

Attachment 6

Excerpts from Final Modification of RCRA Corrective
Action Permit issued October 2016 (“Modified Permit”),
including Attachments B and C

GENERAL ELECTRIC COMPANY, PITTSFIELD, MASSACHUSETTS
FINAL PERMIT MODIFICATION TO THE REISSUED RCRA PERMIT
AND SELECTION OF CERCLA REMEDIAL ACTION AND OPERATION & MAINTENANCE FOR REST OF RIVER
October 2016

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA NEW ENGLAND

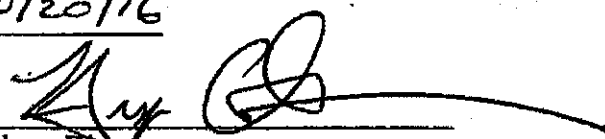
PERMIT UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)
AS AMENDED (42 U.S.C. SECTION 6901 ET SEQ.)

General Electric Company
159 Plastics Avenue
Pittsfield, Massachusetts 01201
EPA I.D. No. MAD002084093

The Permittee is required to conduct certain activities at areas affected by releases of hazardous waste and/or hazardous constituents from the General Electric Facility located in Pittsfield, Massachusetts, in accordance with Sections 3004(u), 3004(v), and 3005(c) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), as specified in the conditions set forth herein.

This Permit has been prepared for RCRA Corrective Action activities to be performed by General Electric pursuant to a final Consent Decree, United States, et al. v. General Electric Company (D. Mass.) ("Consent Decree"). The Consent Decree memorializes an agreement to address releases of Waste Materials, including hazardous substances, hazardous waste, and/or hazardous constituents from the General Electric Company's Facility in Pittsfield, Massachusetts, including, but not limited to, the releases of hazardous waste and/or hazardous constituents addressed in this Permit. This Permit, upon the Effective Date, shall replace the HSWA Permit previously issued to the Permittee, initially issued on February 8, 1991, modified effective January 3, 1994, reissued in October 2000 and reissued again, effective December 5, 2007. Upon the Effective Date of this Reissued Permit, the previously issued 2007 Permit hereby is revoked, and, pursuant to the Consent Decree, the Remedial Action set forth in the Permit shall be implemented pursuant to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Consent Decree.

Dated: 10/20/16

Signed: 
Bryan Olson, Director,
Office of Site Remediation and Restoration
U.S. Environmental Protection Agency, EPA New England
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912



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(2) Corrective Measures

To achieve and maintain these Performance Standards, Permittee shall remove sediment, install an Engineered Cap or backfill in the Backwaters, and place an amendment such as activated carbon and/or other comparable amendments in the Backwaters, and perform all other related activities. Permittee shall perform the foregoing pursuant to the Performance Standards and the requirements in Section II.B.2.d.(2)(a) and (b) below, and in accordance with plans submitted and approved pursuant to Section II.H. of this Permit.

- (a) Permittee shall propose in a Pre-Design Work Plan (see Section II.H.3. below) additional sampling for PCBs in sediment, and a method for averaging surface and subsurface PCB concentrations using a 50-foot grid, including proposed averaging areas and depth intervals.
- (b) The location of sediment excavated and/or capped per this subsection shall be determined based on the collection of additional PCB data on a 50-foot sample grid. For Section II.B.2.d.(1)(b), sediment shall be removed from the Thiessen polygon associated with each discrete sample with ≥ 50 mg/kg total PCBs.

e. Woods Pond (Reach 6)

(1) Performance Standards

- (a) Sediment shall be removed throughout the pond and an Engineered Cap shall be placed over residual PCBs to result in a post-capping minimum water depth of 6 feet measured from the crest of the dam, except in near-shore areas where the slope from the shore to the 6-foot water depth shall be as steep as possible, while also being stable and not subject to erosion or sloughing. In areas deeper than 6 feet prior to remediation, sufficient sediment shall be removed to allow for the placement of an Engineered Cap so that the final grade is equal to or deeper than the original grade.

