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 2020 and January 2024, 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**, **extremely unlikely**, 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 2024 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 **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 multi-species pile driving calculator 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=a85c0313b68b44e0927b51928271422a

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 1. 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. 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. 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. 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. 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 pile driving of any kind, please attach your calculation to this verification form to verify that it fits within the scope of the behavioral/injury threshold analysis for ESA-listed species in the action area. The NMFS Office of Protected Resources Acoustic Calculator is available as one source, should you not have other information:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effects-analysis-acoustics-greater-atlantic-region

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.

If your project includes pile driving of any kind, please attach your calculation to this verification form to verify that it fits within the scope of the behavioral/injury threshold analysis for ESA-listed species in the action area. The NMFS Office of Protected Resources Acoustic Calculator is available as one source, should you not have other information:

https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-effects-analysis-acoustics-greater-atlantic-region

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**.

For further technical guidance on the acoustic effects analysis for whales, please see Marine Mammal Acoustic Technical Guidance.

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. Submit your NLAA Program Verification Form

Once you have completed Sections 1- 4, move to Section 5 and be sure to check the appropriate box determining that the 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). Save your document. DO NOT sign the form until the assigned Section 7 biologist has reviewed the draft form and notified you that the form is complete and adequate.

Submit the draft PDF NLAA form 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. **Once the biologist has reviewed the form and notified you that the form is complete and adequate, enter a digital signature with your CAC in the signature box, insert the date, and email the form back to the biologist.**

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 are 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. Your signature date should be the initiation date (*i.e.*, the date when the verification form was determined to be complete and adequate by the Section 7 biologist).

Note: Please do not print, sign, and scan the form, as the original fillable PDF format allows us to sign our final concurrence and 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).

Extremely unlikely: In order to determine that effects of a particular project will be "extremely unlikely," you must be able to demonstrate that the effects are extremely unlikely to occur (*i.e.*, extremely unlikely 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 1: 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 up to as high as 30 parts per thousand and soft substrate (e.g., sand, mud) between the river mouth and spawning sites for juvenile foraging and physiological development.

3.	Water of appropriate depth and absent physical barriers to passage (e.g., locks, dams, thermal plumes, turbidity, sound, reservoirs, gear, etc.) between the river mouth and spawning sites necessary to support: (1) unimpeded movements of adults to and from spawning sites; (2) seasonal and physiologically dependent movement of juvenile Atlantic sturgeon to appropriate salinity zones within the river estuary; and (3) staging, resting, or holding of subadults or spawning condition adults. Water depths in main river channels must also be deep enough (e.g., at least 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, between the river mouth and spawning sites, 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 milligrams per liter (mg/L) dissolved oxygen (DO) or greater 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.