

**DEPARTMENT OF THE ARMY PERMIT
REGIONAL GENERAL PERMIT-EMERGENCY (RGP-E)**

Certain Activities Associated with Emergency Conditions
In Waters of the United States, Idaho

EFFECTIVE DATE:

EXPIRATION DATE:

PURPOSE: Issuance of a Regional General Permit-E (RGP-E) to improve efficiencies and expedite permit processing for activities with minimal individual and cumulative impacts on the aquatic environment. The issuance of an RGP-E reduces associated costs of permitting by authorizing such activities, including temporary activities associated with emergency conditions.

ISSUING OFFICE: U.S. Army Corps of Engineers, Walla Walla District

AUTHORITY: On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), authority is delegated to the District Engineer to authorize the discharge of dredged or fill material into Waters of the United States, including wetlands. In accordance with 33 CFR 325.2(e)(2), the District Engineer for the Walla Walla District of the U.S. Army Corps of Engineers (Corps) issues RGP-E authorizing certain activities in Waters of the United States, including wetlands, to expedite response to an Emergency Condition.

EMERGENCY CONDITION: An Emergency Condition, as defined for the 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 (DA) 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 emergency consultation procedures in 50 CFR § 402.05.

Upon completion of the emergency measures, or termination of the emergency condition, formal consultation will be initiated by the Corps with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service (NMFS), as required under the emergency consultation procedures in 50 CFR § 402.05.

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.

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 loss of property, 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.

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

Authorized activities include, but are not limited to:

- **Repair, Construction or Re-Construction of Linear Transportation Features:** These activities will usually occur because temporary access is needed to perform other actions listed below. These temporary features will be needed to restore vehicle passage or access to homes, businesses, etc. until the emergency has passed or until a more permanent solution can be designed. Activities would include, but are not limited to, culvert or bridge replacements or repairs; restoration of road prism at the original site or in a new location; placement of rock or other structures to protect transportation features; or the removal of debris jams around bridges, culverts or other transportation features where such a jam is threatening the stability of the transportation feature.
- **Protection, Repair and/or Replacement of Utility Structures:** This activity will occur to protect or re-establish utilities such as electricity, water, sewer, natural gas, or other transmission lines. Temporary utilities may be needed until more permanent solutions can be constructed. These activities can involve excavation and trenching, backfilling, armoring with rock or other suitable material, placement of utility poles and aerial transmission lines.
- **Debris Removal:** This activity includes the removal of debris around bridges, culverts or other transportation features where such debris is threatening the stability of the transportation feature.
- **Temporary Levee Construction:** This activity will occur to protect homes, businesses, and public infrastructure. It is expected that these levees will be removed and the land restored once the emergency has passed. Levees will be constructed of suitable materials and sloped and/or armored with rock or other stabilizing material to prevent erosion and failure.
- **Levee Repair, including Breach Closures:** This activity would occur to stop scour and allow the closing of breaches and impacts to the levee prism including the discharge of suitable material including riprap.
- **Placement of Suitable Material for Bank Stabilization or Revetment Repair:** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, broken concrete, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). This activity would occur to stop erosion and to protect private property and public infrastructure. Large rock or other suitable clean fill material may be placed in the amount needed to stop erosion and to protect property or public infrastructure along river or stream banks.
- **Construction of Temporary Drainage Ditches.** This provision allows the construction of temporary drainage ditches that are needed to aid in the removal of flood waters from residential, commercial areas or from public infrastructure. These drainage ditches would likely flow to existing surface tributaries or drainage facilities.
- **Pile Driving or Repair.** This activity is usually associated with the repair or replacement of damaged pier or dock piling in/along rivers and lakes. It includes driving of piles, including sheet

piling, to protect or support structures or fills until a more permanent repair or replacement can be accomplished.

- **Dam Repair.** Repairs to prevent erosion and potential failure of an existing dam including the placement of rock or other suitable material.
- **Sandbagging.** Allows the use of sandbags to temporarily reinforce structures and prevent flooding impacts. The sandbags must be removed when the emergency has passed, and the sand must be discharged in uplands where it cannot re-enter waters of the U.S., including wetlands.

CORPS OF ENGINEERS ACTIONS: Upon verification that the emergency condition and remedies described comply with the RGP-E requirements, to the extent practicable the Corps of Engineers will notify the following agencies by phone and/or email. The Corps will provide the most detailed description possible based on information available and will consider all comments received.

