

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

Permittee: The General Public

Permit No. RGP-07, Rural Development (POA-2007-00541-M2)

Issuing Office: U.S. Army Engineer District, Alaska

Issuance Date: September 6, 2019

Expiration Date: September 30, 2024

NOTE: The term "wetlands", as used in this permit, refers to jurisdictional wetlands, a category of waters of the United States (U.S.). The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the Alaska District of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

GENERAL PERMIT AUTHORIZATIONS

The general public is authorized to perform work in accordance with the terms and conditions of the Regional General Permit (RGP) specified below, after satisfying all applicable permit terms and conditions.

Under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C.), the Secretary of the Army authorizes the discharge of dredged and/or fill material into wetlands within specific areas of Alaska, for the purpose of rural development.

AUTHORIZED ACTIVITIES

The RGP-07, Rural Development, authorizes the discharge of dredged and/or fill material into waters of the U.S. for the purpose of constructing and/or expanding building foundation pads, utilities, roads, driveways, and parking areas for residential and community developments. The RGP also authorizes mechanized land clearing and other activities that will result in a re-deposition of dredged material into waters of the U.S.

Residential and community developments are defined as residential housing, and community infrastructure such as schools, daycare and eldercare centers, utility buildings, health clinics, multi-use centers, water & wastewater treatment facilities, and

the ancillary driveways, utilities, yards, and access roads associated with these developments.

Maximum Acreage Limitations

The RGP-07, Rural Development, does not authorize any single and complete project¹ that would exceed 5 (five) acres of permanent loss of waters of the U.S. Single and complete non-linear projects may not be “piecemealed” to avoid the limits in a general permit authorization. When RGP limits would be exceeded, the proposed projects may be eligible for review and authorization by an individual permit.

Excluded areas and activities

- 1) Excluded include those areas within the city and municipal boundary limits of Anchorage, Palmer, Wasilla, Fairbanks, Juneau/Douglas, Homer, Seward, Kenai, Soldotna, Bethel, Nome, Annette Island, Denali National Park, and the coastal boundary of the Aleutians West Coastal Resource Service Area. The Aleutians West Coastal Resource Service area extends from Unalga Pass in the east to Attu Island in the west, encompassing all land and water areas to the three-mile offshore territorial limit. This includes the communities of Unalaska, Atka, and Nikolski, but does not include Adak Island.
- 2) Under this RGP, dredged and/or fill material may not be discharged into:
 - a. any non-tidal open waterbody (i.e. streams, rivers, ponds, lakes) (except for the construction of linear projects (utilities, roads, etc.);
 - b. permanently flooded wetlands (except for the construction of linear projects (utilities, roads, etc.);
 - c. any tidal waters; or
 - d. any wetlands within 300 feet of any waters of the U.S. listed in a thru c above;
- 3) Activities denied any required local, State or Federal authorization is not authorized by the RGP.
- 4) Activities that the Corps determines may result in more than minimal adverse impacts on aquatic resources or other public interest factors. The District will notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under a standard Department of the Army (DA) permit. The District may also, on a case-by-case basis, require a standard DA permit for unauthorized activities.
- 5) Activities specifically excluded from this RGP are discharges of dredged and/or fill material into waters of the U.S. for the construction of power generation plants, fuel storage areas, material barrow sites, work associated with the gas

¹ As defined at 33 CFR 330.2(i)

and oil industry, or any project involving the use or storage of hazardous wastes or hazardous substances as part of its principal purpose.

- 6) This RGP does not apply to state-designated Critical Habitat Areas, Game Refuges and Sanctuaries, and habitat areas identified as important by the Alaska Department of Fish and Game unless the activity is specifically authorized by the agency with jurisdiction over these lands.

APPLICATION PROCEDURES

Individuals wishing to perform work under this RGP must submit to this office a complete General Permit Application (GPA) Form (Enclosure 1). The GPA must contain the following information at a minimum:

- 1) Name, address, and phone number of the applicant.
- 2) Location of the proposed work to include Section, Township, Range; and latitude/longitude; and a locality map.
- 3) A detailed description of the project, its purpose, the waters of the U.S., including wetlands clearing identified on the plans, and the project dimensions including the size of the fill area, fill quantity and type of fill is used.
- 4) Plan drawings, including a plan view and a cross-section view with dimensions of the project, showing the layout of the driveway, pads, and structures in relation to other features. Drawings do not have to be prepared by a professional, but should be clear and easily understood.
- 5) A mitigation statement consisting of Part B of the GPA (enclosure 1).

The application and drawings should be sent to: U.S. Army Corps of Engineers, Regulatory Division, Post Office Box 6898, JBER, Alaska 99506-0898, or by email to regpagemaster@usace.army.mil.

