Regulatory Division
200900170

DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMITS
105, 106, 107 and 108
PUBLIC FUNDED PROJECTS
WITHIN THE GEOGRAPHIC LIMITS OF GEORGIA
SAVANNAH DISTRICT

SUBJECT: Regional General Permits No. 105, 106, 107 and 108

Effective Date: February 3, 2010

Expiration Date: September 30, 2010

DESCRIPTION OF THE REGIONAL GENERAL PERMITS: On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 United States Code (U.S.C.) 403), and/or Section 404 of the Clean Water Act (33 U.S.C. 1344), authority is hereby given to Federal, state, and local governing bodies within the geographic limits of the State of Georgia to discharge dredged and/or fill material, resulting in the loss of up to 5 acres of wetland and/or 1,000 linear feet of intermittent and/or perennial stream for certain publically funded projects; and up to 10 acres of wetland impact and/or 2,000 linear feet of intermittent and/or perennial stream impact for certain publically funded linear projects with multiple crossings. Within a single watershed (8-digit Hydrologic Unit Code), cumulative wetland loss is limited to 10 acres and/or the cumulative intermittent and/or perennial stream loss is limited to 2,000 linear feet. The Regional General Permits (RGPs) and the conditions for their use are shown below:

a. Regional General Permit 105: Widening or improvement of existing transportation projects. To be authorized under this Regional General Permit, the entirety of the proposed work being proposed in waters of the US must be located within 100 feet of the right of way of the transportation project being improved, unless the project requires a new alignment section to straighten a portion of the road for safety reasons. In the later cases, the new alignment section can be no more than 1 mile in length unless a waiver is granted by the District Engineer.

b. Regional General Permit 106: Bridge replacement projects.

c. Regional General Permit 107: Construction of institutional facilities such as governmental offices, schools, libraries, and museums.

d. Regional General Permit 108: Construction of infrastructure projects such as water treatment facilities and storm water management facilities.

These RGPs are not considered to supersede or otherwise modify applicable Nationwide Permits published in the March 12, 2007, Federal Register, Vol. 72, No. 47, Pages 11092-11198 (72 FR) or other types of currently authorized General Permits.

I. GENERAL CONDITIONS

A. Limitations.

1. Projects must be funded by a local, state or Federal governing body.

2. Each application submitted under these RGPs would be considered a single and complete project. There would be no piece-mealing or combining of different categories of RGPs.

3. Use of these RGPs is excluded in tidal waters, including tidal wetlands within the 11 coastal counties of Georgia. In brief, use of the RGPs is not allowed in waters regulated by the Georgia Department of Natural Resources-Coastal Resources Division (GACRD). Tidal waters regulated by GACRD are specified to be the estuarine areas lying within a tide range of 5.6 feet above mean tide level (MTL) and below. Where applicable, use of the RGPs would be authorized in other areas within Georgia's coastal zone boundary (i.e., 11 coastal counties) provided it can be established that a project lies at an elevation above 5.6 feet MTL. For projects proposed in the eleven coastal counties, applicants should provide a standard topographic map that illustrates a project is located above the 6-foot or two-meter contour and a statement that impacts will be limited to areas located above the 6-foot or 2-meter contour. If elevation information is not submitted, or if a topographic map indicates that the project lies below the 6-foot or 2-meter contour, the applicant will be required to obtain an individual Coastal Zone Management (CZM) certification on a case- by-case basis as required under Subpart D of the federal consistency regulations [15 CFR 930.62 (a)].

4. Only a limited number of watersheds are authorized for use of RGPs. Tables 1-4 provide a listing of the watersheds where use of the RGPs is applicable.

5. Only a limited number of projects can be authorized by RGPs in a watershed. Tables 1-4 provide a listing of the type aquatic resource (i.e., wetland or stream) and maximum cumulative impact, which could be authorized using the RGPs in a specified watershed.

6. Watersheds listed in Table 1 would be restricted to a finite number of RGPs with 1000 linear feet of stream impact per single project. A cumulative total of 2000 lf of stream loss would be the maximum impact allowed using the RGPs in these designated watersheds.

7. Watersheds listed in Table 2 would be restricted to a finite number of RGPs with 500 linear feet of stream impact per single project. A cumulative total of 1000 lf of stream loss would be the maximum impact allowed using the RGPs in these designated watersheds.

