open waters; provided those activities result in net increases in aquatic resource functions and services.

No effect:

1. For activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever.
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

FISH & WILDLIFE HARVESTING ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities in waters of the U.S. associated with fish and wildlife harvesting devices including pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices, and small fish attraction devices such as open water fish concentrators (sea kites, etc.).

No effect:

For all SV activities.

For PCN activities:

1. For activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever.
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

OIL SPILL & HAZARDOUS MATERIAL CLEANUP (Sections 10 and 404; tidal and non-tidal waters of the U.S.): a. Activities conducted in response to a discharge or release of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300) including containment, cleanup, and mitigation efforts, provided activities are done under either (i) The Spill Prevent, Control & Countermeasure Plan require by 40 CFR 112.3; (ii) The direction or oversight of the Federal on-site coordinator designated by 40 CFR 300; or (iii) Any approved existing State, regional or local contingency plan provided that the Regional Response Team concurs with the proposed response efforts or does not object to the response effort. b. Activities required for the cleanup of oil releases in waters of the U.S. from electrical equipment that are governed by EPA's polychlorinated biphenyl (PCB) spill response regulations at 40 CFR 761. c. Booms placed in tidal waters. d. Use of structures & fills for spill response training exercises.

No effect: All SV activities.

NLAA Verification Form: Required for all PCN activities.

CLEANUP OF HAZARDOUS & TOXIC WASTE (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Specific activities to effect the containment, stabilization or removal of hazardous or toxic waste materials, including court ordered remedial action plans or related settlements which are performed, ordered or sponsored by a government agency with established legal or regulatory authority. Special Aquatic Sites must be restored in place to pre-impact elevations.

No effect: All SV activities provided no work in proposed or designated critical habitat.

NLAA Verification Form: Required for all PCN activities.

SCIENTIFIC MEASUREMENT DEVICES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Scientific devices for measuring and recording scientific data, such as staff gauges, tide and current gauges, meteorological stations, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. Also eligible are small temporary weirs and flumes constructed primarily to record water quantity and velocity provided the discharge is less than 25 cubic yards.

No effect: All SV activities.

NLAA Verification Form: Required for all PCN activities.

SURVEY ACTIVITIES (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Survey activities such as soil borings, core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching* and historic resources surveys.

No effect: All GP, LOP & SP activities except for exploratory trenching or seismic exploratory operations that occur when ESA-listed species may be present.

AQUACULTURE PROJECTS & FISHERIES (Sections 10 and 404; navigable waters of the U.S.) The installation of buoys, floats, racks, trays, nets, lines or other structures in navigable waters for the containment and cultivation of indigenous species of shellfish and seaweed/kelp. Also authorized are anchored upweller floats, small-scale shellfish hatchery seawater intake/discharge structures, and discharges of dredged or fill material associated with cultivation such as the placement of cultch or spatted-shell on bottom.

No effect:

1. Project meets all of the General Project Design Criteria (PDC)
2. Floating upweller docks in ≤10 feet MLLW with or without piles, provided piles are non-steel and ≤12”
3. Land-based hatchery intake provided pipe diameter ≤3”

LINEAR TRANSPORTATION PROJECTS (Sections 10 and 404; tidal and non-tidal waters of the U.S.) Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., driveways, roads, highways, railways, trails, airport runways, and taxiways) and attendant features.

No effect: Not applicable.

NLAA Verification Form: All GP, LOP & SP activities.

ENERGY GENERATION & RENEWABLE ENERGY GENERATION FACILITIES (Sections 10 and 404; tidal waters of the U.S.) & HYDROPOWER PROJECTS (Sections 10 and 404; tidal waters of the U.S.) Structures and work in navigable waters of the U.S. and discharges of dredged or fill material into tidal waters of the U.S. for the construction, expansion, modification or removal of: (a) Land-based renewable energy production facilities, including attendant features; (b) Water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features; and (c) Discharges of dredged or fill material associated with hydropower projects. Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, and parking lots. For each single and complete project in (b) above, no more than 10 generation units (e.g., wind turbines or hydrokinetic devices) are authorized in navigable waters of the U.S

No effect: Not applicable.

NLAA Verification Form: All GP, LOP & SP activities.

TEMPORARY FILL NOT ASSOCIATED WITH ANY OTHER GP ACTIVITES (Sections 10 and 404; tidal waters of the U.S.) Temporary discharges, such as sandbag/earth cofferdams, access fills, etc., necessary for construction activities or dewatering of construction sites.

No effect:

1. For activities in critical habitat provided there is no direct or indirect effects of the action to the feature(s) in the area, ever.
2. Work behind cofferdams, turbidity curtains, or other methods to control turbidity when operationally feasible and ESA-listed species may be present.

Standard Operating Procedures (SOPs) for the GARFO PRD-USACE NAD NLAA Program

The GARFO PRD-USACE NAD 2017 NLAA Program ("NLAA Program") represents an interagency effort to streamline ESA consultation for routine, non-controversial projects that are not likely to adversely affect (NLAA) ESA-listed species or critical habitat. The NLAA Program does not address whether or not certain activity categories or stressor levels will have no effect on listed species or critical habitat (this remains under the discretion of individual NAD Districts). The purpose of this Standard Operating Procedures (SOPs) document is to help USACE project managers determine which activity categories and associated stressor thresholds are eligible for processing under the Program's streamlined verification form. Those which are ineligible require individual Section 7 consultation (informal or formal, depending on whether the proposed work will likely adversely affect listed species or habitat).

