



**US Army Corps
of Engineers
Alaska District**

FACT SHEET

401 Certification Process Changes and New Placer Mining GP – Effect to Placer Mining permitting process in the State of Alaska

Under Section 404 of the Clean Water Act (CWA), the U.S. Army Corps of Engineers (Corps) has jurisdiction over discharges of dredged and/or fill material into waters of the U.S., including streams and wetlands. A Department of the Army (DA) permit is required to place dredged or fill material into waters of the U.S. The CWA applies to mining operations on state, federal, and private lands.

In 2020, there were two particular changes in the Regulatory arena that require some clarification for the placer mining community:

- On July 13, 2020, the U.S. EPA finalized the *Clean Water Act Section 401 Certification Rule* (40 CFR Part 121) to update and clarify the procedural requirements for Water Quality Certification (WQC) under Section 401 of the CWA. Additional information, including the full text of the Final Rule, is available on EPA's website (<https://www.epa.gov/cwa-401>). The Final Rule became effective on September 11, 2020, and the Alaska Department of Environmental Conservation is the certifying authority for activities in Alaska (except for Metlakatla or Denali National Park and Preserve, where the U.S. EPA is the certifying authority) (see ADEC website: <https://dec.alaska.gov/water/wastewater/wetlands>).
- The Corps reauthorized the Regional General Permit (RGP) for Placer Mining Activities in the State of Alaska on October 30, 2020. The RGP can be found on the Corps' website: (<https://www.poa.usace.army.mil/Missions/Regulatory/Permits/Regional-General-Permits/>). This RGP (POA-2014-00055-M1, now RGP-08) authorizes miners to place dredged and/or fill material into waters of the U.S., for the purpose of mechanical placer mining within the State of Alaska, under the terms and conditions of the RGP. **PLEASE NOTE: THIS RGP ALREADY INCLUDES A 401 WATER QUALITY CERTIFICATION, YOU DO NOT NEED TO OBTAIN A 401 WQC IF YOU QUALIFY FOR THE RGP.** There are several changes to this GP from the previous version, including:
 - a waiver process for exceeding the 1,500-foot limit on stream diversions/relocations
 - now excludes work in and/or affecting anadromous streams
 - now excludes operations in Alaska Department of Environmental Conservation (ADEC) listed Impaired Waters (Categories 4a, 4b, and 5)

Please Note: Mining operations authorized under the previous RGP are grandfathered until October 30, 2021, after which time the operation will be either subject to the terms and conditions of the new RGP or operators will need to obtain an individual permit from the Corps.

HOW THIS AFFECTS THE MINING COMMUNITY:

- If your placer mining operation is authorized under a current Nationwide Permit, or the Regional General Permit discussed above, or has a current Individual Permit, a 401 Water Quality Certificate has already been issued and these regulatory changes have no effect on your permitting needs.
- If your placer mining operation does not already have an Individual Permit from the Corps or any of the following would occur, these regulatory changes apply to your operation and an individual 401 WQC will be required:
 - exceeds 5 acres of work in waters of the U.S., including streams and wetlands, at any one time
 - involves work in and/or affecting anadromous streams
 - would occur in Impaired Waters (Categories 4a, 4b, and 5) as designated by the ADEC or
 - a stream diversion/relocation is greater than 1,500 linear feet and a waiver has not been received from the Corps

Please Note: There can be many advantages to obtaining an individual permit from the Corps, including, but not limited to: 1) no footprint (acreage) limitations depending on your mining needs as your individual permit is specifically tailored to the needs of your mining operation, 2) no timing limitations (permits can be issued for up to 10 years, or longer for large operations, 3) increased flexibility for mining operations and adaptive management to prevent noncompliance issues.

NEXT STEPS:

- The Corps is uploading Annual Placer Mining Applications (APMAs) through the Alaska Department of Natural Resources Discus website and will contact applicants that need to obtain an Individual Permit and will work with the applicant and the ADEC to discuss the steps involved. **The APMA is not a Corps permit. To be certain that you obtain a Corps permit, contact one of our offices directly.**
- Alternatively, miners may choose to submit their APMA directly to the Corps by mailing or emailing their completed **APMA** directly to an Alaska District Corps Office in Fairbanks or Anchorage. Include the three Corps Questionnaires with information about your Site Description, Minimization of Impacts and Stream Channel.

CONTACT US:

Corps of Engineers Regulatory Division
Alaska District Office
P.O. Box 6898,
2204 3rd St., Suite #201E
JBER, Alaska 99506-0898
Main Phone: 907-753-2712
Toll free: 800-478-2712
Fax: 907-753-5567

Corps of Engineers Regulatory Division
Fairbanks Field Office
2175 University Avenue
Fairbanks, Alaska 99709
Main Phone: 907-474-2166
Toll free: 800-478-2712
Fax: 907-474-2164

Email: regpagemaster@usace.army.mil

Useful placer mining permit information may be found on our website at:
<https://www.poa.usace.army.mil/Missions/Regulatory/Placer-Mining>

APPLICATION DEADLINE: There is no specific deadline for application submittal; however, to ensure that you receive a permit in time to begin operations, submittal of Corps Questionnaires by January of any given year is encouraged.