



US Army Corps  
of Engineers  
Alaska District

# Special Public Notice

ANCHORAGE  
Regulatory Division (1145)  
CEPOA-RD  
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Date: May 24, 2010  
Identification No. SPN-2009-00918  
In Replay respond to above identification #

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**ISSUENCE OF GENERAL PERMIT 96-7N  
VILLAGE BULK FUEL STORAGE FACILITIES  
(FORMERLY GENERAL PERMIT 96-7M)**

The public is hereby notified that the Alaska District, U.S. Army Corps of Engineers (Corps), under authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq.), has issued General Permit 96-7N (GP). GP 96-7N is for use in rural Alaskan communities for the purpose of correcting environmental and safety deficiencies in fuel storage and delivery systems.

Activities covered under GP 96-7N include the discharge of fill material, mechanized land clearing, ditching and backfilling in wetlands for the purpose of new construction, relocation, replacement, consolidation, or upgrade of facilities used for the transfer, storage, distribution, and dispensing of bulk fuel along with associated support features, including roads. All activities authorized under the GP would be required to be conducted within the scope, terms and conditions of the attached GP. If an activity does not meet the GP requirements or conditions, an Individual Department of the Army (DA) permit would be required.

This GP will not authorize projects in the following communities: the Municipality of Anchorage, Palmer, Wasilla, Fairbanks, North Pole, Juneau, Douglas, Ketchikan, Wrangell, Petersburg, Sitka, Haines, Skagway, Homer, Seward, Kenai, Soldotna, Kodiak, Valdez, and Cordova.

This GP continues to meet the scope of Alaska Department of Community and Economic Development (DECD) and Alaska Industrial Development and Export Authority (AIDEA) energy programs. However, other federal, state or local governments, commercial entities and individuals would continue to be allowed to apply for authorization under GP 96-7N.

The Corps will monitor GP authorizations using compliance inspections and information reported by permittees after completing projects. This GP is in effect for five years from the date it is issued. At the end of that period, it would be re-evaluated and a determination made whether to consider re-issuance of GP-96-7N. The District Engineer can, at any time during the five year time period, suspend, modify or revoke the GP if deemed to be in the public interest.

The authority to issue a GP is established in the Corps regulations (33 CFR Part 325 et. Seq.). The intent of this GP is to relieve some of the administrative burden placed on applicants and agencies that are associated with processing individual permits.

District Commander  
U.S. Army, Corps of Engineers

Enclosures

## **ISSUANCE OF GENERAL PERMIT 96-7N VILLAGE BULK FUEL STORAGE FACILITIES**

The Alaska District, United States (U.S.) Army Corps of Engineers, in accordance with its regulations and pursuant to Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 *et. Seq.*) has issued General Permit 96-7N which permits the discharge of dredged and/or fill material into waters of the United States, including wetlands, for the purpose of upgrading, moving, or constructing new bulk fuel storage facilities in rural Alaska.

Authorized activities include: discharge of fill material, mechanized land clearing, ditching and backfilling in wetlands, for the purpose of new construction, relocation, replacement, consolidation, or upgrading facilities for the transfer, storage, distribution, and dispensing of bulk fuel, along with associated support facilities including roads.

The GP authorizes the placing of dredged and/or fill material for: 1) structural fills for the support of bulk fuel storage tanks; 2) the construction of secondary containment dikes and structures; 3) for piping, pumps, buildings, equipment storage (including protected and secure storage for oil spill response equipment), vehicle parking, and security fencing; 4) fills for fuel dispensing stations and tanks; and 5) fills associated with fuel transfer and dispensing pipelines.

A maximum of 5.0 acres of wetlands may be filled under GP 96-7N. Access roads up to 2,000 feet in length would be included in the 5.0 acre limit.

**Note:** Authorizations granted under GP 96-7N apply only to work subject to the regulatory authority of the U.S. Army Corps of Engineers. GP authorizations would not change in any manner the requirements or the need to meet other required federal, state or local governmental authorizations. If the work authorized under the GP is subsequently modified by any other Federal, State or local governmental authorization, a modification of the authorization to perform activities may need to be obtained from the Corps of Engineers.