In September of 2020, the NLAA Program verification form was updated with the intention of providing a more comprehensive description of the different project design criteria (PDC) and to simplify the coordination process between USACE project managers and Section 7 biologists.

I. Is my project eligible for review under the NLAA Program?

a. USACE project managers will screen applications for the potential presence of NOAA Fisheries ESA-listed species and critical habitat in the project's **action area**. The best available information on the distribution (geographic and temporal), life stages, and behaviors of ESA-listed species, as well as the **physical or biological features (PBFs)** of critical habitat are found here (check both the maps and species tables):

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater

Questions can be sent to nmfs.gar.esa.section7@noaa.gov.

b. If the project manager determines that a project will have **no effect** on ESA-listed species or critical habitat, no ESA consultation with NOAA Fisheries is needed, and no documentation should be sent to GARFO. The project manager should document the "no effect" determination for their files in order to explain why they are not consulting with NOAA Fisheries under ESA Section 7. Be sure to indicate which STRESSORS are relevant to the action under consideration. It is not necessary to notify NOAA Fisheries or seek their concurrence with your no effect determination, as they are not obligated to review it, concur with it, or otherwise provide comments on it. For more information, please see the No Effects page on our website:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-no-effect-determinations-greater-atlantic-region

If the project manager determines that a project may affect, but is not likely to adversely affect (**NLAA**) ESA-listed species or critical habitat (*i.e.*, the project's effects are **insignificant**, **discountable**, or **wholly beneficial**), it may be eligible for review under the NLAA Program. To determine project eligibility, the project manager must check to see whether or not the application meets (or could meet with the appropriate permit conditions) all of the **Project Design Criteria (PDC)** outlined in the NLAA Program.

c. There are general PDC that apply to all NLAA projects, and there are "stressor specific" PDC, that apply to projects that have the potential to introduce those stressors into the action area.

The updated 2020 NLAA Program Verification Form lists all of the PDC and includes a table to show which stressors may apply to which activity types. If the project meets all of the applicable PDC, it is eligible for review under the NLAA Program.

d. **Important:** If the project does *not* meet all of the applicable PDC, but the project manager still believes the project should be eligible for review using the form (*e.g.*, the project does not introduce any stressors outside of those considered in the NLAA Program, but it occurs during a time of year restriction), the project manager should indicate which PDC are not met, and then provide a justification for each PDC not met at the bottom of the form (**Section 4**). Examples of acceptable justifications include (but are not limited to) additional permit conditions, such as observer coverage, turbidity curtains, working in the dry, etc. Each justification should explain how the project's effects are **insignificant** (*i.e.*, too small to be meaningfully measured, detected, or evaluated) or **discountable** (*i.e.*, extremely unlikely to occur), despite not meeting the PDC.

If the project does not meet all of the PDC and either introduces a stressor not considered under the NLAA Program and/or the project manager cannot provide proper justification for why the project violates PDC, but should still be reviewed under the program, the project manager must submit to GARFO a request for individual informal (or formal, if necessary) consultation following this guidance:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic

II. Interpreting the NLAA Program PDC

Section 1: General Project Details

The purpose of this section is to gather general information about the characteristics, location, and potential impacts of the proposed project. Some important aspects to consider are:

- When addressing the "Type of Bottom Habitat Modified", project managers should focus **specifically** on the expected **bottom impact**, not on the total project area (*e.g.*, when

evaluating aquaculture projects, only consider the area of disturbed/altered substrate, not the acreage of the entire lease site). The total acreage of the entire lease site will be addressed in section (f) Entanglement/Aquaculture.

- Mean Low Water (MLW) and Mean High Water (MHW) are intended to give Section 7 Biologists a better sense for the minimum and maximum water levels across the tidal cycle in the action area to help determine the likelihood of ESA-listed species presence that can actually occur within/around the action area. Informed estimates are appropriate if exact values are not available.

- When addressing the maximum extent of the stressor into the water body, project managers should consider the stressor (*e.g.*, sound, turbidity) **that can extend the most** and compare it to the width of the water body being affected (**PDC 8**). To determine if your project will maintain passage with appropriate habitat for ESA-listed species, consider the distance an animal would have to travel to avoid the sound pressure, turbidity plume, or other stressor associated with your project. Project managers may use the GARFO acoustic tool or the GARFO turbidity table to get these distances which are both located on the Technical Guidance website.

  Note: If, for example, project managers are evaluating an aquaculture project that is NOT expected to generate sound or measurable turbidity, the longest diameter of the gear configuration (e.g., the width of the gear area/lease site) should be used as the stressor extent. If uncertain, seek technical assistance from the GARFO Section 7 biologist.