8. Watersheds listed in Table 3 would be restricted to a finite number of RGPs with no more than 5 acres of wetland loss per single project. A cumulative total of 10 acres of wetland loss would be the maximum impact allowed using the RGPs in these designated watersheds.

9. Watersheds listed in Table 4 would be restricted to a finite number of RGPs with no more than 3 acres of wetland loss per single project. A cumulative total of 5 acres of wetland loss would be the maximum impact allowed using the RGPs in these designated watersheds.

10. Projects authorized by the RGPs in these watersheds (Tables 1-4) would be evaluated on a "first come, first serve" basis. If the maximum impact thresholds have already been achieved, then subsequent applications will be reviewed using other appropriate permit application procedures.

11. No nationwide permit and/or individual permit can be utilized in conjunction with the RGPs.

12. Where applicable, a single linear project authorized by the RGPs would allow a maximum of 10 acres of wetland loss and/or 2,000 linear feet of stream loss over multiple crossings. However, this would only be applicable in watersheds where the magnitude of these impacts was permissible (i.e., Tables 1 and 3). In addition, a project of this magnitude would prevent the use of subsequent RGPs in the same watershed. For watersheds where the scope of impact has been reduced (i.e., Tables 2 and 4), only linear projects that are less than or equal to the maximum impact threshold (i.e., 1000 linear feet of stream and 5 acres of wetland) would be considered eligible for use of the RGPs.

13. In some instances, the maximum threshold limits for impacts may vary depending on the watershed. For example, a cumulative total of 2000 linear feet of stream impact and/or 5 acres of wetland could be authorized using the RGPs in the Etowah Watershed (Tables 1 and 4). For these situations, a single project could only impact 3 acres of wetland and/or 1000 linear feet of stream. Additionally, a linear project proposed in the Etowah Watershed could utilize the combination of available wetland and stream impacts (i.e., 2000 linear feet of stream and 5 acres of wetland). However, a project of this magnitude would prevent the use of subsequent RGPs in the same watershed.

14. For linear projects, these RGPs have an impact limit of 3 acres of wetlands and/or 500 feet of intermittent or perennial stream at any one crossing/site.

15. No work will be performed until the District Engineer notifies the permittee, in writing, that the work is within the scope of the appropriate RGP.

16. Any applicant for use of these RGPs must obtain project specific Water Quality Certification, pursuant to Section 401 of the Clean Water Act. By letter dated January 10, 2010, the Georgia Department of Natural Resources, Environmental Protection Division (GAEPD) denied Water Quality Certification for all of the RGPs. Denial of Water Quality Certification pertains to any future projects that the may qualify for authorization under the RGPs. For any project that the USACE determines to qualify for authorization under the RGPs, a provisional permit would be issued. A permittee with a provisional RGP would be required to obtain project

specific Water Quality Certification from GAEPD. Only after project specific Water Quality Certification was issued would a provisional USACE RGP permit be valid.

17. Any applicant for use of these RGPs for a project site located within Bryan, Brantley, Camden, Charlton, Chatham, Effingham, Glynn, Liberty, Long, McIntosh or Wayne Counties must obtain project specific Coastal Zone Management Consistency pursuant to the Georgia Coastal Management Program (GCMP). By letter dated January 15, 2010, the Georgia Department of Natural Resources, Coastal Resources Division (GACRD) denied Federal Consistency for all of the RGPs. Denial of GCMP Certification pertains to any future projects located in the 11 coastal Georgia counties that the may qualify for authorization under the RGPs. For any coastal county project that the USACE determines to qualify for authorization under the RGPs, a provisional permit would be issued. A permittee with a provisional coastal county RGP would be required to obtain project specific GCMP Certification from GACRD. Only after project specific GCMP Certification was issued, would a provisional USACE RGP permit be valid.

18. Unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) is not permitted for construction of any activity and material used for construction or discharge must be free of toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act) and cultural resources.

19. Activities located less than 0.25 miles upstream of spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, alter, or smother downstream areas by substantial turbidity) of an important spawning area are not authorized.

20. Adverse effects on aquatic systems caused by the accelerated passage of water and/or the restriction of its flow shall be minimized by use of proper management practices.

21. Activities in breeding areas for migratory bird species must be avoided.

22. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

23. No activity may occur in a State designated primary or secondary trout stream.

24. No activity can occur within 2000 feet of a National Wildlife Refuge.

25. No activity or its operation may impede reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

26. Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing elevation, flow regime, and vegetative condition. Temporary fills may remain in place in waters of the United States for no more than three months. The District Engineer may extend the period of temporary placement for no more than a total of 180 days, where appropriate.