### **(A) PURPOSE AND APPLICABILITY**

The GP is to facilitate the permitting of projects which correct environmental and safety deficiencies in fuel storage and delivery systems. The GP will not authorize projects in the following communities: the Municipality of Anchorage, Palmer, Wasilla, Fairbanks, North Pole, Juneau, Douglas, Ketchikan, Wrangell, Petersburg, Sitka, Haines, Skagway, Homer, Seward, Kenai, Soldotna, Kodiak, Valdez, and Cordova.

### **(B) CONDITIONS OF THE PROPOSED GP**

All activities identified and authorized by GP 96-7N shall be consistent with the following conditions:

1. The maximum combined dimensions of all fills shall not exceed five (5) acres of wetlands, including access roads. The maximum combined lengths of access roads shall not exceed 2,000 linear feet.

The applicant must submit a pre-construction notification to the district engineer prior to commencing the activity. General Permit Agency Coordination (GPAC) procedures must be followed as described under "PROCEDURES" below.

2. Pursuant to 33 CFR Part 325.1(d) (7), "For activities involving discharges of dredged or fill material into waters of the U.S., the application must include a statement describing how impacts to waters of the United States are to be avoided and minimized. The application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts."

3. No fill for a tank farm (including the containment area), or any fill for any other support features (e.g., staging areas or construction access roads), shall be discharged within 100 feet of the ordinary high water mark of any water body, or within 300 feet of a fish-bearing stream.

4. The typical side slopes of all fills shall be no steeper than 2:1 (horizontal: vertical), unless an alternative means of stabilizing the side slopes is used to prevent erosion and slumping. All fills shall be stabilized and maintained to eliminate erosion and sedimentation into adjacent waters or wetlands.

5. The boundaries of fill areas in wetlands shall be staked or flagged prior to construction to prevent inadvertent encroachment onto adjacent lands.

6. Culverts shall be installed and maintained to retain natural surface drainage.

7. If permafrost is present, sufficient fill (or other means of insulation) shall be placed on the ground to provide thermal stability. Signs of thermokarsting or standing water indicate non-compliance with this condition.

8. The fill shall consist of clean, uncontaminated material, or petroleum contaminated material that has been treated and meets the Alaska Department of Environmental Conservation (ADEC) cleanup standards for reuse and other ADEC requirements on the use of contaminated material in effect at the time.

9. Tanks shall have at least one of the following mechanical or operational means to minimize the potential for tank overfilling:

- a) High liquid level automatic shutoff devices set to stop flow at a predetermined tank liquid level;
- b) High level alarms or signals that sound or display in a manner immediately recognizable by personnel conducting a transfer;
- c) Automatic liquid level gauges;
- d) Other effective mechanical and/or electrical equipment that aids in the prevention of tank overfilling; or
- e) Other methods which involve direct operator monitoring and intervention to prevent tank overfilling.

10. Fuel storage tanks shall be located within a secondary containment structure that has the capacity to hold the volume of the largest tank within the containment area, plus enough additional capacity to allow for the local precipitation where it will reduce the effective storage capacity. Containment structures may include berms, dikes or retaining walls that are constructed to prevent the release of spilled petroleum from the containment area, or they may consist of diked or double walled tanks. Containment structures shall be constructed of or lined with materials that are resistant enough to damage by both the products stored and the prevailing weather conditions, to maintain impermeability. Impermeable material shall completely cover the secondary containment area including the area beneath the tanks. Containment structures must meet the current International Fire Code as adopted by the State of Alaska (13 AAC 50). Tank foundations shall be elevated or the containment area graded so that runoff flows away from and does not accumulate around the tank bottoms. This reduces the possibility of corrosion.

11. 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, climatic data, and good engineering judgment.

12. 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.

13. Equipment, vehicles and other materials shall not be stored or operated in wetlands or riparian zones outside of the construction footprint.