Section 2: ESA-listed species and/or critical habitat in the action area

To determine whether or not **ESA listed species or designated critical habitat** overlap with the action area, USACE project managers will consult **GARFO PRD's Section 7 Mapper**:

https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=1bc332edc5204e03b250ac11f9914a27

Section 3: NLAA Determination

On the Verification Form, project managers will find a total of 33 PDC. There are 11 General PDC, which apply to all projects, and then there are PDC for six stressor categories.

a. Guidance on General PDC

On the verification form, General PDC are found in Section 3(a). Review all 11 PDC (guidance below). If the PDC is met, check YES. If the PDC is not applicable (N/A) to your project (*e.g.*, the stressor category is not included for your project activity, or, for PDC 2, your project does not occur within the range of the GOM DPS of Atlantic salmon), select N/A. If the PDC is applicable but **is not met, leave both boxes blank** and provide a

justification for that PDC in Section 4.

1. No portion of the proposed action will individually or cumulatively have an adverse effect on ESA-listed species or designated critical habitat.

    a. **Yes** – project is eligible.
    b. If PDC is not met, the project will require individual consultation.

2. No portion of the proposed action will occur in the tidally influenced portion of rivers/streams where Atlantic salmon presence is possible from April 10 through November 7.

    Note: If the project will occur within the geographic range of the GOM DPS Atlantic salmon but their presence is not expected following the best available commercial scientific data, the work window does not need to be applied (include reference in project description).

    a. **Yes** – project is eligible. If the project is in coastal/marine waters (i.e., outside of a river/river estuary), this PDC does not apply.
    b. **N/A** – PDC is not applicable for the project. This would be the case when, for example, after reviewing the Section 7 mapper Atlantic salmon are not expected to occur in the action area.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

3. No portion of the proposed action that may affect shortnose or Atlantic sturgeon will occur in areas identified as spawning grounds as follows (review time of year (TOY) for your District):

    i. Gulf of Maine: April 1–Aug. 31
    ii. Southern New England/New York Bight: Mar. 15–Aug. 31
    iii. Chesapeake Bay: March 15–July 1 and Sept. 15–Nov. 1

    Note: If river specific information exists that provides better or more refined time of year information, those dates may be substituted with NMFS approval (include reference in project description).

    a. **Yes** – project is eligible. If the project is in coastal/marine waters (*i.e.*, outside of a river), this PDC does not apply.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can

provide proper justification for the PDC in Section 4.

4. No portion of the proposed action that may affect shortnose or Atlantic sturgeon will occur in areas identified as overwintering grounds, where dense aggregations are known to occur, as follows (review TOY for your District):

    i. Gulf of Maine: Oct. 15–April 30
    ii. Southern New England/ New York Bight: Nov. 1–Mar. 15
    iii. Chesapeake Bay: Nov. 1–Mar. 15

    Note: If river specific information exists that provides better or more refined time of year information, those dates may be substituted with NMFS approval (include reference in project description).

    a. **Yes** – project is eligible. If the project is in coastal/marine waters (*i.e.*, outside of a river), this PDC does not apply.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

5. Within designated Atlantic salmon critical habitat, no portion of the proposed action will affect spawning and rearing areas (PBFs 1-7).

    a. **Yes** – project is eligible. To determine if your project has the potential to affect Atlantic salmon critical habitat, first look to see if your project is in Atlantic sturgeon critical habitat (GARFO maps/species tables). Next, review PBFs 1-7 in Table 3. If still uncertain, seek technical assistance from a GARFO Section 7 biologist. If the project is in coastal/marine waters (*i.e.*, outside of a river), this PDC does not apply.
    b. **N/A** – PDC is not applicable for the project. This would be the case when the action area is not within designated critical habitat for Atlantic salmon.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

6. Within designated Atlantic sturgeon critical habitat, no work will affect hard bottom substrate (*e.g.*, rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (*i.e.*, 0.0 - 0.5 parts per thousand) (PBF 1).

a. **Yes** – project is eligible. To determine if your project has the potential to affect Atlantic sturgeon critical habitat, first look to see if your project is in Atlantic sturgeon critical habitat (GARFO maps/species tables). Next, review PBF 1 in Table 2. If still uncertain, seek technical assistance from a GARFO Section 7 biologist. If the project is in coastal/marine waters (*i.e.*, outside of a river/estuary), this PDC does not apply.
b. **N/A** – PDC is not applicable for the project. This would be the case when the action area is not within designated critical habitat for Atlantic sturgeon.
c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

7. Work will result in no or only temporary/short-term changes in water temperature, water flow, salinity, or dissolved oxygen levels.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

8. If ESA listed species are (a) likely to pass through the action area at the time of year when project activities occur; and/or (b) the project will create an obstruction to passage when in-water work is completed, then a zone of passage (~50% of water body) with appropriate habitat for ESA-listed species (*e.g.*, depth, water velocity, etc.) must be maintained (*i.e.*, physical or biological stressors such as turbidity and sound pressure must not create barrier to passage).

    a. **Yes** – project is eligible. An example of this is if the turbidity plume exceeds the width of the river, but the TOY window will make listed species presence unlikely. Therefore, the PDC is still met.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

9. Any work in designated North Atlantic right whale critical habitat must have no effect on the physical and biological features (PBFs).

