



Regional General Permit [#]

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

NATIONAL ENERGY EMERGENCY ACTIVITIES

EFFECTIVE: TBD

EXPIRES: (5 years from effective)

The U.S. Army Corps of Engineers, Sacramento District, (Corps) hereby issues Regional General Permit (RGP) [NUMBER] to expedite the authorization of activities involving the discharge of dredged or fill material into waters of the United States (U.S.) and/or structures or work in or affecting navigable waters of the U.S. for energy and critical minerals production, transportation, refining, and generation activities, as described in Executive Order (EO) 14156, *Declaring a National Energy Emergency*. Activities authorized under this RGP are substantially similar in nature and cause only minimal individual and cumulative environmental impacts.

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

ACTION ID: SPK-2025-00011

AUTHORITIES: Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

LOCATION: Within the Sacramento District's Regulatory Program boundaries which include the Central Valley and Sierra Nevada of California and the States of Nevada and Utah (see attachment).

PURPOSE: On January 20, 2025, the President of the United States signed EO 14156, Declaring a National Energy Emergency. For the reasons stated in Section 1 of EO, the President has found that insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy and declared a national emergency on the basis of those findings.

On April 1, 2025, the South Pacific Division Commander approved the Sacramento District to use special emergency processing procedures in the States of California, Nevada, and Utah in accordance with 33 CFR § 325.2(e)(4) and EO 14156. The special emergency processing procedures were established pursuant to Section 4 of EO 14156 for activities that require Department of the Army authorization under Section 10 of the Rivers and Harbors Act (RHA) of 1899, Section 404 of the Clean Water Act (CWA), and/or Section 103 of the Marine Research, Protection, and Sanctuaries Act (MRPSA) of 1972, as amended, and alterations of a USACE civil works project under 33 U.S.C. 408 (Section 408).

U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 860, Sacramento, CA 95814-2922

<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>

The purpose of this RGP is to provide an expedited process for authorizing activities in waters of the U.S. that require Department of the Army (DA) authorization related to energy and critical minerals production, transportation, refining, and generation, while protecting the nation's aquatic resources.

ACTIVITIES COVERED: This RGP authorizes work or structures in navigable waters of the U.S. and the permanent or temporary discharge of dredged or fill material into waters of the U.S. for activities related to the production, transportation, refining, and generation of domestic energy resources consistent with EO 14156. In accordance with 33 C.F.R § 322.2(f)(1) and 33 C.F.R § 323.2(h)(1), ~~this RGP authorizes the~~ activities ~~that listed below~~ are substantially similar in nature and cause only minimal individual and cumulative environmental impacts, when conducted under the terms and conditions of this permit. Activities covered under this RGP include, but are not limited to, the construction, expansion, modification, maintenance, and repair of:

- Mining and drilling facilities
- Electric, oil, and natural gas facilities
- Production, enrichment, and refining facilities
- Hydropower generation facilities
- Transmission pipelines
- Aerial transmission lines and poles
- Energy storage facilities, such as batteries and tanks
- Docks, piers, and terminals
- Access roads, rail lines, and canals
- Temporary construction, access, staging, and stockpile areas
- Temporary dewatering structures and fills
- Temporary return water from upland contained disposal areas

DEFINITIONS: Consistent with EO 14156, the following terms apply to this RGP:

“Energy” or “energy resources” means crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, as defined by 30 U.S.C. 1606 (a)(3).

“Production” means the extraction or creation of energy.

“Transportation” means the physical movement of energy, including through, but not limited to, pipelines.

“Refining” means the physical or chemical change of energy into a form that can be used by consumers or users, including, but not limited to, the creation of gasoline, diesel, ethanol, aviation fuel, or the beneficiation, enrichment, or purification of minerals.

“Generation” means the use of energy to produce electricity or thermal power and the transmission of electricity from its site of generation.

“Energy supply” means the production, transportation, refining, and generation of energy.

In addition,

“Single and complete” means the total project proposed or accomplished by one entity. For linear projects, single and complete applies to each crossing of a separate waterbody and those that cross a single waterbody several times but at separate and distant locations.

