



US Army Corps
Of Engineers
Walla Walla District
201 North Third Avenue
Walla Walla, WA 99362-1876

Public Notice

Authorization of RGP-E

Regional General Permit - Emergency Actions

DATE ISSUED: April 09, 2012

Walla Walla District of the U.S. Army Corps of Engineers has evaluated the scope of the described action and has decided to issue Regional General Permit for Emergency Actions (RGP-E) to authorize certain work in waters of the United States, within the State of Idaho. Prior notification and request for comments on this action was given with issuance of a Public Notice dated February 8, 2012. To fully review the RGP-E permit, please see attached or visit the Walla Walla Regulatory Division website at <http://www.nww.usace.army.mil/html/offices/op/rf/spn.asp>.

PURPOSE: To improve efficiencies and expedite permit processing for activities involving the temporary discharge of dredged or fill material to facilitate public safety and protect private and public infrastructure from damage by discreet events. The expedited permit processing is to help insure public safety and/or to protect public and private infrastructure.

EMERGENCY CONDITION: An Emergency Condition, as defined for this RGP-E, is *a situation which would result in an unacceptable threat to human life, significant loss of property, and/or significant economic hardship* if corrective action requiring a Department of the Army permit is not accomplished within a time period less than the normal time needed to process the permit.

If an Emergency Condition occurs in an area where endangered species exist or that is designated as critical habitat for an endangered species, emergency measures defined by RGP-E may be authorized in accordance with the consultation procedures defined in the Emergency Programmatic Consultation.

Upon completion of the emergency measures, or termination of the emergency condition, an emergency After-The-Fact (ATF) Consultation will be initiated by the Corps with the U.S. Fish and Wildlife Service and/or NOAA Fisheries Service, as required under the Emergency Programmatic Consultation.

PROJECT LOCATION: Waters of the United States within the State of Idaho (including rivers, lakes, streams, and wetlands) located within an area experiencing emergency conditions, as defined above.

This RGP-E does not authorize significant, permanent, and/or adverse impacts.

AUTHORIZED ACTIVITIES: RGP-E authorizes temporary work and or the temporary discharge of dredged or fill material associated with emergency conditions and is restricted to those necessary during the emergency to prevent the loss of life, significant property loss and significant economic hardship. These activities will occur to restore, repair and or stabilize features that have been damaged, destroyed or are in imminent danger of failing.

Activities covered by this RGP-E include, but are not limited to:

- Repair, Construction or Re-Construction of Linear Transportation Features
- Protection, Repair and/or Replacement of Utility Structures

- Debris Removal
- Temporary Levee Construction
- Levee Repair, including Breach Closures
- Placement of Suitable Material for Bank Stabilization or Revetment Repair
- Construction of Temporary Drainage Ditches
- Pile Driving or Repair
- Dam Repair
- Sandbagging

REQUIRED NOTIFICATION and APPROVAL PROCEDURES: All parties proposing work under RGP-E are required to contact the appropriate Corps Regulatory Office, as shown on the Corps website at http://www.nww.usace.army.mil/html/offices/op/rf/field_offices.asp. The Corps must determine if the proposed work is necessitated by emergency conditions and if it meets the criteria, per Federal Regulation 33 CFR 325.2(e)(2).

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends at the end of the emergency conditions. The removal of fill or restoration of the work area is required within 90 days of the end of the emergency. If more time is needed to complete the authorized activity, the request for a time extension must be submitted to the Corps for consideration at least two weeks before the above date is reached.
2. The permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit.
3. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, the permittee must immediately notify the appropriate Corps office of what was found. The Corps will initiate the Federal, Tribal and state coordination.
4. The permittee shall comply with any conditions specified in the RGP-E Water Quality Certification issued by the State of Idaho Department of Environmental Quality on April 3, 2012.
5. The permittee shall allow representatives from Corps Regulatory Office to inspect the authorized activity at any time deemed necessary to ensure that it is/was accomplished in accordance with the terms and conditions of this RGP-E.

SPECIAL CONDITIONS:

1. All work and or discharges of dredged or fill material authorized by the RGP-E are considered temporary and shall be removed within 90 days of the end of the emergency, or the permittee shall apply to the Corps of Engineers to retain the fill within the 90 days of the authorization date.
2. All discharges of dredged or fill material shall be of suitable size, free of fines to the extent practicable and the minimum amount necessary to prevent further damage or loss due to the specific incident.
3. All pile driving authorized by RGP-E will utilize a noise reduction block and bubble curtain to reduce impacts to fish and other aquatic fauna unless waived in writing by the District Engineer.
4. All temporary drainage ditches constructed in waters of the United States, or that result in a discharge of dredged or fill material in waters of the United States, including wetlands, shall be restored within 90 days of the end of the emergency conditions.