    a. **Yes** – project is eligible. To determine if your project has the potential to affect any of the PBFs of North Atlantic right whale critical habitat, first

look to see if your project is in critical habitat (GARFO maps/species tables). Next, see PBFs in Table 4. If still uncertain, seek technical assistance from a GARFO Section 7 biologist. If the project is in a river or stream, this PDC does not apply.

b. **N/A** – PDC is not applicable for the project. This would be the case when the action area is not within designated critical habitat for North Atlantic right whales.
c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

10. The project will not adversely impact any submerged aquatic vegetation (SAV).

    a. **Yes** – project is eligible. You may need to provide documentation showing that no SAV is present.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

11. No blasting or use of explosives will occur.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

b. Connecting Activities to Stressors and Associated PDC:

The NLAA Program identifies the following six activity categories and stressors (see table below). Project managers should use the table to decide which stressor specific PDC are applicable to their project in addition to the general PDC. For example, for a maintenance dredging project, the project manager would want to look at the following PDC categories: a) general; b) impingement/entrapment/capture; c) turbidity/sedimentation; d) vessel traffic; and e) habitat modification. This table is meant to be general guidance and is **not prescriptive**, in some cases, not all of these stressor categories will apply for a certain activity; in other cases, there may be additional stressors. After reviewing the table, project managers should think through their project and decide which are relevant. Whichever stressors the project managers decide are relevant should be checked in the verification form in Section 3(b). The project manager is then responsible for ensuring the project meets the general and stressor specific PDC.

	Stressor Category					
Activity Category	Sound Pressure	Impingement/ Entrapment/ Capture	Turbidity/ Sedimentation	Entanglement	Habitat Mod.	Vessel Traffic
Aquaculture (shellfish) and artificial reef creation	N	N	Y	Y	Y	Y
Dredging and disposal/beach nourishment	N	Y	Y	N	Y	Y
Piers, ramps, floats, and other structures	Y	N	Y	N	Y	Y
Transportation and development (*e.g.*, culvert construction, bridge repair)	Y	N	Y	N	Y	Y
Mitigation (fish/wildlife enhancement or restoration)	N	N	Y	N	Y	Y
Bank stabilization and dam maintenance	Y	N	Y	N	Y	Y

c. Guidance on Sound Pressure PDC

If the proposed project involves pile driving, the corresponding pile types, sizes, number and installation methods should be entered in the table in this section. If your project includes non-timber piles*, please attach your calculation to this verification form showing that the noise is below the injury thresholds of ESA-listed species in the action area. The GARFO Acoustic Tool is available as one source, should you not have other information:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic

* Sound pressure effects from timber, concrete, and steel sheet piles were analyzed in the NLAA programmatic, so **no additional acoustic information is necessary**. However, these piles should still be recorded in this table.

12. If pile driving is occurring during a time of year when ESA-listed species may be present, and the anticipated noise is above the behavioral noise threshold, a "soft start" is required to allow animals an opportunity to leave the project vicinity before sound pressure levels increase. *In addition to using a soft start at the beginning of the work day for pile driving, one must also be used at any time following cessation of pile driving for a period of 30 minutes or longer.*

    For impact pile driving: pile driving will commence with an initial set of three strikes by the hammer at 40% energy, followed by a one minute wait period, then two subsequent 3-strike sets at 40% energy, with one-minute waiting periods, before initiating continuous impact driving.

    For vibratory pile installation: pile driving will be initiated for 15 seconds at reduced energy followed by a one-minute waiting period. This sequence of 15 seconds of reduced energy driving, one-minute waiting period will be repeated two additional times, followed immediately by pile-driving at full rate and energy.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

13. Any new pile supported structure must involve the installation of ≤ 50 piles (below MHW). **Note:** It would not be considered a new structure if the piles are replacing existing piles. Replacement of existing piles do not count toward the 50-pile threshold and should be called out in the description as such.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

14. All underwater noise (pressure) is below (<) the physiological/injury noise threshold for ESA-species in the action area.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can

provide proper justification for the PDC in Section 4.

NON-STEEL or STEEL SHEET PILES ≤ 24" in DIAMETER/WIDTH:
If your project only involves non-steel piles (or steel sheet piles) ≤ 24-inches in diameter/width, then your project meets this PDC (see Note below if your project's action area includes ESA-listed whales).

Here are the estimated distances to sturgeon/salmon/sea turtle injury and behavioral thresholds for piles in this category (to show compliance with **PDC 8**):

Table 1: Estimated Distances to Sturgeon/Salmon/Sea Turtle Injury & Behavioral Thresholds (non-steel piles and steel sheet piles ≤ 24")

Diameter and Type of Pile	Hammer Type	Sturgeon/Salmon Thresholds			Sea Turtle Thresholds	
		Distance (m) to Behavioral Disturbance Threshold (150 dB_{RMS})	Distance (m) to 206dB_{Peak} (injury)	Distance (m) to sSEL of 150 dB (surrogate for 187 dBcSEL injury)	Distance (m) to 175 dB RMS (behavior)	Distance (m) to 180 dB RMS (injury)
16-20" Timber	Impact	40.0	NA	NA	NA	NA
16-20" Timber	Vibratory	20.0	NA	NA	NA	NA
24" Concrete	Impact	50.0	NA	30.0	NA	NA
24" Concrete	Vibratory	30.0	NA	10.0	18.0	NA
24" Steel Sheet	Impact	90.0	NA	70.0	58.0	30.0
24" Steel Sheet	Vibratory	40.0	NA	40.0	NA	NA

