



**GARFO ESA Section 7 Programmatic Framework for NPDES Permits in EPA Region 1
EPA NLAA Programmatic Verification Form**

Please submit a signed version of this form with any maps, supporting documentation, and/or analyses to nmfs.gar.esa.section7@noaa.gov with "EPA NLAA Programmatic: [Permit Number and Name]" in the subject line.

Section 1: Project Information

Name of Permittee: _____

Name of Facility: _____

Permit Number: _____

Date of Draft Permit Publication: _____

Facility Type:

- Municipal
- Industrial

Permit Type:

- NPDES General Permit
- NPDES Individual Permit

Facility Activity Type:

- Tier 1
- Tier 2*
- Tier 3
- Tier 4*
- Other

*If water withdrawal, answer the following:

1. Maximum Design Intake: _____

2. Intake velocity: _____

3. Mesh size: _____

Facility Maximum Design Flow: _____

Location

State and/or city: _____

Coordinates of the outfall(s) (i.e., latitude, longitude in decimal degrees): _____

Receiving waterbody: _____

Action Area¹ Description (include the surface area of the action area, total discharge volume(s), total water withdrawal volume(s), and the best estimated dilution factor):

Section 2: ESA-listed Species and/or Critical Habitat

Consult GARFO PRD's ESA Section 7 Mapper for ESA-listed species (including life stages present) and critical habitat information for the action area:

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

Atlantic sturgeon (all DPSs)

- Atlantic sturgeon critical habitat
- shortnose sturgeon
- green sea turtle (North Atlantic DPS)
- Kemp's ridley sea turtle
- loggerhead sea turtle (Northwest Atlantic DPS)
- leatherback sea turtle
- North Atlantic right whale
- North Atlantic right whale critical habitat
- fin whale

¹ Action area is defined as "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).

Section 3: General PDC

If the Project Design Criteria (PDC) is met, select Yes. If the PDC is not applicable (N/A) to the project (i.e., the stressor category is not included as part of the project activity), 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 7.

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

- Yes
- N/A

2. No project will occur in Atlantic or shortnose sturgeon spawning grounds in the Merrimack River, Piscataqua River, Connecticut River, and/or any additional river where spawning grounds are identified* unless:

- a. effluent is compliant with state water quality standards at the end-of-pipe discharge point, and
- b. an adequate dilution factor in the receiving water body is achieved.

- Yes
- N/A

3. Any project within designated Atlantic sturgeon critical habitat will have no effect on 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).

- Yes
- N/A

4. The project will not change temperature, water flow, salinity, or dissolved oxygen levels in the receiving waters to a level that may adversely affect ESA-listed species or critical habitat.

- Yes
- N/A

5. If ESA-listed species are likely to pass through the action area at the time of year when the activity occurs, 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., biological stressors such as turbidity or effluent plume must not create barrier to passage nor extend from bank to bank or surface to bottom in a river).

- Yes
- N/A

6. Any project in designated North Atlantic right whale critical habitat must have no effect on the physical and biological features.

- Yes
- N/A

Section 4: Impingement/Entrainment/Capture PDC

7. No intake of water at cooling water intake structures (CWIS) where early life stages are expected to be present:

- In the Connecticut River Atlantic and/or shortnose sturgeon ELS are expected to be present from April 15 to October 31.
- In the Merrimack River up to Haverhill, shortnose sturgeon ELS are expected to be present from April 1 to July 15.
- In areas of a river where PBF 1 (i.e., hard bottom substrate (e.g., rock, cobble, gravel, limestone, boulder, etc.) in low salinity waters (i.e., 0.0 to 0.5 parts per thousand range) needed for the settlement of fertilized eggs, refuge, growth, and development of early life stages), and PBF 2 (i.e., aquatic habitat with a gradual downstream salinity gradient of 0.5 up to as high as 30 ppt and soft substrate (e.g., sand, mud) between the river mouth and spawning sites for juvenile foraging and physiological development) are present.

- Yes
- N/A

8. CWIS must not have greater than 1 ft/s intake velocities in any waters to prevent impingement or entrainment of any juvenile-adult stage² ESA-listed sturgeon species. CWIS are also required to have appropriate sized mesh screens to block access of aquatic life to CWIS when operationally feasible and ESA-listed species may be present.

- Yes
- N/A

Section 5: Water Quality PDC

9. Any 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

² Any facility with a CWIS where ELS are present is excluded from the EPA NLAA Programmatic and will require individual consultation.

quality standards criteria); no discharges of unauthorized or toxic substances without justification supporting a NLAA determination for ESA-listed species.

- Yes
- N/A

10. Effluent bacteria levels should meet water quality standards at the point of discharge and must not reduce dissolved oxygen levels in a way that negatively affects ESA-listed species.

- Yes
- N/A

11. Nutrients must not reduce dissolved oxygen levels (particularly in summer months) in a way that negatively affects ESA-listed species.