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- (b) Permittee shall conduct updated bathymetric surveys before sediment removal, and before and after capping. The post-capping bathymetry survey shall be the baseline used in determining the amount of future sediment deposition on the Engineered Cap.
 - (c) If during monitoring following construction, EPA determines that significant concentrations and depths of PCB-contaminated sediment have accumulated above the Engineered Cap in Woods Pond, the Permittee shall remove such accumulated sediment while ensuring the integrity of the Engineered Cap.
 - (d) Remediation activities shall result in no net loss of FSC and no increase of water surface elevation in this Reach.
- (2) Corrective Measures

To achieve and maintain these Performance Standards, Permittee shall conduct sediment removal, capping, bathymetric surveys, and perform all other related activities. Permittee shall perform the foregoing pursuant to the Performance Standards and in accordance with plans submitted pursuant to Section II.H. below.

- f. Columbia Mill Impoundment (Reach 7B), Eagle Mill Impoundment (Reach 7C), Willow Mill Impoundment (Reach 7E), and Glendale Impoundment (Reach 7G).

(1) Performance Standards

- (a) For surface sediment (0- to 12-inch depth): remove sufficient sediment, including any areas with ≥ 50 mg/kg total PCBs, and replace with a contiguous Engineered Cap to achieve a spatially-weighted average concentration of 1 mg/kg total PCBs in surface sediment in each averaging area. When calculating post-remediation surficial spatially-weighted average concentrations, a total PCB concentration equal to 1% of the existing average surficial concentration shall be used as the PCB concentration in capped areas.

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- (b) The Permittee shall propose a program to minimize adverse impacts of construction activities on the environment (e.g., resuspension) including:
- i. Measures to assess these impacts (e.g., establishing notification and action levels for PCBs measured in surface water);
 - ii. A monitoring plan to collect these data; and
 - iii. Establishing response actions (e.g., slowdown and evaluation of operations, stop work and modification of operations, etc.).

This program shall be designed to be consistent with an adaptive management approach, as outlined in Section II.F. below.

- (2) An inspection, monitoring, and maintenance program shall be conducted in phases and be implemented upon completion of each phase of the Rest of River Remedial Action, except for areas subject to MNR. For areas where MNR is the Performance Standard, monitoring shall begin with baseline monitoring and shall continue throughout the Remedial Action and Operation and Maintenance.

The inspection, monitoring, and maintenance program shall be implemented throughout the Remedial Action to evaluate the effectiveness of the Corrective Measures in achieving Performance Standards, to evaluate MNR, to monitor the sediment accumulation above the Engineered Caps at Woods Pond and Rising Pond, and to conduct maintenance, repair, or other response actions necessary to achieve and maintain compliance with Performance Standards. This program shall be designed to be consistent with an adaptive management approach as outlined in Section II.F. below.

5. Off-Site Disposal of Contaminated Sediment and Soil

a. Performance Standard

The Permittee shall dispose of all contaminated sediment and soil, as well as other waste material, off-site at existing licensed facilities that are approved to receive such waste material and are in compliance with EPA's off-site rule (40 C.F.R. 300.440.)

ATTACHMENT B
MASSACHUSETTS DIVISION OF FISHERIES AND WILDLIFE CORE
HABITAT AREA FIGURES, HOUSATONIC RIVER PRIMARY STUDY
AREA (PSA), AND JULY 31, 2012 LETTER FROM MASSACHUSETTS
DIVISION OF FISHERIES AND WILDLIFE



MassWildlife

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

July 31, 2012

Robert G. Cianciarulo, Chief
Massachusetts Superfund Section
Office of Site Remediation and Restoration
EPA New England (OSRR-07-01)
5 Post Office Square
Boston, MA 02109-3912

Re: Housatonic River, Core Habitat Areas in the Primary Study Area

Dear Mr. Cianciarulo:

