



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE, NM 87109-3435

FREQUENTLY ASKED QUESTIONS
Regional General Permit (RGP NM-12-01) for
Repair and Protection Activities in Emergency Situations

1. What is the purpose of RGP NM-12-01?

** Discharges of dredged or fill material to waters of the United States are regulated under Section 404 of the federal Clean Water Act. RGP NM-12-01 provides an expedited process, under which the Corps of Engineers can quickly authorize discharges for necessary repair and protection measures associated with an emergency situation in New Mexico.*

2. What does the term ‘Emergency Situation’ mean?

** Actions necessary to prevent or mitigate post fire flooding are generally considered an “emergency situation”. An “emergency situation” is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).*

3. What types of emergency activities are covered under this RGP?

- *Levee construction, rebuilding or maintenance.*
- *Removal of accumulated sediment, debris or vegetation to prevent or mitigate the emergency situation.*
- *Bank stabilization to prevent or minimize erosion or the loss of structures such as bridges.*
- *Debris containment structures.*
- *Construction of diversion channels and flow deflection structures.*
- *Other actions necessary to prevent or mitigate post-fire flooding.*

** Emergencies covered under this RGP are a subset of activities that may be authorized under 33 CFR 325.2. This RGP covers emergency actions/projects that are undertaken in certain limited circumstances to alleviate an immediate threat. Not all actions/projects that result from an emergency event are eligible for emergency authorization under this RGP. For example, projects undertaken months after the emergency event should be authorized under a Nationwide Permit (NWP) instead of this RGP. The Corps will work with applicants to expedite NWP authorizations as necessary. Additionally, RGP-12-01 can only be used to authorize activities where the adverse effects are minimal. If the adverse effects of the activity are determined to be more than minimal, the applicant may seek authorization under an individual permit.*

4. When should the Corps be notified regarding the proposed emergency activity?

** The applicant should notify the Corps as early as possible. Most emergency projects can be authorized within seven (7) days and the Corps will work with applicants in situations where a quicker authorization is necessary.*

The Corps recognizes there may be situations where in the first few days after an emergency, imminent threat to public health or safety must be addressed prior to the applicant receiving written authorization to proceed from the DE. It is not the intention of this permit to require imminent threats to public health or safety to remain unaddressed. If an applicant chooses to proceed under this paragraph without prior written authorization from the DE, the applicant must ensure that initial notice of a unilateral decision to proceed is made to this office by telephone, facsimile, e-mail, delivered written notice or other alternative means within 72 hours. The initial notice must at a minimum include a project description, and location map. In these limited situations where a project must be implemented prior to DE authorization to address an imminent threat to public health or safety, a complete after-the-fact application must be submitted within 30 days of initiation of the project. The after-the-fact application must include all of the information required as discussed in General Condition 2.c of RGP NM-12-01.

5. What information must be included in the emergency permit application?

** RGP NM-12-01 specifies the information required (called a preconstruction notification, or PCN), and offers a form that can be used to organize the information. The form asks for basic information such as your contact information and the location of the proposed activity, and elements such as the purpose of the project, the type of waterbody affected (i.e. perennial, intermittent, or ephemeral stream; wetland; or other type), estimates of length, width and depth of impact, map of the project area, and a location for disposal of excavated material. Once a project is reviewed, the permittee will be notified that they can proceed with the activity.*

6. If the Corps determines that compensatory mitigation is necessary, will this delay the emergency permit?

** The permit can be issued prior to finalizing a mitigation plan. The details of the mitigation plan can be worked out as a follow-on action. For projects that will impact riparian habitat, the applicant may be required to submit a revegetation plan.*

7. Are there any restrictions to the types of equipment that can be used for emergency response?

** There are no prohibitions against the use of the type of heavy equipment. Guidelines for Best Management Practices (BMPs) are available to help prevent unnecessary impacts to water quality and aquatic resources.*

8. Where do I send the Emergency Pre-Construction Notification (PCN) or an After-the-Fact PCN?

*Attn: NM/TX Branch Chief via fax at 505-342-1514 or mail/electronic mail at:
U.S. Army Corps of Engineers
Albuquerque District
Regulatory Division, CESPARD
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Marcy.L.Leavitt@usace.army.mil*

9. In addition to providing project information to the Corps, what other agencies must be notified?

** For projects on non-tribal lands in New Mexico, the New Mexico Environment Department (NMED) must confirm that the project will not negatively impact water quality. The applicant must therefore provide a copy of the Pre-Construction Notification directly to the NMED Surface Water Quality Bureau, and obtain confirmation prior to commencing work. The Corps and NMED work together closely to ensure that projects are certified quickly and efficiently. For projects on tribal lands, water quality certification must be obtained from the appropriate tribal authority. Please contact:*

*New Mexico Environment Department- SWQB
1190 South St. Francis Drive
PO Box 5469, Santa Fe, NM 87502
505-476-3017
Abraham.Franklin@state.nm.us*

10. Once authorized, how many days do I have to initiate the project?

** Any emergency projects authorized under this permit must be initiated within seven (7) days of receiving authorization to proceed. Projects that cannot be initiated within seven (7) days are not considered emergencies and can be authorized under other 404 permits.*

Please note: You are encouraged to read the permit and certification conditions for a full list of requirements and conditions. Not all requirements and conditions are applicable for every permitted project.

11. When does this permit expire?

** This permit will be effective through January 24, 2017; however projects authorized under this permit will have a timeframe for completion specified in the approval notification.*

12. Who can I contact for more information?

*ATTN: Marcy Leavitt and/or Jennifer Lillard
U.S. Army Corps of Engineers
Albuquerque District
Regulatory Division, CESPА-RD
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Marcy.L.Leavitt@usace.army.mil
Jennifer.J.Lillard@usace.army.mil*

13. Where can I find more information on RGP NM-12-01?

www.spa.usace.army.mil/Portals/16/docs/civilworks/regulatory/Regional%20General%20Permits/New%20Mexico/NM%20Emergency%20RGP-%20FINAL%20UPDATE%2027-Feb-13.pdf