STEEL or NON-STEEL/STEEL SHEET PILES > 24" in DIAMETER/WIDTH:

If your project involves steel piles (any size), or non-steel piles/steel sheet piles > 24-inches in diameter/width, you must provide a sound pressure (noise) estimate for the installation of the piles. GARFO has an acoustics tool with noise estimates for a variety of pile types, sizes, and installation methods:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic

You can use this or another credible noise estimate. If you can show that the underwater noise will be below (<) the physiological/injury noise threshold for ESA-species in the action area (thresholds are in the GARFO tool), your project meets **PDC 14**.

Note: If ESA-listed whales may be in your action area, you'll need to use two tools to estimate the impacts of underwater noise. Coordinating with a GARFO Section 7 biologist is recommended.
1) For Injury: http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm
2) For Behavior: https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic

d. Guidance on Impingement/Entrapment/Capture PDC

If Impingement/Entrapment/Capture has been identified as a stressor associated to the proposed action, complete the gray cells below and address the drop-down menus accordingly.).

15. Only mechanical, cutterhead, and low volume hopper (*e.g.*, CURRITUCK ~300 cubic yard maximum bin capacity) dredges may be used.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

16. No new dredging in Atlantic sturgeon or Atlantic salmon critical habitat (maintenance dredging still must meet all other PDCs). New dredging outside Atlantic sturgeon or salmon critical habitat is limited to one-time dredge events (*e.g.*, burying a utility line) and minor (≤2 acres) expansions of areas already subject to maintenance dredging (*e.g.*, marina/harbor expansion).

    a. **Yes** – project is eligible. To determine if your project overlaps with Atlantic sturgeon or salmon critical habitat, see the GARFO maps/species tables. NOTE: PDC 16 does not explicitly limit

maintenance dredging acreage; however, project still must meet all other applicable PDC.

b. **N/A** – PDC is not applicable for the project.
c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

17. Work behind cofferdams, turbidity curtains, and other methods to block access of animals to dredge footprint is required when operationally feasible or beneficial and ESA-listed species are likely to be present (if presence is limited to rare, transient individuals, exclusion methods are not necessary).

    a. **Yes** – project is eligible. **Note:** If the project manager has indicated in the section immediately above that cofferdams, turbidity curtains, and other methods to block access of animals from the dredge footprint are not operationally feasible, OR that the presence of ESA-listed species in the project area is limited to rare, transient individuals, then the PDC is met and should be marked as "YES".
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

18. Temporary intakes related to construction must be equipped with appropriate sized mesh screening (as determined by GARFO Section 7 biologist and/or according to Chapter 11 of the NOAA Fisheries Anadromous Salmonid Passage Facility Design) and must not have greater than 0.5 fps intake velocities, to prevent impingement or entrainment of any ESA-listed species life stage.

    a. **Yes** – project is eligible. Coordinate with a GARFO Section 7 biologist to determine appropriate size of mesh screening (depends on species/life stages present in the action area).
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

19. No new permanent intake structures related to cooling water, or any other inflow at facilities (*e.g.*, water treatment plants, power plants, etc.).

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.

c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

e. Guidance on Turbidity/Water Quality PDC

If Turbidity/Water Quality has been identified as a stressor associated to the proposed action, complete the gray cells below and address the drop-down menus accordingly.

20. Work behind cofferdams, turbidity curtains, or other methods to control turbidity are required when operationally feasible or beneficial and ESA-listed species are likely to be present (if presence is limited to rare, transient individuals, turbidity control methods are not necessary).
    a. **Yes** – project is eligible. **Note:** If the project manager has indicated in the section immediately above that cofferdams, turbidity curtains, and other methods to block access of animals from the dredge footprint are not operationally feasible, OR that the presence of ESA-listed species in the project area is limited to rare, transient individuals, then the PDC is met as should be marked as "YES".
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

21. In-water offshore disposal may only occur at designated disposal sites that have been the subject of ESA section 7 consultation with NMFS, where a valid consultation is in place and appropriate permit/special conditions are included.
    a. **Yes** – project is eligible. If the project manager is uncertain whether or not the proposed offshore disposal site as an existing consultation with GARFO, contact a GARFO Section 7 biologist. If the project will dispose of dredged material at a site with an existing GARFO consultation, all of the permit conditions from that existing consultation must be used in the permit (*e.g.*, observer/designated lookout, vessel speed limits, TOYs, etc.).
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

22. Any temporary discharges must meet state water quality standards (*e.g.*, no discharges of substances in concentrations that may cause acute or chronic adverse reactions, as defined by EPA water quality standards criteria).

a. **Yes** – project is eligible.
b. **N/A** – PDC is not applicable for the project.
c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

23. Only repair, upgrades, relocations and improvements of existing discharge pipes or replacement in-kind are allowed; no new construction of untreated discharges.

    a. **Yes** – project is eligible. The completed repair/replacement of an existing discharge pipe must maintain or improve current water quality conditions around the pipe.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

f. Guidance on Entanglement PDC

If Entanglement has been identified as a stressor associated to the proposed action, complete the gray cells below and address the drop-down menus accordingly.