As you are aware, the states of Massachusetts and Connecticut have been working cooperatively for the last several months to discuss potential approaches to clean up the Rest of River portion of the GE Housatonic site. These discussions have focused, in part, on the need to address the risks from polychlorinated biphenyls (PCBs) to humans, fish, and wildlife while avoiding, mitigating or minimizing the impacts of the cleanup on the unique ecological character of the Housatonic River. Minimizing impacts to habitat and, in particular, species listed pursuant to the Massachusetts Endangered Species Act, M.G.L. c. 131A ("MESA"), and 321 CMR 10.00 (the "MESA Regulations") presents unique challenges as almost the entire Primary Study Area (PSA) is mapped as Priority Habitat for state-listed species (for a description of Priority Habitat and its regulatory function please see:

http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/priority_habitat/priority_habitat_home.htm. Therefore, in order to help identify the most important areas for habitat protection, as well as habitats and species that might be particularly sensitive to impacts from PCB remediation activities, the Massachusetts Division of Fisheries and Wildlife ("DFW") developed maps of "Core Habitat Areas." The purpose of this letter is to provide an overview of the approach we used to identify the Core Areas.

As part of our Priority Habitat mapping process, taxonomic experts from DFW's Natural Heritage & Endangered Species Program ("NHESP") routinely delineate habitat for each state-listed species, based on actual field-documented records, or "occurrences." There are four types of Housatonic Core Areas. Core Areas 1, 2, and 3 represent subsets of the delineated state-listed species habitat found in the PSA. Core Area 4 represents a subset of the documented and potential vernal pool habitat in the PSA. Please refer to the enclosed maps dated May 21, 2012 which depict the locations of these Core Areas, entitled "Core Habitat Areas, Housatonic River Primary Study Area (PSA)", "Core Habitat Areas (Core Area 2), Housatonic River Primary Study Area (PSA)", and "Part of the Housatonic River Showing Primary Study Area, High Species Richness, and Vernal Pools".

Core Area 1 includes the highest quality habitat for species that are most likely to be adversely impacted by PCB remediation activities (Table 1). As can be seen in Table 1, most of these species are plants that are not mobile, and are very sensitive to the expected effects of soil remediation

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An Agency of the Department of Fish and Game

activities. Core Area 1 also includes habitat for one state-listed moth species that inhabits mature floodplain forest, one habitat area for the Jefferson's Salamander, and Triangle Floater mussel beds. Some of the plant species found in Core Area 1 are located in floodplain forest, which is not readily restorable and would take decades to return to its current state, if ever. Finally, Core 1 includes areas that are excellent examples of two rare natural communities – High Terrace Floodplain Forest and Black Ash Bur Oak Hemlock Swamp.

Core Area 2 includes the highest quality habitat for more mobile species that may be less vulnerable to remediation impacts, species where the habitat is likely to be somewhat more easily restored, and listed species that may be of a somewhat lower conservation concern, given their state-wide distribution (e.g. American Bittern; see Table 2). For example, the Mustard White is a Threatened butterfly species of significant conservation concern that uses a mix of natural areas along the river and old field habitat. It may be possible to remediate its habitat in phases, restoring and replacing host plants as the work is completed.

Core Area 3 includes those areas with dense concentrations of state-listed species. Specifically, Core Area 3 includes areas where Division biologists have delineated overlapping habitat for eight (8) or more state-listed species.

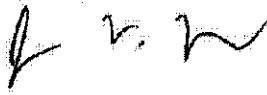
Core Area 4 includes all certified vernal pools in the PSA as well as additional potential vernal pool habitat areas which, based on information provided by GE and EPA, are likely to meet the Massachusetts criteria for vernal pool certification based on the presence of "obligate" vernal pool breeding amphibians see:

http://www.mass.gov/dfwele/dfw/nhesp/vernal_pools/vernal_pool_cert.htm.