Corps Verification Process

The information provided will be reviewed by the Corps for compliance with the terms and conditions of the RGP. Normally, within 30 days of receiving the required information, a letter will be sent from this office to the applicant verifying whether or not the proposed project may proceed under the terms and conditions of the RGP.

RESTRICTIONS

The work authorized by this RGP is also subject to the following general conditions and any special conditions necessary to reduce impacts to the minimum level.

General Conditions:

Any verification issued may include general conditions that this office determines are necessary to ensure compliance with the terms and conditions of the RGP and to ensure that the activity will not result in more than minimal individual or cumulative adverse effects to the aquatic environment or other public interest factors.

- 1) The fill area shall be minimized by consolidating activities and uses of the fill. For example, utility lines (water, electrical, telephone, sewer, etc.) shall be located within the road or driveway fill when practicable.
- 2) The boundaries of the permitted fill area in wetlands shall be staked and/or flagged prior to construction to prevent inadvertent encroachment of adjacent wetlands.
- 3) Natural drainage patterns shall be maintained in the project area using appropriate ditching, culverts, storm drain systems, and/or other measures, without introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fills indicate non-compliance with this condition.
- 4) During excavation and fill placement, heavy equipment must not be operated in wetlands outside the authorized excavation and fill area. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 5) No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). The material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 6) No fill or construction materials shall be stockpiled in wetlands, outside of the project boundary which shall be staked, or otherwise delineated, prior to any mechanized land clearing or fill placement.
- 7) Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent leachate from causing odor problems or degradation of water quality. Unusable or excess material must be disposed of at an approved disposal site.
- 8) Prior to construction, erosion control measures, such as silt fencing, sediment traps, or water diversion structures, must be properly deployed and installed. During construction, silt and sediment from the site work must be prevented from entering wetlands or water bodies outside the authorized project limits. Methods shall be implemented to filter or settle out suspended sediments from all construction-related wastewater prior to its direct or indirect discharge into any natural body of water.

- 9) All exposed fills (including side slopes) and disturbed areas shall be stabilized immediately after construction to prevent erosion. Re-vegetation of the disturbed areas shall begin as soon as site conditions allow. Species to be used for seeding and planting shall follow this order of preference:
 - a. Species native to the site.
 - b. Species native to the area.
 - c. Species native to the state.
 - d. Active sloughing, increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands shall be evidence of insufficient stabilization.
- 10) Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA approved state or local floodplain management requirements. Fuel storage tanks shall be located above the 100-year flood level and must be designed to withstand a 100-year flood event when a 100-year flood level has been established for a site. If the 100-year flood level has not been established for a site, the tank flood design shall be developed by an engineer to withstand flood levels based on anecdotal evidence, physical evidence, climate data, and good engineering judgment.
- 11) Material must be available at the site to contain and clean up incidental spills and leaks, and must be used to contain and clean up any petroleum product spilled as a result of construction activity.
- 12) The proposed activity shall not be located within one-half mile of an eagle nest site unless the U.S. Fish and Wildlife Service determines that the activity will not impact the Eagles. The applicant has additional responsibilities to protect eagles under provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d) <http://www.fws.gov/midwest/Eagle/guidelines/index.html>).
- 13) No cultural resources shall be adversely affected by activities authorized by this RGP. If the permittee discovers any previously undiscovered archeological, paleontological, or historic resource, while conducting activities authorized by this RGP, the District Commander (DC) must be immediately stop work and notify by calling (800) 478-2712. The Corps will notify the SHPO, and the coastal district (if within a coastal district), of what has been found. The Corps or the appropriate federal land manager will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
- 14) Federal applicants must provide evidence that they have initiated consultation with other agencies as required by the National Environmental Protection Act.
- 15) No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