Environmental Protection Agency (EPA)
U.S. Fish and Wildlife Service (FWS)
National Marine Fisheries Service, NOAA (NMFS)
Idaho Department of Environmental Quality (IDEQ)
State Historic Preservation Office (SHPO)
Indian Tribe(s) with interests in the emergency site
Idaho Department of Water Resources (IDWR)
Idaho Department of Lands (IDL)
Idaho Department of Fish and Game (IDFG)
Local Government (City/County)

WATER QUALITY CERTIFICATION: As indicated above, the Corps of Engineers will provide IDEQ, EPA, or the appropriate Tribe with the most complete information available regarding the RGP-E action. IDEQ has issued a Section 401 Water Quality Certification for actions authorized by RGP-E (copy attached). EPA, or the appropriate Tribe will take appropriate action to issue, waive, or deny WQC per action in consideration of the required Best Management Practices, as listed below:

1. Measures authorized herein will not allow for the construction of structures which would result in any further stream channel constriction or in the redirection of flows in such a manner as to cause further flooding or erosion.
2. Measures authorized herein will constitute the least damaging practicable alternative that will accomplish the project.
3. The clearing of vegetation, including trees located in or immediately adjacent to Waters of the United States, will be limited to that which is absolutely necessary for construction of the project.
4. Concrete trucks will be washed at a site and in such a manner that wash water cannot enter Waters of the United States.
5. During construction, no petroleum products, chemicals, or other deleterious materials shall be

allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent entry of these materials into the water.

6. Equipment for handling and conveying materials during construction will be operated to prevent dumping or spilling the materials into the Waters of the United States, except as approved herein.
7. The emergency actions authorized herein will be to temporarily re-establish transportation features, utilities and to prevent loss of life, significant property loss and significant economic hardship.

APPLICATION PROCEDURES: All parties proposing work under RGP-E must contact the appropriate Corps Office. Contact information is available on the Walla Walla District Regulatory website, located at

<http://www.nww.usace.army.mil/Portals/28/docs/regulatory/ContactUs/Regboundarywebmap.pdf>.

A determination by the Corps must be made if the proposed work is necessitated by emergency conditions and if it meets the criteria, per Federal Regulation 33 CFR 325.2(e) (2).

The following information, to extent practicable during the emergency situation actions, is required and may be provided using the Joint Application for Permit form, which is located on-line at the Walla Walla Regulatory Division website:

<http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/JointApplicationforPermit.aspx>

1. Name, address and telephone number and e-mail address, if available.
2. The name, address and telephone number of the owner of the affected property, if you are not the owner.
3. Description of the proposed work, including:
 - a. Purpose and need
 - b. Type, composition, quantity of all material to be excavated or placed below the ordinary high water mark, in Waters of the U.S., including wetlands
 - c. Location of activity
 - d. Name of waterway
 - e. Length, width and depth of fill or excavated areas
 - f. Discussion of direct and indirect adverse environmental effects of the proposed activity
 - g. Location of any disposal sites for excavated material
 - h. Equipment to be used
 - i. Identification/delineation of any wetlands
 - j. Receiving area for any excess water
4. Any other pertinent or supporting data
5. A location map indicating location of the proposed work and legal description (section, township, range; county; latitude and longitude).
6. Drawings (8.5"x11" white paper) showing plan, cross sectional views with elevations and dimensions.

The above information must clearly describe the proposed project so the Corps can determine if the

work complies with the terms and conditions of the RGP-E. Your project may not proceed until you have received approval notification from the Corps that the proposed work meets RGP-E criteria.

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.
5. The permittee shall allow representatives from the 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 and provide 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.

FURTHER INFORMATION:

1. Limits of this Authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations 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.
- e. This permit does not authorize you to “take” any species protected under the Endangered Species Act.
- f. This permit does not authorize you to impact any historic or archeological remains eligible for listing in the National Register of Historic Places (see General condition #3).

2. 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 modifications, suspension or revocation of this permit.

3. Reliance on Applicant's Data. The determination by the Corps that issuance of this permit is not contrary to the public interest was made in reliance on the information provided by the applicant or the applicant's agent.

4. Reevaluation of Permit Decision. The Corps may reevaluate its decision on this permit at any time 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 in support of the permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces which the Corps 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 contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the

issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by the Corps, and if you fail to comply with such directive, the Corps may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. Extensions. General Condition #1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

6. Expiration. This Regional General Permit expires five (5) years from the date of issuance and will be subject to public review prior to being reissued.

The permittee shall comply with all conditions contained in this Regional General Permit or the permit is not valid and a separate Department of the Army Permit will be required to authorize the work.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Timothy R. Vail
Lieutenant Colonel, Corps of Engineers
District Commander

DATE