



# Nature-Based Solutions (NBS) Regulatory Needs and Best Practices Sub-Work Group

## Southeastern Defense Communities Resilience Workshop Sessions Brief

On March 13-14, 2024, University of Georgia hosted a workshop to bring military and civilian leaders from across the southeast region together to discuss practical methods to support climate resilience planning and nature-based infrastructure development in defense communities. The SERPPAS NBS Regulatory sub-work group led most of the sessions on the second half-day including two panels and a breakout. Participants included Installation and service representatives, Sentinel Landscape coordinators, defense community partner NGOs, University of Georgia faculty and staff, and faculty and staff from other southeastern universities.

## Panel 1: Nature-Based Solutions Regulatory Issues Case Studies

Panelists: **Todd Miller**, Senior Advisor and Founder, North Carolina Coastal Federation, **Garey Payne**, Acquisition Program Manager for the Air Force Civil Engineer Center, Natural Disaster Recovery Division, at Tyndall Air Force Base, Florida, **Brent Widener**, Chief, Environmental Management Division, US Army Garrison Fort Moore, Georgia

Purpose: To share issues of concern in NBS projects and give examples of successes and challenges. Case studies will focus on living shorelines, coastal resilience, and stream restoration projects.

Common challenges raised in these case studies:

- Existing rules do not take into account changes occurring due to climate change and sea level rise or restoration goals and sometimes result in sub-optimal design
- Existing policy does not fully reflect the national priority to use NBS and many newly funded projects
- Regulatory disincentives – it is easier to permit non-NBS infrastructure projects, this may compromise designs
- Agencies lack capacity to review and issue permits- have not been able to keep up with new funding
- Separate reviews by multiple agencies are required for large or innovative projects, which can result in conflicting guidance and significant delays
- Misalignment between regulatory review and budgeting cycles
- Constant re-education of installation command due to normal leadership rotation, and steep learning curve of applicants in the NBS regulatory process
- Expertise to implement or even evaluate NBS not resident on the installation, yet they must approve

Among the solutions proposed by the speakers:

- Lead agency should provide updated formal regulatory guidance for large-scale projects
- Conduct Programmatic Environmental Assessment under NEPA
- Mandate the Best Practical Environmental alternative (e.g., permit applicant must show that NBS is not practicable before traditional infrastructure will be permitted, as with living shorelines in MD)
- Enable projects that address habitat shift occurring due to climate change
- Address capacity and expertise challenges with partnerships, such as university or NGO specialists
- A new set of categorical exclusions is needed to address NBS projects
- New legislation is needed to consider net beneficial effects, improving systems for species, cost savings, improving mission readiness and effectiveness
- Encourage financial incentives and peer to peer influence



## Breakout Group Discussion

Purpose: Small group discussion to share regulatory successes and challenges from participants. Facilitated discussion will generate ideas of policy or process changes needed to accelerate project implementation.

Groups were asked to brainstorm regulatory challenges they are experiencing, and possible policy or process changes needed.

The following additional ideas were captured under Regulatory Challenges:

- More staff needed at agencies, to address staff turnover, especially at state level
- All projects are in same pipeline- need to fast track NBS
- Aligning the timelines, especially if funding sources fund the permitting
- BASH (Bird/wildlife Aircraft Strike Hazard) elevation constraints
- Sovereign submerge lands/ ownership issues

Policy/process changes recommended

- Could regulators come together earlier?
- Use special authorities (like Tyndall), use lessons learned
- For NBS- expanded sole source authority
- Scope and scale of projects- Policies or authorities may vary – need guidance

## Panel 2: Regulatory Best Practices Experts Panel Discussion

Panelists: **Erica Rohr**, Readiness and Environmental Protection Integration (REPI) Program at The Office of the Assistant Secretary of Defense (Energy, Installations, & Environment), **Matthew Shudtz**, Law and Policy Fellow, Institute for Resilient Infrastructure Systems, **Lucas Cooksey**, Project Director, Texas A&M Natural Resources Institute, Southeast Regional Partnership for Planning and Sustainability At-Risk Species Work Group Co-lead, **Bill Cary**, Brooks, Pierce, McLendon, Humphrey & Leonard LLP, and Southeast Regional Partnership for Planning and Sustainability

Purpose: To bring together members of the SERPPAS Regulatory Best Practices sub -Work Group to their share perspectives and lessons learned in creating a path forward for NBS projects to achieve shared goals.

Bill Cary suggested that the laws are misaligned with current priorities and while a major overhaul in the laws and policies are merited, in the interim NBS needs regulatory priority and up-to-date guidance. Regulators need support and education, policy reform needs everyone to call for it. Matt Shudtz commented that implementers need to understand the regulatory process (especially state-based requirements) at the very beginning of the project conceptualization. Clear guidelines need to be readily available. He noted that interagency coordination is crucial and gave examples of who you “sit with” is important. One model that was suggested, the [San Francisco Bay Restoration Regulatory Integration Team \(BRRIT\)](#), brings together staff from six federal and state agencies that have jurisdiction over habitat restoration projects in the region to coordinate permits for multi-benefit NBS projects.

Lucas Cooksey suggested to cut through the red tape there needs to be more cross-pollination, trust building and bridging solutions. While it is urgent to get current projects through the pipeline, and innovation are needed. Erica Rohr agreed that near-term solutions are needed, and the regulatory agencies need to be a part. New guidance was developed and will be in the 2025 REPI Guide. REPI will pay for permitting, so partners need to write that into their budgets. She suggested that installations consider adding projects to installation climate action plans and INRMPS to help communicate the importance of resilience across the installation.