14. Work shall be avoided during periods of heavy precipitation.

15. Materials 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.

16. The proposed activity shall not adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973 (Act), as amended nor jeopardize the continued existence of any proposed species under the Act. A Federal or State applicant must contact the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding the presence of threatened or endangered species. The Corps of Engineers will contact the U.S. Fish and Wildlife Service on behalf of other applicants. If it is determined that threatened or endangered species are present and that there may be an effect to those species, then the District Engineer or lead Federal Agency shall initiate Section 7 consultation with the agencies for the particular application. The presence of subsequent discovery of a threatened, endangered, or proposed species, which may be affected by a permitted action or related activities, may result in a delay of permit verification in order to conclude Section 7 consultation, as required by the Act.

17. No activity authorized by the GP shall affect historic properties without consultation pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended. If historic properties are identified within the project area, the Corps will consult with the State Historic Preservation Officer (SHPO) and other interested parties, including federally recognized tribes, before authorization under this GP is granted. Federal and State applicants must consult with SHPO and other interested parties, including federally recognized tribes, prior to contacting the Corps of Engineers for authorization under this GP. If historic properties or other archeological remains are inadvertently discovered while work authorized under this GP is being undertaken, this office must be called immediately at (800) 478-2712. Federal and State permittees must immediately contact the Corps and SHPO to report inadvertent discoveries.

18. Prior to construction, the permittee must document contact with a registered professional engineer and the Fire Marshall to ensure that requirements for storage and handling of fuel are met. This information must be sent to: North Branch, Regulatory Division, CEPOA-RD-N, Post Office Box 6898, Elmendorf AFB, Alaska 99506-6898.

19. The District Engineer, or his designated representative, must be allowed to inspect the authorized activity at any time deemed necessary to ensure that the work is being or has been accomplished in accordance with the terms and conditions of this GP.

20. The permittee must maintain the project authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if the permitted activity is abandoned. The permittee may make a good faith transfer to a third party in compliance with condition 18 above. Should the permittee wish to cease to maintain the authorized project or to abandon it without a good faith transfer, the permittee must obtain a modification of the authorization from this office, which may require restoration of the project area.

21. Prior to selling the property associated with an activity authorized by this GP, the permittee must contact this office for the appropriate permit transfer documentation.

### **(C) PROCEDURES**

The following procedures must be followed for work to be authorized under GP-96-7N:

All persons proposing to do work under GP 96-7N must submit the following information: 1) a small scale map clearly illustrating the location of the community within the State of Alaska; 2) a vicinity map with a legal description (township, range, section, meridian), and longitude and latitude; 3) plan drawings with typical cross sections showing project components, and a plan view of the entire project; 4) a written description of the proposed work; 5) aerial photographs or good quality copies, if available; 6) a statement on the project purpose and intended use; 7) dimensions of all fill pads (length, width thickness); 8) cubic yards of material needed to construct the project and the source of the material; 9) acreage to be filled; 10) cubic yards of material to be excavated and the acreage and location of the stockpile or disposal area; 11) a statement on mitigation for impacts to waters

of the United States, including wetlands: (i) measures that will be taken to avoid impacts to waters of the United States, including wetlands, (ii) measures that will be taken to minimize unavoidable impacts to wetlands, and (iii) measures that will be taken to compensate for unavoidable impacts to waters of the United States, including wetlands or a statement explaining why compensatory mitigation should not be required for the proposed impacts; 12) a description of existing fuel tank farm(s) (number of tanks and capacity and if in use or abandoned) in the village.

The Corps' Project Manager (PM) reviews the application to determine if it is complete and if not complete, request the required information to make it complete. After the required information is provided, a determination is made as to whether the project meets the GP 96-7N criteria. If the project meets the criteria of GP 96-7N, then the Corps' PM will undertake the GPAC notification process as described below.

Typically, a letter authorizing the bulk fuel storage facility will be sent within 30 days of receipt of the required application documents. This "authorization to proceed" letter from the Corps must be received prior to the commencement of work.

**(D) GENERAL PERMIT AGENCY COORDINATION (GPAC) PROCEDURES**

All applications that meet the criteria for authorization under GP 96-7N will be reviewed under the following GPAC procedures.

The Corps' PM will fax, email, or otherwise send the plans and other project documentation to the appropriate federal, state, tribal, and local government agencies and to other interested parties for their review.

