

Task 2: Examine, identify and address regulatory issues associated with LS practices and develop efficiencies for permitting
 Lead: State CZM Programs; NROC
 Support: TNC; outreach partners
 Timeframe: 18 months (May 2016 - November 2017)

- Subtask 2.1 List of Task 1 Regulatory Barriers & Opportunities, by federal and state levels**
- Subtask 2.1.1 Take list and ground-truth to state experiences so that a detailed analysis of each can be developed
- Subtask 2.1.2 Through ground-truthing, revise list into possible solutions with identification of regulatory efficiencies
- Subtask 2.1.3 Through regional discussion Fine-tune list for preparation and use at Regional workshops
- Subtask 2.2 NROC's LS Working Group to organize regional workshops to further define and clarify Regulatory Barriers & Opportunities**
- Subtask 2.2.1 Using a similar approach as Subtask 2.1 develop facilitated workshops with agendas to further define and clarify issues
- Subtask 2.3 Evaluate Effectiveness of workshops in addressing participants' needs**

	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17		
Subtask 2.1.1				Task 2.1.1																	
Subtask 2.1.2				Subtask 2.1.2																	
Subtask 2.1.3						Subtask 2.1.3															
Subtask 2.2.1													Subtask 2.2.1								
Subtask 2.3																		Subtask 2.3			

Common Barrier/Opportunity	Selected State Specific Statements on Barriers and/or Opportunities					Potential Path(s) to Solution?
	CT	RI	MA	NH	ME	
<p>Definition -- <i>Not commonly defined or consistent across region</i></p>	No legal definition leaves living shorelines option open to poor practices that do not achieve the desired effect enhancing, maintaining, creating habitat	General statement of preference but no guidance on use	Lack of a specific definition has generally not been an issue/barrier. Current language utilizes terms such as “non-structural”	No legal or official definition of "living shoreline" in New Hampshire Occasional misperception among stakeholders as to what a living shoreline is and reasons for its implementation	NRPA, DEP wetlands rules and other pertinent state regulatory authorities do not define or provide management terms specific to a "living shoreline project"	CT Working Definition: A shoreline management practice which restores, enhances, maintains or creates natural coastal or riparian habitat, functions and processes and also functions to mitigate flooding or shoreline erosion through a continuous land-water interface. Coastal and riparian habitats include but are not limited to intertidal flats, tidal marsh, beach/dune systems, and bluffs. Living shorelines may include <u>structural</u> features that are combined with natural components to attenuate wave energy and currents.
	"Structural features" component leaves door open to hard structures in coastal zone	No definition of Living Shoreline/Green Infrastructure practices or activities. Preferred method in regulations is to work landward rather than seaward	Consistency across programs on what constitutes “living shoreline” / natural infrastructure could improve consistency and understanding	Opportunity to educate on the purpose and benefits of a living shoreline, and the differences to either a restoration project or a hard bank stabilization project	No state agency has statutory responsibility for management or oversight over the “public easement” on privately-owned intertidal lands;	Maine has several possible agency-specific terms that encompass and can help define a LS/GI project, such as: "functionally water-dependent;" "de minimus project-specific and cumulative environmental effects;" "minimization of unavoidable impacts;" and "least damaging practicable alternative"
	Provides for use of living shorelines in Connecticut: "To disallow any filling of tidal wetlands and nearshore, offshore and intertidal waters ... unless it is found that the adverse impacts on coastal resources are minimal."	Fill is Prohibited on shoreline features adjacent to Conservation and Low Intensity waters; Beneficial re-use of dredged material can be a source of living shoreline material and is consistent with state law/beneficial use requirement	Concerns and/or standards about the conversion of one habitat type to another may limit or prohibit the implementation of a “living shoreline” / natural infrastructure practice (e.g., loss of intertidal habitat for beach/dune restoration; loss of shellfish habitat to restore lost salt marsh; rock or other sills to protect salt marsh banks)	Opportunity to reference, encourage, and/or prioritize living shoreline approach for bank stabilization; and/or prioritize projects that minimize adverse impacts on fish, wildlife and natural environmental values...with expected beneficial impacts	Wetlands rules do not expressly allow comparison of the overall environmental effects of conversion from one type of habitat to another that may result over time from use of a "living shoreline project" or comparison of the environmental benefits that may result in later years and offset or compensate for short-term, construction-related effects of such a project	Maine: Amend the wetlands regulations (various sections) as needed to clarify that for a living shoreline project in a suitable location conversion of one habitat-type to another (e.g., open water to fringe marsh) is not an unreasonable adverse effect and is permissible; Specify that for certain “living shoreline” projects DEP shall consider the wetlands-related functions and values created by the project adequate to offset in whole or in part the need for compensatory mitigation for functions and values affected by the project; Clarify that “living shoreline” projects in suitable sites are “water dependent” uses for which a rip-rap or other hard-structure design may not be presumed to

<p>Habitat Trade-off -- Restoration v. Fill</p>	<p>Where feasible and environmentally acceptable, to encourage the "creation of wetlands" for the purpose of (1) shellfish and finfish management, (2) habitat creation and (3) dredge spoil disposal</p>	<p>Alterations to coastal wetlands abutting Conservation Waters are prohibited except for minimal alterations associated with maintenance on approved shoreline protection structures</p>	<p>Creation of nearshore reefs may have adverse impacts on sediment transport and wave dynamics; habitat fill; among others</p>	<p>Opportunity to incentivize, encourage, and/or prioritize living shoreline implementation if shown to benefit the minimum standards necessary to protect the public waters of the state of New Hampshire</p>	<p>Wetlands rules do not expressly allow consideration of the wetlands functions and values resulting from a "living shoreline project" in determining compensatory mitigation requirements</p>	<p>be a practicable alternative; Establish a presumption that a "living shoreline" project in suitable location is the least environmentally damaging practicable alternative</p>
	<p>"Creation of wetlands" encouraged for shellfish and finfish management. Opportunity to allow living shoreline creation IF this benefit can be shown.</p>	<p>In SAV habitats designated for preservation alterations that will impact the health of SAV are prohibited</p>	<p>Marsh elevation may not be allowed under current regulations; still significant uncertainty about the practice however support exists for pilot project with robust monitoring and evaluation</p>	<p>Standards are in place for the use and development of the shorelands of NH's public waters, with prohibitions on "construction, excavation, or filling activities" unless so permitted by NHDES Wetland Bureau when "directly related to ...environmental restoration or enhancement projects."</p>	<p>The alternatives analysis requirement, coupled with the wetlands rules' focus on effects on existing habitat conditions, inhibits adoption of living shorelines project</p>	<p>CT: Living shorelines should not be regulated as fill? Living shoreline projects could be coastal restoration projects that also have the co-benefit of shoreline protection. All States and within ACOE GP: Marsh surface elevation and/or thin layer deposition appears directly or obliquely through marsh restoration allowances and could be added to living shoreline practices</p>