27. Ditches and medians associated with road crossings must be designed and constructed to maintain the normal hydrologic condition in the waters of the US being crossed, and final road elevations cannot be lower than surrounding wetlands.

28. No dredged or fill material will be discharged into waterways designated by the Georgia Department of Natural Resources as "Drinking Water Supplies," "Wild River," or "Scenic River," or which are actively being studied for possible inclusion in the Wild and Scenic Rivers system.

29. All wetland crossings must extend between previously existing natural high ground locations.

30. The proposed work shall conform to existing land use plans and/or zoning.

31. These RGPs cannot be used to authorize projects that would impact compensatory mitigation sites or an approved compensatory mitigation bank, unless that project's purpose is to enhance the mitigation site or bank. An individual permit application would be required for these projects.

32. Use of these RGPs are prohibited in waters of the United States that support anadromous fish, or in those waters that previously supported such fish and where restoration of fish migrations and populations is possible. The established limits for these waters are depicted in Attachment 2, and include adjacent and tributary waters located within 1,000 feet of these identified waters. Exemption from this condition will be considered on a case-by-case basis, in coordination with the US Fish and Wildlife Service and the National Marine Fisheries Service. An exemption may be granted by the District Engineer when it is determined that the project would have minimal impact on anadromous fish or their restoration.

33. The discharge will not be located less than 0.25 mile from a public water supply intake.

34. Beach nourishment or renourishment projects are not authorized under any of these RGPs.

35. PCNs for projects proposed in or near a designated 303(d) listed stream must include a narrative description of the best management practices that would be implemented to minimize impacts to the stream. These practices should include stormwater treatment and green infrastructure design features.

36. To the extent practicable, applicants shall follow the recommendations in the enclosed document titled "Recommendations to Incorporate Green Practices Into Federally Funded Construction Projects Under the American Recovery and Reinvestment Act," which was prepared by the US Environmental Protection Agency, Region IV, in developing plans for projects proposed under these RGPs.

37. In stream treatment or detention systems are not eligible for authorization under any of these RGPs.

38. These RGPs cannot be used in combination with other RGPs, Nationwide Permits, Standard Permits or Letters of Permission for authorization of a single and complete project.

39. Borrow site or sites for stockpiling fill dirt will be prohibited within 200 feet of stream banks or elsewhere runoff from the site would increase stream sedimentation.

40. Anti-seep collars, or other structures designed to prevent under-draining, will be installed on all buried utility lines in wetlands. If no anti-seep/drain device(s) is proposed, the applicant must provide information documenting that such a device is not required to prevent wetland drainage.

41. Construction debris, liquid concrete, old riprap, old support materials, or other litter will not be placed in streams or wetlands or in areas where migration into streams and/or wetlands could reasonably be expected.

42. No activity may occur in areas designated as Prime and/or Unique Farmland.

B. Submittal Requirements.

1. A pre-construction notification (PCN) is required for use of these RGPs (form enclosed). Impacts to wetlands must be calculated and reported in acres. Impacts to intermittent and perennial streams must be calculated separately from wetland impacts, and reported in linear feet of stream channel and in acres. The PCN will include a statement regarding whether the activity may occur in or directly adjacent to waters designated on the Georgia 303(d) list. The EPA maintains a list of these waters on their "Surf Your Watershed" website (www.epa.gov/surf/).

2. The discharge will be carried out in conformity with the goals and objectives of the Environmental Protection Agency (EPA) guidelines established pursuant to Section 404(b) of the Clean Water Act and as published in 40 CFR 230. To demonstrate this, any applicant for use of these RGPs must submit an alternatives analysis, which addresses both off-site and on-site alternatives to avoid and minimize wetland and/or stream impacts. Impacts to waters of the United States, on-site, will be avoided and/or minimized to the maximum extent practicable.

3. If fill material is to be placed within the 100-year floodplain, the permittee shall provide written confirmation from the Federal Emergency Management Agency (FEMA), or other appropriate agency, that the proposed work will be performed in compliance with all applicable regulations/requirements of FEMA pertaining to construction activities in designated floodplains or flood ways. If this cannot be provided during our review, a condition would be placed on any permit issued, requiring submittal of this confirmation prior to construction of the project.