The government agencies and interested parties have 15 calendar days to contact the Corps, (by phone, mail, email, fax) with review comments project. One 15-day extension will be granted if requested. If reviewing parties have no objection to the proposed project or if they do not respond to the GPAC notification, a letter authorizing the project will be issued. Special Conditions may be placed on the authorization.

If a consensus cannot be reached by the end of the 15-day review period (30 -day review period with extension) the application will be processed under Individual Permit processing procedures, including a separate Public Notice pursuant to 33 CFR Part 325.2(a) (1-5).

**(E) FURTHER INFORMATION**

Limits of GP 96-7N authorization:

1. This permit does not grant any property rights or exclusive privileges.
2. This permit does not authorize any injury to the property or rights of others.
3. This permit does not authorize interference with any existing or proposed Federal project.

Limits of Federal Liability: In issuing this permit as proposed, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses of thereof as a result of other permitted or unpermitted activities or from natural causes.
2. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by, or on behalf of, the U.S. in the public interest.
3. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
4. Design or construction deficiencies associated with the permitted work.
5. Damage claims associated with any future modification, suspension, or revocation of this permit.

Reevaluation of Permit Decision: This office may reevaluate decisions regarding authorizations issued under this GP at any time the circumstances warrant. Circumstances that could initiate reevaluation include, but are not limited to, the following

1. Authorized work fails to comply with the terms and conditions of the permit.
2. Appropriate new information is presented which this office did not consider in reaching the original public interest decision.
3. Such a reevaluation may result in a determination that it is appropriate to suspend, modify, or revoke authorizations made under this GP pursuant to 33 CFR Part 325.7 or to undertake enforcement procedures specified at 33 CFR Part 326.4. The referenced enforcement procedures provide for the issuance of an administrative order requiring compliance with the terms and conditions of the GP and for the initiation of legal action where appropriate. Anyone doing work under this GP will be required to pay for any corrective measures ordered by this office, and if there is failure to comply with this directive, this office may, in certain circumstances specified at 33 CFR Part 209.170, undertake corrective actions by contract or other means and bill the permittee for the cost.

**(F) PENALTIES FOR VIOLATIONS**

Failure to comply with the terms and conditions of this permit may result in suspension of work, revocation of the permit, removal of dredged and/or fill material or other structures, directed restoration of wetlands, and/or imposition of penalties as provided by law.

The discharge of fill material not in accordance with the terms and conditions of GP 96-7N would be a violation of Section 301 of the Clean Water Act (33 U.S.C. 1319), and upon conviction thereof, would be punishable, pursuant to Section 309 of the Clean Water Act, by a fine up to \$50,000, per day of violation, or by imprisonment of not more than three years, or both.

**(G) EXTENSION, MODIFICATION AND REVOCATION OF GP 96-7N**

GP 96-7N may be revoked by issuance of a Public Notice at any time the District Engineer (DE) determines that the singular or cumulative effects of the activities authorized herein are having more than minimal adverse effect on the public interest. Following such revocation, all new applications shall be processed under individual permit application review procedures, and the DE will decide on a case-by-case basis if previously authorized activities should be revoked, suspended, or modified.

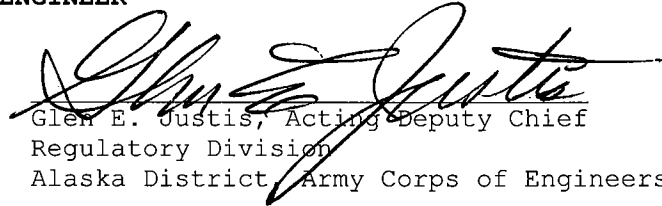
The re-issued GP 96-7N would be in effect for a period of five years. During the fifth year, the GP and the work authorized under it would again be reviewed to determine if it should be modified, extended, or discontinued.

Applications received prior to the expiration date would be considered for authorization under the GP. Any activity authorized by the GP must be completed within 12 months of the expiration date unless the GP is subsequently reauthorized.

**FOR THE DISTRICT ENGINEER**

5-21-2010

Date

  
Glen E. Justis, Acting Deputy Chief  
Regulatory Division  
Alaska District, Army Corps of Engineers