- 16) No subsistence resources shall be adversely impacted by activities.
- 17) The Migratory Bird Treaty Act prohibits the willful killing or harassment of migratory birds. No clearing, excavation, and fill activities shall be completed before or after the nesting season to avoid impacts to breeding migratory birds unless the site has been sufficiently disturbed or altered during non-breeding periods to eliminate suitable nesting habitat (for example, the work area could be cleared of vegetation before the breeding season. This would render the area unsuitable for breeding birds before their arrival and facilitate work during the breeding season without impacts to birds. Project areas should not be stripped of vegetation more than 30 days before initiating work, which could result in even greater damage caused by excessive erosion). Nesting seasons vary throughout the state, and U.S. Fish and Wildlife or the Corps should be contacted to determine when these disturbance activities should be avoided. For further information, you may look at the USFWS site, http://alaska.fws.gov/fisheries/fieldoffice/anchorage/pdf/vegetation_clearing.pdf
- 18) Prior to fill placement and installation of an on-site wastewater treatment system (including mounded systems or package plants) within the fill site or contiguous wetlands, on-site sewage system design plan approval shall be obtained from the Alaska Department of Environmental Conservation.
- 19) The proposed operation activity shall be in compliance with applicable State of Alaska, Department of Environmental Conservation, Alaska Pollution Discharge Elimination System Permit.
- 20) The permittee shall contact the Alaska Department of Transportation and Public Facilities if proposed access roads are connected to the State road system. This will ensure that the access roads and driveway widths are sufficient to meet State standards.
- 21) Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance. The permittee must maintain the lands and facilities subject to this RGP in good condition and in conformance with the terms and conditions of this RGP. The permittee is not relieved of this requirement even if the activity is abandoned. The permittee may transfer the permit to a third party in compliance with condition number 22 below. Should the permittee cease to maintain the authorized activity or should they desire to abandon the project without a transferee, then the permittee must obtain approval from this office, which may require restoration of the area.
- 22) If the permittee sells the property associated with an RGP verification, the permittee may transfer this RGP verification to the new owner by submitting a letter to the Corps to validate the transfer. A copy of this RGP verification must be attached to the letter, and the letter must contain the applicants full name,

address, phone number, and the following statement and signature: "When the structures or work authorized by this RGP are still in existence at the time the property is transferred, the terms and conditions of this RGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this RGP and the associated liabilities associated with compliance with its terms and conditions, the signature of the transferee and date appear below."

(Transferee signature)

(Date)

(Printed name)

- 23) Any activity being performed under this permit may be summarily suspended, in whole or in part, upon a finding by the DC that there is noncompliance with any of the terms or conditions of this RGP, or that there is noncompliance with a related nationwide or individual permit, or that there is a violation of Federal law associated with the activity, or that the immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate: (1) the extent of the suspension; (2) the reasons for such action; and (3) any corrective or preventive measures to be taken by the permittee which are deemed necessary by the DC to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of such notice. Within 10 days following receipt of a notice of suspension, the permittee may request a public hearing in order to present information relevant to a decision as to whether the authorization should be reinstated, modified, or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee, if no hearing is requested, the authorization will either be reinstated, modified, or revoked.
- 24) The permittee shall allow the DC or their authorized representative(s) to inspect authorized work at any time deemed necessary to assure that on-going and completed work is in compliance with the terms and conditions of this RGP.
- 25) All activities identified and authorized herein shall be undertaken in a manner that is consistent with the terms and conditions of this RGP, and any activities undertaken by the permittee that are not specifically identified and authorized herein shall constitute noncompliance with the terms and conditions of this RGP, and consequently, a violation of the Clean Water Act, which may result in the modification, suspension, or revocation of any authorization by the Corps in

whole or in part, and in the institution of such legal, administrative, or judicial proceedings as the United States Government may consider appropriate, whether or not these permits have been previously modified, suspended, or revoked in whole or in part.

- 26) Fill shall only be placed in wetlands for house pads, drives, or septic systems when lots have been sold for residential construction, or if the applicant chooses to build homes for sale, model, or personal use.
- 27) Measures shall be implemented to prevent the introduction and spread of invasive plant and animal species, such as washing equipment to remove dirt and debris that might harbor invasive seeds before entering the job site, using weed-free fill, disposing of spoil and vegetation contaminated with invasive species appropriately, and revegetating with local native plant species.
- 28) Permit Expiration. The RGP-07 expires on September 30, 2024. Unless activities authorized under the RGP-07 have commenced construction or are under contract to commence construction by September 30, 2024, the time limit for completing work ends upon the expiration date of RGP-07. Activities authorized under RGP-07 which have commenced construction or are under contract to commence construction by September 30, 2024, will have until September 30, 2025, to be completed under the terms and conditions of RGP-07, unless the District Engineer's discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.
- 29) Verification. Written verification that the project may proceed under RGP-07 must be received from this office prior to commencing construction.
- 30) Avoidance and Minimization. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on-site).
- 31) Fill Dimensions. Residential and community developments or the addition of fill to any existing subdivision or development must meet the following criteria:
 - a. Total fill area will not cumulatively exceed five acres of impacts (i.e. roads in combination with house pads, driveways and other fill on individual lots) in wetlands.
 - b. Fill pads for a single residential structure and associated development will not exceed a footprint size of 0.30 acres in wetlands (i.e., total fill for the house pad, parking area, utility lines, and driveway will not exceed 0.30 acres in wetlands).