TERMS:

1. The time limit for completing the activity under this RGP is three (3) years from the date of the authorization letter issued by this office.
2. The emergency activity must not be related to a solar or wind project.
3. The activity must be a single and complete project.
4. The permanent loss of waters of the U.S., resulting from a single and complete activity, must not exceed 1.0 acre of wetland, 2.0 acres of lake/pond, or 500 linear feet of a stream.
5. For the permanent loss of 0.1 acre or more of waters of the U.S., compensatory mitigation at ratio of 2:1 is required. Compensatory mitigation shall normally be accomplished through the purchase of credits at a Corps-approved mitigation bank. If mitigation bank credits are not available, compensatory mitigation shall be accomplished through an in-lieu fee program or permittee-responsible mitigation. Permanent losses below 0.1 acre will not require compensatory mitigation.
6. Aerial electric power transmission lines crossing navigable waters of the U.S., which are defined at 33 CFR part 329, must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

GENERAL CONDITIONS:

~~1. The time limit for completing the activity under this RGP is three (3) years from the date of the authorization letter issued by this office.~~

1. Prior to commencing work in waters of the U.S., you shall submit a pre-construction notification to the Corps through the Regulatory Request System (see Preconstruction Notification Procedures below).

2. You shall conduct no work in waters of the U.S. until notified by the Corps that the activity is authorized under this RGP, subject to its terms and general conditions and any special conditions added to the authorization to ensure minimal impact.
3. Where the certifying authority responsible for certifying compliance with applicable water quality requirements in accordance with Section 401 of the Clean Water Act has not certified this RGP, individual water quality certification for the proposed discharge must be obtained or waived. If the certifying authority issues an individual water quality certification for the proposed discharge, you must submit a copy of the certification to the Corps. The activity is not authorized until the Corps has notified you that the certification requirement has been satisfied by the certifying authority.
4. You shall ensure the activity does not substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
5. You shall site temporary construction-related impacts, such as access roads, and staging areas, to avoid and minimize impacts waters of the U.S. Temporary discharges of dredged and/or fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Within 30 days of completion of construction, temporary fill must be entirely removed to an area that has no waters of the U.S., dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations and revegetated with native species.
6. You shall ensure the activity authorized under this RGP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.
7. You are not authorized to initiate any activity in waters of the U.S. under this RGP that has the potential to impair tribal rights. Reserved tribal rights include, but are not limited to, reserved water rights and treaty fishing and hunting rights.
8. You shall ensure soil erosion and sediment controls are used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high-water mark or high tide line, is permanently stabilized at the earliest practicable date.
9. You shall conduct no activity under this RGP that occurs in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

10. You shall ensure no activity directly or indirectly jeopardizes the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. Proposed effects on listed species or their critical habitat shall be completed in accordance with 50 C.F.R § 402.05, which provides further explanation under ESA section 7 regarding “emergencies.” Authorization of an activity under this RGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization, like a Section 10 Permit or a Biological Opinion with incidental take provisions, the Corps will consult with the U.S. Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS) informally through alternative procedures consistent with the requirements of sections 7(a)-(d) of the ESA. Formal consultation shall be initiated as soon as practicable after the emergency is under control and if take has occurred. If take has occurred, the Corps will submit information on the nature of the emergency action, the justification for the expedited consultation, and the impacts to endangered or threatened species and their habitats. The FWS or NMFS will evaluate the information and issue a biological opinion including the information and recommendations given during the emergency consultation.