4. Projects will be mitigated by purchase of mitigation credits within the same watershed or an adjacent watershed within the same eco-region or by purchase of in-lieu fee credits, if bank credits are not available, prior to the commencement of any work in jurisdictional waters of the

United States, and according to the Savannah District, Corps of Engineers, Standard Operating Procedures for Compensatory Mitigation.

5. Compensatory mitigation for all wetland and stream impacts will be completed in accordance with the rules and regulations as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594-19705.

C. Endangered Species.

1. The applicant shall conduct an endangered species survey of the entire permit area in accordance with Section 7 of the Endangered Species Act and submit the results with their Pre-Construction Notification. Applicants should request approval of their scope of work prior to initiation of the survey. If based on the review of this information by the USACE, it is determined that the project may affect a listed species, the USACE will complete all coordination required by the Endangered Species Act prior to making a decision as to whether the project can proceed under this these RGPs.

2. Authorization of an activity by these RGPs does not authorize the "take" of threatened or endangered species as defined under the Federal Endangered Species Act (ESA). In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the US Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS on their web pages http://athens.fws.gov/endangered/counties_endangered.html and http://www.nmfs.noaa.gov/prot_res/eashome.html, respectively.

D. Cultural Resources.

1. Prior to submittal of a PCN for use of any of these RGPs, the applicant shall conduct a Phase I Survey of the project site in accordance with Section 106 of the Historic Preservation Act. This survey shall be provided as an attachment to the required PCN. Applicants should request approval of their scope of work prior to initiation of the survey. If based on the review of this information by the USACE, it is determined that the project has the potential to impact a property listed or eligible for listing on the National Register of Historic Places, the USACE will complete all coordination required by the National Historic Preservation Act prior to making a decision as to whether the project can proceed under these RGPs.

2. No activity, which may affect historic properties, listed or eligible for listing, in the National Register of Historic Places (NRHP) is authorized, until the District Engineer has complied with the requirements of Section 106 of the Historic Preservation Act. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the NRHP, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic

resources can be obtained from the State Historic Preservation Office and the NRHP (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the NRHP, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

3. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, the permittee must immediately notify the issuing office. The Federal and state coordination will be initiated to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

E. Design/Operation Requirements.

1. The permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and the aquatic functions of the system being impacted.

2. The permittee agrees to execute the work authorized herein in a manner so as to minimize impacts on water quality.

3. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

4. Bridges and bottomless culverts shall be adequate to accommodate flooding and sheet flow in a manner that does not cause flooding of associated uplands or disruption of hydrologic characteristics that support aquatic sites on either side of the crossing.

5. Projects shall be located, outlined, designed, constructed and operated in accordance with the minimal requirements as contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Utilization of plans and specifications as contained in "Manual for Erosion and Sediment Control (Latest Edition)" published by the Georgia Soil and Water Conservation Commission or their equivalent will aid in achieving compliance with the aforementioned minimal requirements.

6. Projects shall be located, outlined, designed, constructed and operated according to standards that will minimize erosion and sediment damage to the highways and adjacent properties and prevent pollution of surface and ground water resources. Measures to minimize erosion include the following: mulching, grassing, slope drains, check dams with silt control gates, and limiting areas of exposed soil.

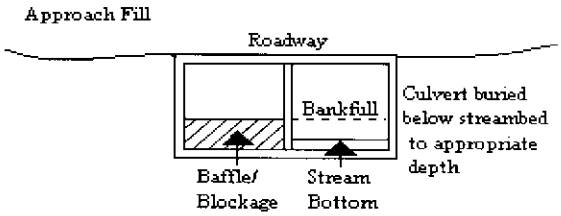
7. Adequately spaced and sized culverts must be placed at all wetland and adjacent floodplain crossings. Culverts shall be adequate to accommodate flooding and sheet flow in a manner that does not cause flooding of associated uplands or disruption of hydrologic characteristics that support aquatic sites on either side of the crossing. Culverts shall be positioned below bed level of the water body crossed to allow free movement of the natural streambed substrate, and to allow the free movement of fish and other organisms. Bridges should be considered and utilized for crossings

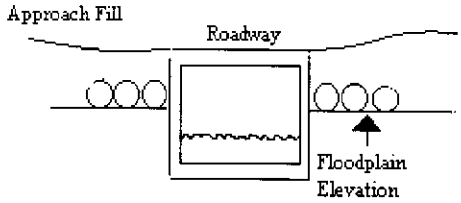
whenever possible. As stated above, undersized culverts cannot be used to create an in stream detention facility under these RGPs.