Note: In the "Acreage (total permit footprint)" field, project managers should focus on the total area of the lease site proposed. Project managers should be referring to the collective footprint of all the gear combined. This is typically considered the best approach to ensure we capture a conservative estimate of this area (*e.g.* If a project involves 1000 bottom cages with single buoy lines, not only the square footage of the combined cages would be considered for entanglement risks. Also, the full area of the gear "field", including the water between the cages, needs to be accounted for).

In addition, if the aquaculture project involves more than one gear type used to cultivate the same species within the same area, "**Multimode**" should be entered as the gear type.

24. Shell on bottom <50 acres with maximum of 4 corner marker buoys.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

25. Cage on bottom with no loose floating lines <5 acres and minimal vertical lines (1 per string of cages, 4 corner marker buoys).

    a. **Yes** – project is eligible. If the project manager is uncertain whether or not the project design meets the "no loose floating line" criteria, ask a

GARFO Section 7 biologist for technical assistance. Generally, lines should be taught, or other methods should be promoted to achieve rigidity (e.g., sheathed or weighted line).

b. **N/A** – PDC is not applicable for the project.
c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

26. Floating cages in <3 acres in waters and shallower than -10 feet MLW with no loose lines and minimal vertical lines (1 per string of cages, 4 corner marker buoys).

    a. **Yes** – project is eligible. If the project manager is uncertain whether or not the project design meets the "no loose floating line" criteria, ask a GARFO Section 7 biologist for technical assistance.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

27. Floating upweller docks in >10 feet MLLW

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

28. Any in-water lines, ropes, or chains must be made of materials and installed in a manner to minimize or avoid the risk of entanglement by using thick, heavy, and taut lines that do not loop or entangle. Lines can be enclosed in a rigid sleeve.
    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

g. Guidance on Habitat Modification PDC

While PDC 29 deals explicitly with aquaculture habitat modification, all activity categories are likely to have some form of habitat modification, so this stressor category is still relevant, and project managers should check whether or not the PDC is met.

29. No conversion of habitat type (soft bottom to hard, or vice versa) for aquaculture or reef creation. **Note:** anchor installation is not considered an activity that causes habitat conversion.

    a. **Yes** – project is eligible. If the project manager is uncertain whether or not the proposed project constitutes a habitat conversion, ask a GARFO Section 7 biologist for technical assistance.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

h. Guidance on Vessel Traffic PDC

If Vessel Traffic has been identified as a stressor associated to the proposed action, complete the gray fields and address the drop-down menus accordingly.

Note: Non-commercial vessels information below focuses exclusively on a **NET INCREASE** of vessels associated to the proposed project. If the vessels considered to be associated with the project merely represent a redistribution/relocation of existing vessel traffic (the vessels are already present in the waterway) in the action area, then project managers would not be expected to record them in this section.

30. Maintain project vessels operating within the action area to speed limits below 10 knots and dredge vessel speeds of 4 knots maximum, while dredging. **Note:** This PDC applies to **ALL project vessels**. All project vessels should maintain their speed limit to below 10 knots, the "… 4 knots maximum" speed focuses on dredge vessels, specifically.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

31. Maintain a 1,500-foot buffer between project vessels and ESA-listed whales and a 150-foot buffer between project vessels and sea turtles unless the vessel is navigating to an in-water disposal site/activity. If the vessel is navigating to an in-water disposal site/activity, refer to and include the conditions contained in the appropriate GARFO-USACE/EPA consultation for the disposal site.

    a. **Yes** – project is eligible.
    b. **N/A** – PDC is not applicable for the project.

c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

32. The number of project vessels must be limited to the greatest extent possible, as appropriate to size and scale of project.

    a. **Yes** – project is eligible. When reviewing projects, ensure that project vessels and the number of trips taken (*e.g.*, dredged material disposal) are limited to the greatest extent possible.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

33. The permanent net increase in vessels resulting from a project (*e.g.*, dock/float/pier/boating facility) must not exceed two non-commercial vessels. A project must not result in the permanent net increase of any commercial vessels (*e.g.*, a ferry terminal).

    a. **Yes** – project is eligible. The phrase "**net increase**" is key here. *E.g.*, if the project involves the reconstruction of an existing pier with 12 slips, as long as the replacement pier has ≤ 14 slips, and no new commercial vessels will be using the pier, the project meets this PDC.
    b. **N/A** – PDC is not applicable for the project.
    c. If PDC is applicable but not met, leave both boxes blank. The project will require individual consultation unless the project manager can provide proper justification for the PDC in Section 4.

III. Sign and submit your 2020 revised NLAA Program Verification Form

Once you've completed Sections 1- 4, move to Section 5 and be sure to check the appropriate box expressing your determination that your project is NLAA ESA-listed species or critical habitat. Check the first box if your project meets ALL of the PDC and does not require any justifications. Check the second box if your project did NOT meet one or more PDC and you provided justification(s). Enter a digital signature with your CAC in the signature box, and hit save.