11. You shall ensure the activity will not have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) emergency procedures identified in 36 C.F.R 800 §.12(b) have been satisfied. In accordance with 36 C.F.R § 800.12(b)(2), the Corps will notify the Advisory Council on Historic Preservation, State Historic Preservation Officer, Tribal Historic Preservation Officer, and Tribes about the undertaking and provide them an opportunity to comment within seven days before the activity is authorized. For activities in the state of Utah, the Corps will follow the ‘Emergency Situations’ stipulation (i.e., Stipulation VI) of the Programmatic Agreement (PA) among the U.S. Army Corps of Engineers, Sacramento District, and the Utah State Historic Preservation Officer (SHPO), regarding National Historic Preservation Act Responsibilities for Small-Scale Undertakings. Furthermore, the Corps may authorize you and/or your agent to initiate consultation with the SHPO and others regarding eligibility determinations pursuant to 36 C.F.R. § 800.2(c)(4), in accordance with Stipulation I.G of the PA.

12. If any previously unknown historic, cultural, or archeological remains and artifacts are discovered while accomplishing the activity authorized by this RGP, you shall immediately notify the Corps of what you have found and, to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will determine the need to initiate the Federal, Tribal, and state coordination to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

13. You shall maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this

requirement if you abandon the permitted activity or sell the property associated with this permit. Authorization under this RGP is non-transferrable. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it, you shall contact this office and restore the area. Maintenance activities associated with the authorized structure or fill must be specifically approved, in writing, by the Corps if they involve the discharge of dredged or fill material into waters of the U.S. or work in or affecting navigable waters of the U.S.

14. You shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that the activity is being, or has been, accomplished in compliance with the terms and conditions of this permit.

15. You are responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all activities are completed.

16. You shall not discharge unsuitable materials into waters of the U.S. Unsuitable material includes items such as vehicle bodies, farm machinery, appliances, and other metal objects and pollutants such as asphalt, concrete with exposed rebar, biodegradable construction debris, and tires. Materials discharged must be free from pollutants in toxic amounts (see Section 307 of the CWA). Fresh cement or concrete is not allowed in the water unless it is placed in sealed forms.

17. You shall provide compensation, at a ratio of 2:1, for the permanent loss 0.1 acre or more of waters of the U.S. Compensatory mitigation will normally be accomplished through the purchase of credits at a Corps-approved mitigation bank. If mitigation bank credits are not available, in whole or in part, compensatory mitigation shall be accomplished through a Corps-approved in lieu fee program (ILF). If no ILF is available, compensatory mitigation may be accomplished through permittee-responsible mitigation but only after the Corps has reviewed and approved a mitigation plan.

18. The activity must not cause more than a minimal effect on navigation. Safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at your expense on authorized facilities in navigable waters of the U.S. You understand and agree that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or their authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the United States on account of any such removal or alteration.

19. Pipes and pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the U.S. are considered bridges and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the RHA of 1899.

PRECONSTRUCTION NOTIFICATION PROCEDURES:

1. In accordance with General Condition 1, the project proponent must request authorization under the RGP by submitting a preconstruction notification (PCN) through the Regulatory Request System (<https://rrs.usace.army.mil>). The PCN will include a completed *Department of the Army Permit Application Form* (ENG 4345) requesting authorization under this RGP. For activities with multiple single and complete projects, you may submit one ENG 4345, but it must contain information regarding each single and complete project. In addition, for the Corps to process the PCN, the following information must be provided:

a. A location map and proposed project drawings prepared in accordance with the *Updated Map and Drawing Standards for the South Pacific Division Regulatory Program* dated February 10, 2016. <https://www.spd.usace.army.mil/Missions/Regulatory/Public-Notices-and-References/Article/651327/updated-map-and-drawing-standards/>

b. A delineation of waters of the U.S., including wetlands or other special aquatic sites, on the site prepared in accordance with the current methodologies required by the Corps. The report must include a delineation map prepared in accordance with the *Sacramento District's Minimum Standards for Acceptance of Aquatic Resource Delineation Reports* dated January 2016. https://www.spk.usace.army.mil/Portals/12/documents/regulatory/jd/minimum-standards/Minimum_Standards_for_Delineation_with_Template-final.pdf

c. If the proposed activity will alter or temporarily or permanently occupy or use a Corps project pursuant to 33 U.S.C. 408, the PCN must include a statement confirming a written request has been submitted for section 408 permission from, or for review by, the Corps.

d. If the activity might affect any listed species or designated critical habitat under the federal Endangered Species Act, the PCN must include the name(s) of those endangered or threatened species or critical habitat. Any project-specific information prepared concerning potential effects on listed species or designated critical habitat should be submitted as part of the PCN.

e. If the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. Any project-specific information prepared concerning the potential to cause effects to a historic property should be submitted as part of the PCN.

f. If the proposed activity would occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river."