- Yes
- N/A

12. Increased total suspended solids (TSS) should meet water quality standards and must not negatively affect sturgeon early life stages (ELS) or spawning.

- Yes
- N/A

13. Effluent temperature must meet water quality standards and an adequate dilution factor for any thermal plume in the receiving water body must be achieved.

- Yes
- N/A

Section 6: Habitat Modification PDC

14. No portion of the proposed action that may affect sturgeon will occur in areas identified as overwintering grounds³, where dense aggregations are known to occur as follows:

- In the Connecticut River from November 15 to April 15
- In the Merrimack River from November 1 to March 31

- Yes
- N/A

³ 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).

Section 7: Justification for Review under the EPA NLAA Programmatic

To demonstrate that a project is NLAA if any PDC above are not met, you must explain why the effects on ESA-listed species or critical habitat are insignificant (i.e., too small to be meaningfully measured or detected) or discountable⁴ (i.e., extremely unlikely to occur). Please use this language in your justification.

Specify which PDC is not met and explain why pollutants in Section 3 are not likely to adversely affect ESA-listed species (i.e., dilution factor, existing waterbody conditions (e.g., receiving water impairments, flow, location (i.e., not in CH or spawning area, tidal flushing)), meets WQS at the end of pipe, etc.):

PDC:	Justification:
PDC:	Justification:

⁴ When the terms “discountable” or “discountable effects” appear in this document, they refer to potential effects that are found to support a “not likely to adversely affect” conclusion because they are extremely unlikely to occur. The use of these terms should not be interpreted as having any meaning inconsistent with our regulatory definition of “effects of the action.”

Section 8: Analysis of Pollutants

Check all applicable boxes to indicate which standard and non-standard pollutants may affect water quality where ESA-listed species may be present. Specify the permit's discharge limitations for each applicable standard and non-standard pollutant below. For the purposes of the EPA NLAA Programmatic, standard effluent pollutants include oil and grease, pH, TSS/turbidity, nutrients, dissolved oxygen/biochemical oxygen demand, bacteria, and temperature.

Standard Pollutant	Permit-Specific Effluent Limitation
<input type="checkbox"/> Total suspended sediments (TSS)	
<input type="checkbox"/> Biochemical oxygen demand (BOD5)	
<input type="checkbox"/> pH	
<input type="checkbox"/> Oil and grease	
<input type="checkbox"/> Bacteria (e.g., fecal coliform, E.coli, Enterococcus)	
<input type="checkbox"/> Nutrients (e.g., total phosphorus, total nitrogen)	
<input type="checkbox"/> Temperature	
<input type="checkbox"/> Dissolved Oxygen (DO)	

The use of these terms should not be interpreted as having any meaning inconsistent with our regulatory definition of "effects of the action."

For any non-standard pollutants, you must explain why the effects on ESA-listed species or critical habitat are insignificant (i.e., too small to be meaningfully measured or detected) or discountable⁵ (i.e., extremely unlikely to occur) in the justification section below.

Non-Standard Pollutant	Permit-Specific Effluent Limitation
<input type="checkbox"/> Metals (e.g., copper, cadmium, lead, nickel, aluminum)	
<input type="checkbox"/> Chlorine	
Industrial Pollutants (e.g., benzene, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyl (PCBs), (volatile organic compounds) VOCs, formaldehyde, methyl tert-butyl ether (MTBE), hydrogen peroxide)	
<input type="checkbox"/> Other: 1. 2. 3.	

Justification for why non-standard pollutants above are not likely to adversely affect ESA-listed species or critical habitat:

Section 9: EPA Verification of Determination

In accordance with the NLAA Programmatic Framework for NPDES permits in EPA Region 1, EPA has determined that the action complies with PDC in Section 3 through Section 6, meets state and federal water quality standards, and is not likely to adversely affect listed species.

In accordance with the NLAA Programmatic Framework for NPDES permits in EPA Region 1, EPA has determined that the action is not likely to adversely affect listed species per the justification(s) provided in Section 7 and Section 8.

EPA Signature:

Date:

Section 10: GARFO Concurrence

In accordance with the NLAA Programmatic Framework for NPDES permits in EPA Region 1, GARFO PRD concurs with EPA’s determination that the action complies with all PDC in Section 3 through Section 6, meets state and federal water quality standards, and is not likely to adversely affect listed species or critical habitat.

In accordance with the NLAA Programmatic Framework for NPDES permits in EPA Region 1, GARFO PRD concurs with EPA’s determination that the action is not likely to adversely affect listed species or critical habitat per the justification(s) provided in Section 7 and Section 8.

GARFO PRD does not concur with EPA's determination that the action complies with the applicable water quality standards (with or without justification), and recommends an individual Section 7 consultation to be completed independent from the NLAA Programmatic Framework for NPDES permits in EPA Region 1.

GARFO signature:

Date:
