



Environmental Updates

Greetings Environmental Staff!

Here's the second edition of the newsletter, hopefully making this a trend.

Thanks for all the positive feedback from the first newsletter. As always, if you have any suggestions, requests, or recommendations, please feel free to reach out.

Waters of the US / State

On Tuesday, August 29, 2023, the EPA and USACE issued a final rule to amend the final "Revised Definition of 'Waters of the United States'" rule, published in the Federal Register on January 18, 2023.

[Link to EPA Amendment to the 2023 Rule Web Page](#)

[Fact Sheet](#)

[Waters Rule Amendments](#)

401:

There is some confusion on if the changes proposed in the [Farm Act](#) would become effective immediately upon the release of the Federal Rule, or if the Environmental Commission would need to meet to make it effective.

DWR has clarified they are operating under the Farm Act since it was signed. In summary, DWR will not regulate wetlands that the Corps does not.

"User Friendly" NRTR Scope

Our scope has been updated to now serve as more of a guidance checklist to navigate through each deliverable. It now includes:

- task descriptions,
- references and links to the guidance document to complete each task,
- provides the location on where to place the deliverable (including SharePoint Location and Topic) and any other additional steps (such as which Checklist to use and where to put it).

Best of all, it allows you to rapidly develop a scope (<5 minutes) that's flexible for all or part of the NRTR tasks, while ensuring all of the necessary information is provided to the firm.

A blank PDF version and Excel version have been placed on our ECAP Website for your use.

More Checklists/Guidance

As mentioned in the previous Newsletter, as part of a Technical Services initiative, we have streamlined our [NRTR guidance documents into a checklist format](#).

We now have checklists [published on our website for](#):

[-Survey Notification Letters,](#)

[-Jurisdictional Determination Packages.](#)

[The new scope references these documents and when to use them.](#)

Permit Expirations

Each July, ECAP Staff runs through the projects that have expiration dates in the coming FY. Since this is not a GP or NWP expiration year, the list would only include IPs expiring at the end of the calendar year. We have no central IP's expiring at the end this year.

Request from the Corps - LFA

The Corps has requested a clear and consistent indicator on our permit application indicating who the Lead Federal Agency is for the project. If possible, please place this information in the subject line of the cover letter, or if there is no cover letter, in the project description of the ePCN. It can be as simple as "LFA: USACE or LFA: FHWA."

Post-Environmental Doc Tribal Coordination Letter

In the event a project reaches the permitting stage and tribal coordination letters need to be sent, a "permitting version" of the letter has been developed. This version contains language appropriate for a project at this stage.

This letter should only be used with your approval and all Tribal Coordination Letters must be signed and sent by an NCDOT employee.

The letter can be found on our website at:

<https://connect.ncdot.gov/resources/Environmental/EAU/ECAP>

Contracts-Friendly Permit Package Cover Letter

Some of you have requested the template for our Permit Package Cover Letter distribution. This template was streamlined to for consistency and to easily identify the permits required for the project, as well as to bring the permit expiration dates to the forefront.

The template can be found on our website at:

<https://connect.ncdot.gov/resources/Environmental/EAU/ECAP>

Bat Habitat Assessments in Divisions 1-8

Our Standard NRTR Scope Template has been updated to include a Bat Habitat Assessment Procedure as found on the Biological Surveys Webpage at:

<https://connect.ncdot.gov/resources/Environmental/EAU/BSG>

While not part of the NRTR itself, accomplishing this Assessment at the NRTR stage, is a Conservation Measure for the Eastern Bat Programmatic Agreement.

In Divisions 9-14, surveys will be conducted in-lieu of this Assessment Form.

ETRACS Update for Divisions Requesting Section 7 Resurveys

To eliminate multiple Section 7 Requests for each project we have created a new request type called “[Division-only] Sec. 7 Resurvey Request (Aquatics and/or Bats).”

For initial surveys, please continue to use the Section 7 Request. For subsequent surveys (resurveys) please use the new request type noted above.

Tree Clearing in Divisions 1-8 for Tricolored Bat

We do not anticipate a seasonal tree cutting restriction for tricolored bat in Divisions 1-8.

A programmatic agreement is currently being developed, but at this time, the difference in the ecology of the species does not warrant a seasonal tree cutting restriction in the east.

About this Newsletter:

We’re hoping this email product will help improve the communication of updates, guidance, and resources to help navigate through everchanging environmental issues.

Newsletter Frequency:

We expect the frequency of this “newsletter” to be bi-monthly (every other month), however, as information and resources come out that may be useful, we’ll send those out as appropriate.

Intended Audience:

We believe that this information will be mostly geared toward and beneficial to Division Environmental Staff (including PDEA Engineers, Division Environmental Officers, and Division Environmental Specialists), however, each Division operates a little differently, so if there are other folks who may benefit from these updates, please feel free to email ecap@ncdot.gov and we’ll be happy to add them to the distribution list. Alternatively, if you do not wish to receive this, we’ll be glad to remove you from the list.

Please feel free to let us know if you have suggestions, requests, or recommendations.