These Core Areas played an important role during recent discussions between the EPA and the states of Massachusetts and Connecticut regarding potential remediation approaches to Rest of River. Consistent with the requirements of MESA and the MESA Regulations, the Core Areas are helping to guide efforts to avoid, minimize and mitigate impacts to state-listed species. Although a final MESA evaluation will not be completed until the remedy design phase, by focusing on the Core Areas, EPA and the Commonwealth believe that a framework has been established to achieve MESA permitting standards of assessing alternatives to both temporary and permanent impacts to state-listed species, and of limiting the impact to an insignificant portion of the local populations of affected species. See 321 CMR 10.23. For example, the parties focused on avoidance of some of the most important and sensitive rare species habitats in Core Area 1. Similarly, in Core Areas 2 and 3, avoidance of impacts when practical, careful consideration of PCB remediation methods and the sequence and timing of remediation activities, as well as after-the-fact habitat mitigation are all approaches that will assist in achieving the substantive requirements of MESA. Although the Core Areas play an important role in guiding avoidance and minimization of impacts to state-listed species, in some cases the "take" of state-listed species is likely to be unavoidable. In those cases, consistent with MESA's status as a location-specific applicable or relevant and appropriate requirement ("ARAR"), the Commonwealth will work with GE and the EPA to minimize impacts and to ensure that an adequate long-term net-benefit mitigation plan for the affected state-listed species is designed and implemented, as required by 321 CMR 10.23(2)(c).

If you have any questions about this letter, please don't hesitate to contact me.

Sincerely,



Jon Regosin, Ph.D.
Chief of Conservation Science
Natural Heritage & Endangered Species Program

Encl.: Table 1. Species and Natural Communities Included in Core Area 1 Delineation
Table 2. Species and Natural Communities Included in Core Area 2 Delineation

cc: Mark Tisa, MA Division of Fisheries & Wildlife
Richard Lehan, MA Department of Fish & Game
Mike Gorski, MA Dept. of Environmental Protection
Eva Tor, MA Dept. of Environmental Protection
Traci Iott, CT Dept. of Energy & Environmental Protection

ATTACHMENT C
SUMMARY OF APPLICABLE OR RELEVANT AND APPROPRIATE
REQUIREMENTS (ARARs)

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SUMMARY OF APPLICABLE OR RELEVANT AND APPROPRIATE REQUIREMENTS (ARARs)
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Statute/Regulation	Citation ^a	Synopsis of Requirements	Status	Action(s) to be Taken to Achieve ARARs
Massachusetts Wetlands Protection Act and Regulations	MGL c. 131, section 40 310 CMR 10.00, including 10.53	permitted to manage stormwater for flood control purposes if there is no practicable alternative and best management practices are implemented; (g) no dredging is permitted in rare circumstances where the activity will result in substantial adverse impacts to the physical, chemical, or biological integrity of waters; (h) no dredging is permitted in Outstanding Resource Waters.	Applicable	<p>Any dredging for stormwater detention or management purposes would be conducted per the requirements.</p> <p>Any dredging in Outstanding Resource Waters (certified Vernal Pool) would satisfy the substantive requirements of 9.08 because all reasonable measures will be taken to avoid, minimize and mitigate adverse effect on the environment and the remedy is justified by an overriding public interest.</p> <p>The remedy does not include dredging where the activity will result in substantial adverse impacts to the physical, chemical, or biological integrity of waters.</p>
		<p>These requirements govern removal, dredging, filling or altering of banks, riverfront areas, inland wetlands, land subject to flooding and other areas, including provisions on limited projects. Provisions include 10.53(3), which authorizes certain projects as "limited projects", including, in 10.53(3)(q), responses to a release or threat of release of oil and/or hazardous materials in accordance with the Massachusetts Contingency Plan (MCP), where there is no practicable alternative consistent with the MCP and that would be less damaging to resource areas, and which avoids or minimizes impacts to resources, including meeting specific standards to the maximum extent practicable.</p>		<p>Any remedy activities that remove, dredge, fill, or alter such areas will be conducted in accordance with these standards.</p> <p>The remedy, to be implemented as a CERCLA response action, is in accordance with the MCP, has no practicable alternative consistent with the MCP that would be less damaging to resource areas, and avoids or minimizes impacts to resource areas, including meeting specific standards to the maximum extent practicable, and thus meets the standards for a "limited project" under 10.53(3)(q).</p> <p>Remedial work that may affect specified habitat sites of Rare Species will be carried out in accordance with the MESA ARAR requirement for a Conservation and Management Plan. Therefore, the remedy will not necessitate a waiver from the prohibition in 10.53(3).</p>