Measures will be included in culvert construction that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern and profile of the stream above and below a pipe or culvert should not be permanently modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity.

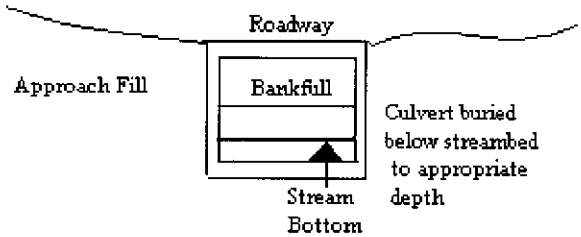
For any crossing of a perennial stream where use of a culvert is proposed, an alternatives analysis must be prepared and submitted with the PCN. The analysis must document why the use of an arch-span, bottomless culvert or bridging would not be a practicable alternative. If use of a multi-barrel pipe culvert is proposed, the analysis must also provide an explanation as to why a box culvert cannot be used. At a minimum, the analysis must compare construction and compensatory mitigation costs for the above discussed alternatives.

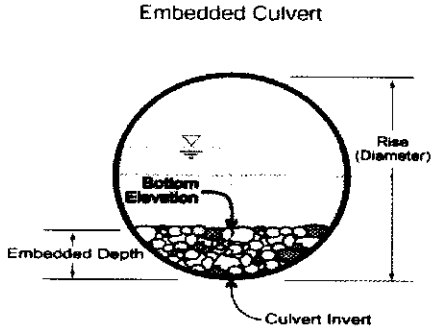
Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional area. Additional culverts at such crossings shall be allowed <u>only</u> to receive flows exceeding bank-full.





Unless clearly demonstrated that it would not be practicable, the upstream and downstream invert of culverts (except bottomless culverts) installed in perennial streams will be buried/ embedded to a depth of 20 percent of the culvert diameter (20 percent of the height of elliptical culverts), to allow natural substrate to colonize the structure's bottom, encourage fish movement and maintain the existing channel slope. Culvert slope should not exceed 4 percent.





Culverts shall be of adequate size to accommodate flooding and sheet flow in a manner that does not cause flooding of associated uplands or disruption of hydrologic characteristics that support aquatic sites on either side of the culvert.

Where adjacent floodplain is available, flows exceeding bank-full should be accommodated by installing equalizer culverts at the floodplain elevation.

Use of undersized culverts to attain storm water management or waste treatment is not authorized.

A waiver from the above culvert specifications may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with these specifications would result in more adverse impacts to the aquatic environment.

F. Other Authorizations.

1. Bridges constructed in navigable waters of the United States require authorization from the US Coast Guard. If not obtained in advance of our review, a condition will be placed on any permit issued requiring such authorization prior to construction.

2. The permittee shall obtain a stream buffer variance, if required. Variances are issued by the Director of the Georgia Environmental Protection Division, as defined in the Georgia Erosion and Sedimentation Control Act of 1975, as amended.

G. Policy.

1. All activities identified and authorized herein shall be consistent with the terms and conditions of this permit, and any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit, which may result in the modification, suspension, or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions "G-3" or "G-4" hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or in part.

2. The permittee shall allow the Savannah District Engineer (DE) or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of any of these RGPs is in accordance with the terms and conditions prescribed herein.

3. These RGPs may be summarily suspended, in whole or in part, upon a finding by the DE that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by a permittee of a written notice thereof which shall indicate (l) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the DE to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within 10 days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance

of the suspension notice to the permittee, if no hearing is requested, the permit will either be reinstated, modified or revoked.

4. These RGPs may be modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of these permits or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt of written notice of such action which shall specify the facts or conduct warranting same unless: (1) within the 30-day period a permittee is able to satisfactorily demonstrate that: (a) the alleged violation of the terms and conditions of this permit did not, in fact, occur; or (b) the alleged violation was accidental and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurance that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, a permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension, or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend, or revoke this permit in whole or in part, shall be pursuant to procedures prescribed by the Chief of Engineers.

5. If and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party, he must restore the area to a condition satisfactory to the District Engineer.

6. The permittee, upon receipt of a notice of revocation of the RGPs or upon the RGPs' expiration before completion of the authorized structure or work, shall without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

7. These RGPs expire on September 30, 2010. If a project authorized under one of these RGPs will not be completed prior to this date, but is under construction or under contract for construction, the applicant can request an extension of the construction period for a maximum of 12 months. This request must be made 30 days prior to the expiration date and work cannot proceed after the expiration date until the District Engineer notifies the permittee, in writing, that an extension of the construction period is authorized.