- c. Access roads will not cumulatively exceed 2,000 feet long by 60 feet wide footprint dimensions in wetlands. Access roads are defined as any road constructed primarily to access a community project or more than residential lots.
 - d. Residential driveways are limited to a maximum footprint dimension of 200 feet long by 30 feet wide in wetlands, and are defined as a connecting link of fill between a road and an individual house.
- 32) Contractor Notification. All contractors involved in this RGP authorized activity must be provided copies of this permit in its entirety. A copy shall remain on site at all times during construction. A complete copy of these documents shall remain on site at all times during implementation of the authorized activity.
- 33) Permafrost. If permafrost is present, sufficient fill (or other methods of insulation) must be placed on the ground to provide thermal stability. Signs of thermokarsting or standing water indicate non-compliance with this condition.
- 34) Water Quality Certification. You must comply with all conditions specified as part of the Alaska Department of Environmental Conservation Water Quality Certification, which is part of this RGP.
- 35) Endangered Species. The activity must not jeopardize the continued existence of any threatened or endangered species, as identified under the Endangered Species Act, nor endanger the critical habitat of such species.
- 36) Essential Fish Habitat. The activity must not adversely affect Essential Fish Habitat (EFH).
- 37) Maintenance. You must maintain the authorized activity in good state, and in conformance with the terms and conditions of this RGP.
- 38) Self-Certification: Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form and submit it to the Corps (U.S. Army Corps of Engineers, Regulatory Division). In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
- 39) Modification by Other Authorizations. If the work proposed under this RGP is subsequently modified by any other Federal, State, or local governmental authorization, a re-verification by the Corps to perform activities under this RGP may need to be obtained.

- 40) Hazardous Materials. This RGP does not apply to any project involving the use or storage of hazardous wastes or hazardous substances as part of its principal purpose. These materials are defined in the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA), 42 U.S.C. 6901 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Contact the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency for information about hazardous materials.
- 41) Use of multiple General Permits. The use of more than one GP for a single and complete project is prohibited.

MITIGATION

This RGP is conditioned to prohibit discharges of any fill material within 300 feet of any streams, sloughs, rivers, ponds, lakes, permanently flooded wetlands or tidal waters (except for those excluded areas and activities in section 2 above). This RGP also includes other conditions requiring best management practices to minimize impacts to wetlands. Additionally, a mitigation statement is required with the application showing the avoidance, minimization and compensatory mitigation proposal for unavoidable impacts.

For all other locations covered by this RGP the district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

- a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to wetlands to the maximum extent practicable at the project site (i.e., on-site).
- b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
- c) Compensatory mitigation will be considered on a case by case basis for all wetland losses that exceed 1/10-acre, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR 332.

MONITORING

The Corps will conduct an annual review of all projects authorized during the previous year. Pertinent information from these cases shall be compiled into a report and entered in the official RGP file. Copies of this report shall be made available to the interested public, and to local, state and federal agencies for their information upon request. In addition, periodic field inspections shall be undertaken by this office of projects authorized under this RGP. Reports shall be prepared for all field inspections and entered into the official RGP file. The Regulatory Division shall maintain a file of RGP-related documents and monitoring efforts. The information contained in this RGP file shall provide the basis for the decision whether or not to revise or renew this RGP. If it is determined that projects authorized by this RGP result in greater than minimal adverse environmental impacts, then this RGP shall be modified, suspended, or revoked to prevent further impacts.

COMPLIANCE

Compliance with the RGP requires strict adherence to the terms and conditions specified both herein and any special conditions within the verification. Corps representatives may inspect sites to determine whether the work is being, or has been, performed in conformance with the terms and conditions of this RGP.

Failure to comply with this the terms and conditions of this RGP can subject the permittee, as well as contractors or other persons acting for the permittee, to severe penalties. Should the Corps determine that an activity is not in compliance with this RGP, the permittee may be required—at their expense—to implement corrective measures, remove fill and/or restore any areas affected by the noncompliance, in accordance with 33 CFR Part 326 and Section 309 of the Clean Water Act. Noncompliance could also result in suspension, revocation or modification of the RGP authorization (pursuant to 33 CFR 325.7), initiation of legal action by the Federal Government, issuance of a monetary penalty ranging up to \$52,414 per day of violation, and/or imprisonment for up to one year.

FURTHER INFORMATION:

- 1) **Congressional Authorities.** Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Work that also requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through nationwide or individual permits.
- 2) **Limits of this authorization.**
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.

- b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
- 3) **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4) **Reliance on Applicant's Data.** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information provided by the applicant.
- 5) **Reevaluation of Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. The permittee fails to comply with the terms and conditions of this permit.
 - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

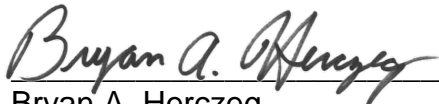
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate.

- 6) **Reevaluation this RGP.** This office may also reevaluate its decision to issue the RGP-07 at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

This General Permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

FOR THE DISTRICT COMMANDER:



Bryan A. Herczeg
Chief, South Section
Alaska District Corps of Engineers

September 10, 2019

Date