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Statute/Regulation	Citation ^a	Synopsis of Requirements	Status	Action(s) to be Taken to Achieve ARARs
Massachusetts Dam Safety Standards	302 CMR 10.00	Regulations govern design and construction of new and existing dams, and removal of existing dams, and inspection of dams.	Potentially applicable	The remedy includes provisions for inspection, operation and maintenance of dams, and management of materials generated during work on, or removal of, a dam. Additionally, to the extent that these regulations are applicable to a Massachusetts dam which is in the area of remedy activity, the remedy will comply with these regulations.
Massachusetts Facility Location Standards	310 CMR 30	Location standards for hazardous waste management facilities, including, but not limited to, Land Subject to Flooding and Areas of Critical Environmental Concern (ACEC). Criteria for proposed projects that name specific sites, including restrictions on projects in an ACEC or in wetlands.	Potentially applicable	The remedy includes, among other components, the excavation of PCB-contaminated soil and sediment and the off-site disposal of such excavated soil and sediment at existing licensed facilities approved to receive such material. For portions of the remedy implemented outside the ACEC (or, implemented at locations outside but adjacent to or in close proximity to the ACEC that are protective of the outstanding resources of the ACEC), PCB-contaminated material that is hazardous waste solely due to PCB concentration greater than or equal to 50 ppm is regulated for cleanup and off-site disposal as PCB-remediation waste under 40 C.F.R. Part 761 (see Attachment D to the Permit), and thus, per 310 CMR 30.501(3)(a), the provisions of 310 CMR 30, including 310 CMR 30.708, do not apply. Portions of the remedy will also be implemented in the ACEC. PCB-contaminated material will be regulated for cleanup and off-site disposal as PCB-remediation waste under 40 C.F.R. Part 761, and the provisions of 310 CMR 30, including 310 CMR 30.708, may apply. The remedy portions in the ACEC may necessarily include temporary management of material excavated during implementation prior to off-site disposal. Such temporary management includes, without limitation, temporary stockpiling or accumulation of materials, and the potential inclusion of locations related to railroad transport of materials excavated during implementation of the remedy.

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Statute/Regulation	Citation ^a	Synopsis of Requirements	Status	Action(s) to be Taken to Achieve ARARs
				<p>For each area in which hazardous waste is temporarily managed during remedy implementation, including those within the ACEC, the remedy includes provisions for restoration of what is disturbed by the temporary management of materials, and for final disposition of materials through off-site disposal.</p> <p>To the extent: 1. The provisions of 310 CMR 30 apply to the temporary management of materials during implementation of the remedy after excavation and prior to off-site disposal; 2. The materials temporarily managed on-site during implementation of the remedy constitute hazardous waste under this regulation, and are not subject to any regulatory exemption such as 310 CMR 30.104(3)(f) exempting dredged materials; and 3. The locations for temporary management of the materials are within the ACEC (or, the locations are outside but adjacent to or in close proximity to the ACEC and such locations are not protective of the outstanding resources of the ACEC); EPA, in consultation with the Commonwealth, considers as waived, pursuant to CERCLA 121(d)(4)(C), the requirements of 310 CMR 30 that prohibit such temporary hazardous waste management locations during implementation of the remedy.</p>

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Statute/Regulation	Citation ^a	Synopsis of Requirements	Status	Action(s) to be Taken to Achieve ARARs
Massachusetts Site Suitability Criteria	310 CMR 16.40(3),(4)	Site suitability criteria for solid waste facilities, including facility-specific and general site suitability criteria.	Potentially applicable	<p>The remedy includes, among other components, the excavation of PCB-contaminated soil and sediment and the off-site disposal of such excavated soil and sediment at existing licensed facilities approved to receive such material. Portions of the remedy will be implemented in the ACEC, or in a Resource Area or Riverfront Area.</p> <p>As provided in Attachment D to the Permit, PCB-contaminated sediments and soils in the Rest of River are regulated for cleanup and off-site disposal as PCB-remediation waste under 40 C.F.R. Part 761. If the remedy involves sediments and soils with PCB concentrations below 50 ppm, and such sediments and soils are not commingled with sediments and soils with PCB concentrations at or above 50 ppm or other hazardous wastes, siting standards in 310 CMR 16 are potentially applicable, rather than 310 CMR 30.</p> <p>The remedy portions in the ACEC (or, at locations outside but adjacent to the ACEC) or at a Resource Area or Riverfront Area may necessarily include temporary management of material excavated during implementation prior to off-site disposal. Such temporary management includes, without limitation, temporary stockpiling or storage of materials, and the potential inclusion of locations related to railroad transport of materials excavated during implementation of the remedy.</p> <p>For each area in which solid waste may be temporarily managed during remedy implementation, including those within the ACEC or Resource Area or Riverfront Area, the remedy includes provisions for restoration of what is disturbed by the temporary management of materials, and for final disposition of materials through off-site disposal.</p>