8. If the permittee during the prosecution of the work authorized herein encounters a threatened/endangered species, he shall immediately stop work and notify the District Engineer and the appropriate Federal agency (ies).

9. The Savannah District Engineer may determine, on a case-by-case basis, that an Individual Permit application is required, if it is in the public interest.

II. NOTIFICATION REQUIREMENTS

A. Timing. A pre-construction notification (PCN) is required for use of these RGPs and must be submitted as early as possible in the planning process and must be submitted prior to any ground disturbing activities at the site. The District Engineer must determine if the PCN is complete within 30 days of the date of receipt and can request the additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity until notified in writing by the District Engineer that the activity may proceed under these RGPs.

B. Contents of Notification. The notification must be in writing and include the following information:

1. A completed copy of Enclosure 1, "Pre-Construction Notification Form";

2. A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any Nationwide Permit(s); other regional general permit(s); or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity;

3. For linear projects, a discussion of the logical termini, subject to approval by the District Engineer;

4. A statement concerning whether the project is part of a larger project;

5. A request for Expanded Preliminary Jurisdictional Determination, which includes a delineation of affected waters of the United States including wetlands, streams, open water areas, etc. Information must be prepared in accordance the Public Notice, published March 4, 2009, for Characterization of Jurisdictional Determinations: Purpose, Application, and Documentation Requirements as Defined by the Savannah, District US Army Corps of Engineers. The permittee also has the option of requesting an approved Jurisdictional Determination and/or the Savannah District to delineate the waters on the site. There may be some delay if an approved Jurisdictional Determination is requested and/or the District does the delineation;

6. A report providing the results of the endangered species survey conducted in accordance with Section 7 of the Endangered Species Act;

7. A report providing the results of the Phase I Cultural Resources Survey conducted in accordance with Section 106 of the National Historic Preservation Act;

8. Plan and section view drawings of the project showing the dimensions of the project, the acreage of wetlands to be impacted and the linear feet of stream that would be impacted. Plans should also include an illustration of the existing stream dimensions at any proposed crossing;

9. A detailed discussion of all off-site and on-site alternatives considered indicating why the proposed alternative was chosen and detailing why further reduction of impacts on the aquatic ecosystem is not practicable;

10. A detailed of discussion of how impacts were avoided and minimized from the initial phase of the project plans to the project plan that is currently being proposed;

11. Compensatory mitigation will be provided in accordance with the Savannah District, Corps of Engineers, Standard Operating Procedures for Compensatory Mitigation (SOP). Adverse impacts to waters of the US include activities that result in a temporary loss in function and do not result in permanent conversion of one aquatic resource type to another (e.g., placement of rip-rap on a stream bank; or construction of a buried utility line in all types of wetland, where the wetland is restored to it's preconstruction contours). A loss of waters of the US includes all filled areas and areas permanently adversely affected by flooding, excavation or drainage (e.g., installation of a culvert/pipe in a stream). The US Army Corps of Engineers has discretion to determine if work would result in an impact to or a loss of waters of the US.

For a project that involves an impact to and/or loss of wetlands and streams, if any mitigation threshold in the SOP is met, compensatory mitigation is required for all impacts and losses.

Compensatory mitigation plans must be in accordance with the most recent approved version of the Savannah District, Corps of Engineers, Standard Operating Procedures for Compensatory Mitigation (SOP). Plans must also document that the mitigation (i.e., credit) would compensate for all wetland/stream impacts.

All impacts to wetlands and open waters must be calculated and reported in acres. Stream impacts must be calculated separately and reported in both linear feet <u>and</u> acres.

For projects that have both an acre limit loss of waters of the US and a linear foot stream loss limit, the acreage of stream loss (i.e., the length of the stream bed filled or excavated multiplied by the average width of the stream, from the ordinary high water mark to ordinary high water mark, applies towards that acre limit loss of waters of the US). For example, if a proposed project activity involves filling 0.1 acre of wetlands and 100 linear feet of a stream bed with an average width of 10 feet, the acreage loss of waters of the US for that activity would be calculated as follows: $0.1 + [(100 \times 10) / 43{,}560] = 0.123$ acre.