5. The permittee, the permittee's contractor, or any of the employees, subcontractors or other person working in the performance of the contract shall immediately report the discovery of subsurface features, possible scientific, pre-historical, historical, or archeological data, giving the location and nature of the findings to the appropriate Idaho Regulatory Office. If discoveries occur on an Indian Reservation, the applicable Tribal Historic Preservation Officer and appropriate Corps Regulatory Office shall be notified.
6. The District Engineer may require additional special conditions be included in any authorization issued under the RGP-E to avoid or minimize adverse environmental impacts. The District Engineer may also require the processing of an individual permit for an activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.

CORPS OF ENGINEERS ACTIONS: Upon verification that the emergency condition and remedies described comply with the RGP-E requirements, the Corps of Engineers will notify the agencies listed in the Regional General Permit-E by phone and/or e-mail. The Corps will provide the most detailed description possible based on information available and will consider all comments received.

REGULATORY AUTHORITY: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) requires a Department of the Army permit for work or structures water ward of the ordinary high water mark in navigable waters of the United States or that would affect the course, condition, or capacity of the navigable waters. Section 404 of the Clean Water Act (33 CFR 1344) requires a Department of the Army permit for the discharge of dredged or fill material into waters of the United States, including wetlands.

WATER QUALITY CERTIFICATION: Idaho Department of Environmental Quality issued a Section 401 Water Quality Certification on April 3, 2012. All conditions listed on the Water Quality Certification are to be considered as a part of this permit. (Copy attached)

CULTURAL RESOURCES: Coordination was conducted with the Office of the Idaho State Historic Preservation Officer (SHPO) to determine a notification procedure and recommendations to reduce potential impacts of authorized activities that may affect site(s) that is/are listed on the National Register of Historic Places, or a site(s) that may be eligible for listing on the Register. In accordance with the permit evaluation/review/authorization procedures it was determined that: To the extent practicable during the emergency and prior to verification under this General Permit all proposed actions will be coordinated with the Idaho State Historic Preservation Officer (SHPO) or the appropriate tribal entity to determined if there are any known sites listed on the National Register of Historic Places, or a site(s) that may be eligible for listing on the Register with the vicinity. In addition the SHPO or the appropriate tribal entity may make site specific recommendations to protect any cultural resources in the area.

TRIBAL TREATY RIGHTS and INTERESTS: Federal agencies acknowledge the federal trust responsibility arising from treaties, statues, executive orders and the historical relations between the United States and American Indian Tribes. The federal government has a unique trust relationship with federally recognized American Indian Tribes. This action was coordinated with following tribes, Kootenai Tribe of Idaho; Coeur d'Alene Tribe; Kalispel Tribe of Indians; Spokane Tribe of Indians; Confederated Salish Kootenai Tribes of the Flathead Reservation; Nez Perce Tribe; Confederated Tribes of the Colville Reservation; Shoshone-Bannock Tribes; Shoshone-Paiute Tribes; Fort McDermitt Reservation; Confederated Tribes of the Warm Springs Nation; Wanapum Tribe; and Northwest Band of the Shoshone. Three tribes responded, they did not oppose the action. In accordance with the permit evaluation/review/authorization procedures it was determined that: To the extent practicable during the emergency and prior to verification under this General Permit all proposed actions will be coordinated with the appropriate Tribe(s).

ENDANGERED SPECIES: Coordination was conducted with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to determine if activities covered under this Regional General Permit would have any effect on species designated as endangered or threatened under the Endangered Species Act, or their critical habitat within the state of Idaho. Neither agency submitted written comments; however, the Corps will follow notification procedures required by USFWS/NMFS emergency consultation process to cover ESA concerns. It was determined that procedures established within RGP-E is consistent with both agencies Emergency Consultation Process.

EVALUATION: The decision to issue the General Permit was based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors that are relevant to the proposal were considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation will include application of the EPA Guidelines (40 CFR 230) as required by Section 404(b) (1) of the Clean Water Act.

For further information about the Department of the Army permit program, Walla Walla District, please visit our website at: <http://www.nww.usace.army.mil/html/offices/op/rf/rfhome.asp> or call telephone (509) 527-7150.

PUBLIC HEARING: No requests for a public hearing were received and it is determined that a public hearing is not warranted for authorization of RGP-E.

COMMENTS RECEIVED: All comments received in response to the February 8, 2012 Public Notice have been addressed and made part of the permanent record.


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Walla Walla District

Enclosures