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Statute/Regulation	Citation*	Synopsis of Requirements	Status	Action(s) to be Taken to Achieve ARARs
Massachusetts Historical Commission Act and Regulations	MGL c. 9, section 27C 950 CMR 71.07	If a project has an area of potential impact that could cause a change in the historical, architectural, archaeological, or cultural qualities of a property on the State Register of Historic Places, these provisions establish a process for notification, determination of adverse impact, and evaluation of alternatives to avoid, minimize or mitigate such impacts.	Relevant and appropriate	To the extent: 1. the provisions of 16.40 apply to the temporary management of materials during implementation of the remedy after excavation and prior to off-site disposal; 2. the materials temporarily managed on-site during implementation of the remedy constitute solid waste under this regulation; and 3. the locations for management of the materials are within the ACEC (or, the locations are outside but adjacent to the ACEC and such locations fail to protect the outstanding resources of the ACEC) or in a Resource Area or Riverfront Area: EPA, in consultation with the Commonwealth, considers as waived, pursuant to CERCLA 121(D)(4)(C), the requirements of 16.40 that prohibit or restrict such temporary solid waste management locations during implementation of the remedy. If such properties are present in the area of remedy activities, the remedy will comply with these requirements.

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Massachusetts Endangered Species Act (MESA) and Regulations	MGL c. 131A 321 CMR 10.00, Parts I, II, and V. 321 CMR 10.00, Part IV	<p>A proposed activity in mapped Priority Habitat for a state-listed rare, threatened, endangered species or species of special concern, or other area where such a species has occurred may not result in a "take" of such species, unless it has been authorized for conservation and management purposes that provide a long-term net benefit to the conservation of the affected state-listed species.</p> <p>A conservation and management permit may be issued provided an adequate assessment of alternatives to both temporary and permanent impacts to State-listed species has taken place, an insignificant portion of the local population would be impacted by the project or activity, and an approved conservation and management plan is carried out that provides a long-term Net Benefit to the conservation of the State-listed species.</p> <p>Projects that will alter a designated Significant Habitat must be reviewed to ensure that they will not reduce the viability of the habitat to sustain an endangered or threatened species.</p>	Applicable	<p>The remedy will take place in priority habitat for one or more state-listed species. In implementing the remedy, impacts to state-listed species and their habitats will be avoided or minimized wherever possible. The processes outlined as part of the remedy for work in Core Habitat areas were developed in consultation with the Commonwealth and will satisfy these requirements.</p> <p>To the extent that unavoidable impacts result in a take of state-listed species, EPA would follow the regulatory requirements with respect to implementing a conservation and management plan providing for a long-term net benefit to the affected state-listed species.</p> <p>In a July 31, 2012 letter to EPA, the MA National Heritage and Endangered Species Program identified those state-listed species potentially affected in the project area. Note that since that date, Massachusetts has delisted particular species; in design and implementation of the remedy, EPA, in consultation with MA, will use the then-current listing of State-listed species.</p> <p>There are no designated Significant Habitats in the remedy area. To the extent that a Significant Habitat is designated in the remedy area, this provision will be complied with.</p>
Massachusetts Area of Critical Environmental Concern (ACEC)	301 CMR 12.00	Provides for establishment of Areas of Critical Environmental Concern in the State. ACEC designation affects other state laws and regulations.	Applicable	An ACEC has been established in part of the Rest of River area. The remedy takes into account this designation and the restrictions in other state laws/regulations related to activities in an ACEC.