12. Where the proposed work involves discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within 100-year floodplains (as identified on Federal Emergency Management Administration's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps), the notification must include documentation demonstrating that the proposed work complies with the appropriate FEMA or FEMA-approved local floodplain construction requirements.

III. COORDINATION

A. General Public and Adjacent Landowners: Prior to submittal of a PCN for use of one of these RGPs, the applicant must hold at least one public meeting in the vicinity of the proposed project. Notice of the public meeting should include the date and time of the meeting. Ideally, meetings should occur on a weekday evening to ensure maximum attendance. The notice of this meeting must also be provided to the local community, all adjacent landowners, and the Savannah District at least 15 days prior to the meeting. In turn, the Savannah District will notify Federal and state agencies of the meeting date and time. The notice should also be provided to newspapers with readership that includes the project area. The notice must state that the proposed project will require a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and/or Section 404 of the Clean Water Act (33 U.S.C. 1344) and any comments submitted at the meeting will be provided to the US Army Corps of Engineers for consideration in their permit decision. During the meeting, the applicant will provide a brief presentation on the proposed project. The presentation shall include the following: (1) information that describes the basic project purpose and need; (2) public benefits associated with the proposed project; (3) anticipated timeline for project construction; (4) description of impacts to aquatic resources and avoidance/minimize measures that were achieved; (5) proposed mitigation; (6) results of threatened and endangered species survey; and (7) results of cultural resource survey. Attendees will be given opportunity to provide written comments at the meeting. These comments and/or any transcript of the meeting shall be included in the PCN submittal.

B. Federal and State Agencies: The District Engineer will consider any comments from federal and state agencies concerning the proposed activity's compliance with the terms and conditions of these RGPs and the need for mitigation to reduce the project's adverse effects on the aquatic environment to a minimal level.

For proposed projects, the District Engineer will, upon receipt of a notification, provide immediately (e.g., via facsimile transmission, overnight mail, E-Mail or other expeditious manner), a copy to the appropriate offices of the US Fish and Wildlife Service, State natural resource or water quality agency, the Environmental Protection Agency, the State Historic Preservation Office, and, if appropriate, the National Marine Fisheries Service. These agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Savannah District multiple copies of notifications to expedite agency notification.

IV. FURTHER INFORMATION

A. Congressional Authorities: Authorization to undertake the activities described above are pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act (33 USC 1344).

B. Limits of this authorization:

1. This Permit does not obviate the need to obtain other federal, state or local authorizations required by law.

2. This Permit does not grant any property rights or exclusive privileges.

3. This Permit does not authorize injury to the property or rights of others.

4. This Permit does no authorize interference with any existing or proposed federal project.

C. Limits of Federal Liability. In issuing this Permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses 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 United States in the public's interest.

3. Damages to person, 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.

D. Reevaluation of Permit Decision. The US Army Corps of Engineers, Savannah District, may reevaluate its decision on any activity authorized by an RGP at any time the circumstances warrant. Circumstances that would require a reevaluation include, but are not limited to, the following:

1. The permittee's failure to comply with the terms and conditions of the Permit.

2. The information provided by the permittee in support of his Permit application proves to be false, incomplete or inaccurate.

3. Significant new information surfaces which the US Army Corps of Engineers, Savannah District, did not consider in reaching the original public's 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 provided in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the Permit authorizations and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the US Army Corps of Engineers, Savannah District, and if the permittee fails to comply with such a directive, the US Army Corps of Engineers, Savannah District, may in certain situations (such as those specified in 33 CFR 209.170), accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

These RGPs become effective on proposed, when the Federal official, designated to act for the Secretary of the Army, has signed below.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Issued for and in behalf of:
Edward J. Kertis
Colonel, US Army
District Engineer

3 Feb 2010
DATE

Enclosures

1. Checklist
2. Pre-construction Notification Form
3. Description of Rivers Supporting Anadromous Fish Habitat
4. Recommendations to Incorporate Green Practices Into Federally Funded Construction Projects Under the American Recovery and Reinvestment Act
5. Table 1: Watersheds with Maximum of 2000 Linear Feet of Stream Impacts Using RGPs
6. Table 2: Watersheds with Maximum of 1000 Linear Feet of Stream Impacts Using RGPs
7. Table 3: Watersheds with Maximum of 10 Acres of Wetland Impact Using RGPs
8. Table 4: Watersheds with Maximum of 5 Acres of Wetland Impact Using RGPs