Note: By providing your determination and signature, you are certifying that to the best of your knowledge the answers you have provided in this form is accurate and based upon the best available scientific information. This form must be filled out and signed by USACE staff, and not a third party, unless that party is an officially designated non-federal representative.

Once the form is signed, submit the PDF along with any associated project plans, maps, public notices, supporting documentation (*e.g.*, Noise estimates) etc. to nmfs.gar.esa.section7@noaa.gov with **USACE NLAA Program: [Application Number]** in the subject line.

Note: Please do not print, sign, and scan the form, as the original fillable PDF format allows us to import the data you enter to a spreadsheet, and we cannot do that from a scanned version.

IV. Monitoring

As outlined in the 2017 NLAA Program (both in the USACE Biological Assessment and GARFO Programmatic Consultation), USACE will provide an annual monitoring report to GARFO by March 1 of each year. This report should capture all of the projects USACE submitted for ESA Section 7 review under the NLAA Program in the previous calendar year. A summary table within the report should show the number of projects, by NAD District, for each activity category. Additional data on cumulative effects (*e.g.*, habitat modification, aquaculture leases, and vessel traffic) should be provided to the extent that this information is captured in ORM.

V. Glossary

Action area: "All areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action" (50CFR§402.02). This includes the project's footprint as well as the area beyond it that may experience direct or indirect effects that would not occur but for the action. For more information on how to determine the scope of the action area, please consult the definition of "effects of the action" (50 CFR §402.02).

Discountable In order to determine that effects of a particular project will be "discountable," you must be able to demonstrate that the effects are extremely unlikely to occur (*i.e.*, discountable effects relate to the likelihood of the impact).

Insignificant In order to determine that effects of a particular project will be "insignificant," you must be able to demonstrate that the effects cannot be meaningfully detected, measured, or evaluated, and will never reach the scale where "take" will occur (*i.e.*, insignificant effects relate to the magnitude of the impact).

NLAA Informal consultation: the action agency determines that an action may affect, but is not likely to adversely affect listed species or critical habitat. A "May Affect, but Not Likely to Adversely Affect" (NLAA) determination is based on a determination that effects are insignificant, discountable, or wholly beneficial as those terms are defined in the FWS-NOAA Fisheries Joint

Section 7 Consultation Handbook.

No Effect	There will be no direct or indirect effects to listed species or critical habitat from the proposed action. USACE does not need to contact GARFO for consultation.
PBF	Physical or Biological Features. Critical habitat designations are based on the physical or biological features essential to the conservation of the listed entity (e.g., species, subspecies, or DPS) and which may require special management or protection.
PDC	Project Design Criteria. PDC determine whether or not a project is eligible for consultation under the NLAA Program using a verification form. There are General PDC that apply to all projects, and stressor specific PDC that depend on the activity and associated in-water work.
TOY	Time of Year. Some of the General PDC require that in-water work occur outside of certain TOYs when sensitive life stages and behaviors are present (*e.g.*, spawning, overwintering).
Wholly Beneficial	In order to determine that effects of a particular project will be "insignificant," you must be able to demonstrate that the effects are wholly positive, without any adverse effects, on a listed species or designated critical habitat.

VI. Appendix: ESA-Listed Species and Critical Habitat

For the most up-to-date information, visit the Species and Critical Habitat website at:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater

Table 2: PBFs for Proposed Atlantic Sturgeon Critical Habitat

1.	Hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0-0.5 parts per thousand range) for settlement of fertilized eggs, refuge, growth, and development of early life stages. – As a proxy, project managers can access this information looking in the Section 7 Mapper for the occurrence of Young-of-the-Year sturgeon, as those polygons are cut off at a conservative estimate for the salt front in each critical habitat river.
2.	Aquatic habitat with a gradual downstream salinity gradient of 0.5-30 parts per thousand and soft substrate (e.g., sand, mud) downriver of spawning sites for juvenile foraging and physiological development.
3.	Water of appropriate depth absent physical barriers to passage (e.g., locks, dams, reservoirs, gear, etc.) between the river mouth and spawning sites necessary to support: (1) unimpeded movements of spawning adults to and from spawning sites; (2) as well as

	seasonal and physiologically-dependent movement of juvenile Atlantic sturgeon to appropriate salinity zones within the river estuary; (3) staging, resting, or holding of subadults or spawning condition adults. Water depths in main river channels must also be deep enough (e.g., ≥1.2 m) to ensure continuous flow in the main channel at all times when any sturgeon life stage would be in the river;
4.	Water, especially in the bottom meter of the water column, with the temperature, salinity, and oxygen values that, combined, support: (1) spawning; (2) annual and interannual adult, subadult, larval, and juvenile survival; and (3) larval, juvenile, and subadult growth, development, and recruitment (e.g., 13°C to 26° C for spawning habitat and no more than 30° C for juvenile rearing habitat and 6 mg/L dissolved oxygen for juvenile rearing habitat)