2. Within 3 business days of receiving the PCN, the Corps will:

a. Contact the requestor to acknowledge receipt of the PCN, provide the identification number, and, if applicable, request information on the status of individual certification under Section 401 of the Clean Water Act, including whether pre-filing meeting requirements were met.

b. Determine if the PCN is complete. If the PCN is not complete, the Corps will contact the requestor about the information needed to complete the permit application. If all the requested information is not provided within 30 days, this Corps will administratively withdraw the PCN.

3. Within 5 business days of receiving a complete PCN, the Corps will:

a. Begin tribal consultation by requesting comments by email on the proposed activity within 10 calendar days from potentially affected tribes.

b. If applicable, contact the appropriate certifying authority under Section 401 of the Clean Water Act by email with information about the proposed activity and seek agreement on a reasonable period of time of 25 calendar days for the certifying authority to make a certification decision.

4. Within 10 business days of receiving a complete PCN, the Corps will:

a. Notify the relevant State or Tribal Historic Preservation Office(s), the Advisory Council of Historic Places, and Native American Tribe(s) of the proposed activity (the undertaking) and provide them an opportunity to comment within seven calendar days.

b. Begin appropriate consultation and coordination necessary for compliance with other laws with each other agency in accordance with that agency's provisions for emergency situations. The timeline for completing each consultation or coordination is 10 calendar days which will be communicated to the agency at the start.

5. Within 5 business days of concluding the CWA Section 401(a)(2) process with U.S. EPA, unless there is an extenuating circumstance, the Corps will make a decision on the request for authorization under this RGP. You may not begin work requiring Department of the Army authorization until the CWA Section 401 process is complete, and the Corps has verified, in writing, that the activity may proceed under this RGP.

FURTHER INFORMATION:

1. Congressional Authorities. You have been authorized to undertake the activity described above 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).

2. 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 projects.

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 U.S. 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 you provided.

5. Reevaluation of Permit 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. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your 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 C.F.R § 325.7 or enforcement procedures such as those contained in 33 C.F.R § 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you 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 this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Discretionary Authority. This office has the discretion to suspend, modify, or revoke authorizations under this permit. This discretionary authority may be used by us to further condition or restrict the applicability of this permit for cases in which we have concerns associated with the CWA Section 404(b)(1) Guidelines, or regarding any factor of the public interest. Should we determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters of the U.S. or otherwise be contrary to the public interest, we will modify the authorization to reduce or eliminate those adverse effects or notify you that the proposed activity is not authorized by this permit and provide instructions on how to apply for authorization under another type of DA permit. Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from us, such as a Nationwide Permit, Regional General Permit, Letter of Permission, or Standard Permit. We will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be contrary to the public interest. We may include additional special conditions to a verification under this permit to ensure the activity has minimal impact. We may also restore authorization under this RGP at any time we determine the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. We may also use our discretionary authority to modify, suspend, or revoke this RGP at any time.

PERMIT DURATION: This RGP is valid for five years from the date of issuance. This RGP will expire no later than [DATE]. We may re-evaluate the terms and conditions of this RGP at any time we deem it necessary to protect the public interest. Activities under this RGP must be verified in writing by this office and will be valid until the expiration described above.

CONTACTS AND ADDITIONAL INFORMATION:

U.S. Army Corps of Engineers, Sacramento District
Regulatory Division
1325 J Street, Room 860
Sacramento, California 95814-2922
Email: SPKRegulatoryMailbox@usace.army.mil
Phone: 916-557-5250

ATTACHMENTS:

1. General 401 Water Quality Certification(s) [TBD]

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

Michael S. Jewell
Chief, Regulatory Division

Date