Table 3: PBFs for Atlantic Salmon (GOM DPS) Critical Habitat

Spawning and Rearing Critical Habitat	
1.	Deep, oxygenated pools and cover (e.g., boulders, woody debris, vegetation) near freshwater spawning sites necessary to support adult migrants during the summer while they await spawning in the fall.
2.	Freshwater spawning sites that contain clean, permeable gravel and cobble substrate with oxygenated water and cool water temperatures to support spawning activity, egg incubation, and larval development.
3.	Freshwater spawning and rearing sites with clean, permeable gravel and cobble substrate with oxygenated water and cool water temperatures to support emergence, territorial development, and feeding activities of Atlantic salmon fry.
4.	Freshwater rearing sites with space to accommodate growth and survival of Atlantic salmon parr.
5.	Freshwater rearing sites with a combination of river, stream, and lake habitats that accommodate Atlantic salmon parrs' ability to occupy many niches and maximize parr production.
6.	Freshwater rearing sites with cool, oxygenated water to support growth and survival of Atlantic salmon parr.
7.	Freshwater rearing sites with diverse food resources to support growth and survival of Atlantic salmon parr.
Migration Critical Habitat	
8.	Freshwater and estuary migratory sites free from physical and biological barriers that delay or prevent access of adult salmon seeking spawning grounds needed to support recovered populations;
9.	Freshwater and estuary migration sites with abundant, diverse native fish communities to serve as a protective buffer against predation; and
10.	Freshwater and estuary migration sites free from physical and biological barriers that delay or prevent emigration of smolts to the marine environment.

Table 4: PBFs for North Atlantic Right Whale Critical Habitat

1.	The physical oceanographic conditions and structures of the Gulf of Maine and Georges Bank region that combine to distribute and aggregate *Calanus finmarchicus* for right whale foraging, namely prevailing currents and circulation patterns, bathymetric features (basins, banks, and channels), oceanic fronts, density gradients, and temperature regimes;
2.	Low flow velocities in Jordan, Wilkinson, and Georges Basins that allow diapausing *C. finmarchicus* to aggregate passively below the convective layer so that the copepods are retained in the basins;
3.	Late stage *C. finmarchicus* in dense aggregations in the Gulf of Maine and Georges Bank region;
4.	Diapausing *C. finmarchicus* in aggregations in the Gulf of Maine and Georges Bank region.

NOAA FISHERIES
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Greater Atlantic Region

US Army Corps of Engineers ®

GARFO (PRD) - USACE (NAD) NLAA Program

June 16, 2020 Update:
NOAA Fisheries continues to make revisions to the verification form. Therefore, they have asked that we simply pull the latest form from their website each time. Go to https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic and click the "Verification Form" under the GARFO (PRD) - USACE (NAD) NLAA Program section.

Please submit signed verification forms, together with any project plans, maps, supporting analyses, etc., to nmfs.gar.esa.section7@noaa.gov with "USACE NLAA Program: [Application Number]" in the subject line.

FOR PERMIT MODIFICATIONS WHERE A NEW SPECIES HAS BEEN LISTED SINCE THE LAST PERMIT ISSUANCE: Send a new form with all species (old and new) checked off. Include the word "Reinitiation" in the subject line of your email and in the Application Number box on the form.

ORM Data Entry

ENDANGERED SPECIES ACT SUBACTION:
Enter a sub-action for all MANLAA and MAY AFFECT, LIKELY TO ADVERSELY EFFECT determinations/ coordinations for FWS & NMFS species.

**** DO NOT ENTER A SUBACTION FOR NO EFFECT DETERMINATIONS.*

*** DO NOT use "EXTERNAL AGENCY COORDINATION" for ESA related coordination efforts

ESA (Formal - May Affect, Likely to Adversely Affect):

Enter one ESA entry for each letter (or email equivalent) to FWS/NMFS to initiate formal consultation for adverse effects to listed species or designated critical habitat for the purpose of obtaining a Biological Opinion. There may be multiple species in the letter (or e-mail equivalent) but a single ESA entry. Do not add ESA entries for exchange of information during the consultation.

ESA (Informal - MANLAA):

Enter one ESA entry for each letter (or e-mail equivalent) to FWS/NMFS requesting written concurrence that the project is not likely to adversely affect listed species or designated critical habitat. There may be multiple species in the letter (or e-mail equivalent) but a single ESA entry. Do not add ESA entries for exchange of information during the consultation. For districts with established SLOPES agreements, this sub-action should be used for situations that require additional correspondence/consultation above and beyond routine procedures.

ESA (Programmatic):

Enter when using the NMFS NLAA ESA Program Verification Form or the NLEB PBO 4(d) rule

ESSENTIAL FISH HABITAT SUBACTION:

Enter Sub-action for consultation for EFH, SAVs, HPCs, and Anadromous Fish Use Areas.

Enter if you receive recommendations from NMFS and you need to prepare response. Do not enter these if you only sent a public notice/LOP coordination or PCN, or made a no effect determination without official coordination. Create the Sub-action if a dialog with NMFS on a project resulted in development of conservation recommendations or their stating satisfaction with the project in lieu of sending recommendations."

*** Add comments as needed to record time-lines, revisions, or other helpful data.