

Ecology

Regional Permits

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APPLICABILITY

Section 404 of the Clean Water Act (CWA) permitting requirements apply to all GDOT projects that impact Waters of the US (WOTUS). The Section 404 permit—stipulating Section 404 permitting requirements—must be acquired before construction activities can begin. Typically, Section 404 permits are required prior to Certification for Let. The USACE, authorized under CWA Section 404e, issues General Permits for projects that do not have potentially significant impacts. General Permits used for GDOT projects include Regional Permits (RPs) and Nationwide Permits (NWPs). RPs are specific to each USACE District. RPs are issued for a general category of activities (e.g., transportation) when the activities are similar in nature and cause minimal environmental impact.

REGULATIONS, GUIDANCE AND POLICY

Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into WOTUS. The administration of the Section 404 permit program is assigned to the US Army Corps of Engineers (USACE) with Environmental Protection Agency oversight. Proposed activities within WOTUS are regulated through a permit review process. The USACE Savannah District has jurisdiction over Section 404-regulated WOTUS within Georgia. GDOT requirements for Section 404 permitting are specific to the Savannah District.

The USACE Savannah District Regulatory Division administers the Section 404 permit program for GDOT projects under Section 214 of the Water Resources Development Act (33 USC 2352). Savannah District Regulatory Division has dedicated USACE Project Managers solely responsible for assisting with and reviewing permit applications for GDOT projects. Regulatory Division staff are also responsible for coordinating with other USACE District Offices when there is overlapping jurisdiction on GDOT projects, such as USACE managed lakes in Georgia (Mobile District) and projects bordering other states.

Permit applications developed by Ecologists and submitted to USACE by GDOT must demonstrate that all practicable efforts have been made to avoid and minimize impacts to

WOTUS, that compensation (mitigation) be provided for all unavoidable impacts, and that the project would not result in significant degradation of water quality.

REGIONAL PERMITS

USACE Savannah District issued RPs 30, 31, 32, 33, 34, and 35 for Public Transportation Projects within the State of Georgia. These are the preferred General Permits for GDOT Projects. Each RP is for a designated project or activity type with assigned impact thresholds as listed in Table 1. Projects that exceed these impact thresholds likely require an Individual Section 404 Permit.

Table 1 – Regional Permit Thresholds

Permit Type	Project or Activity Type	Area* Each Crossing	Area* per Project	Linear Feet** Each Crossing	Linear Feet** per Project
RP 30	Maintenance, Repair, Rehabilitation, and Replacement	No threshold	No threshold	Stream modifications only within 100 ft of existing crossing	No threshold
RP 31	Temporary Impacts	No threshold	No threshold	Stream modifications only within 100 ft of existing crossing	No threshold
RP 32	Replacement of a Bridge with a Bridge	No threshold	No threshold	Stream modifications only within 100 ft of existing crossing	No threshold
RP 33	Replacement of a Culvert with a Culvert or a Bridge	No threshold	No threshold	Stream modifications only within 100 ft of existing crossing	No threshold
RP 34***	Construction on Existing or New Alignment	≤ 2 ac North ≤ 3 ac South	≤ 8 ac North ≤ 10 ac South	≤ 1,500 if North ≤ 1,000 if South	≤ 2,000 if North ≤ 1,500 if South
RP 35***	Construction on New Alignment	≤ 4 ac North ≤ 5 ac South	≤ 12 ac North ≤ 15 ac South	≤ 2,000 if North ≤ 1,500 if South	≤ 5,000 if North ≤ 4,000 if South

*Area of jurisdictional wetlands. **Linear feet of jurisdictional perennial and/or intermittent stream. *** Thresholds for RP 34 and RP 35 are only for permanent losses, not temporary impacts. They are also divided for North and South Georgia Counties. Appendix A of the RP 30-35 document includes a map dividing the counties.

Georgia Department of Natural Resources (GADNR) Environmental Protection Division (EPD) Water Quality Certification per Section 401 of the CWA and Coastal Resources Division (CRD) Georgia Coastal Management Program concurrence are required for any new location transportation project under RP 34 and all projects under RP 35. Required EPD and/or CRD concurrence must be obtained prior to USACE authorization of the use of RP 34 or 35. RP 35 also requires completion of a Practicable Alternatives Review (PAR)

Report to verify the project is the Least Environmentally Damaging Practicable Alternative (LEDPA) that would meet the basic project purpose. Refer to GDOT Local Coordination Procedures for more information on the PAR process.

Local Coordination Procedures

GDOT Office of Environmental Services

Pre-Construction Notification

A Pre-Construction Notification (PCN) must be submitted to the USACE Savannah District for all proposed uses of RP 32, 33, 34, or 35. A PCN may not be required for use of RP 30 or 31 if all the following conditions are met:

- > Less than 100 linear feet or less than 0.1-acre impact (no mitigation required) (RP Special Condition V.2)
- > The project would result in no effect to federally listed species or designated critical habitat per Section 7 of the Endangered Species Act (RP Special Condition V.2)
- > No cultural resources listed, or potentially eligible for listing, on the National Register of Historic Places are present within or adjacent to the project per Section 106 of the National Historic Preservation Act (NHPA) (RP Special Condition V.2)
- > No impacts would occur in a primary or secondary trout stream (RP PCN Requirement VII.2)
- > The project is located 2,000 feet or more from special conservation lands (RP PCN Requirement VII.3)

In the event a PCN is not required for use of RP 30 or 31, the GADNR Notification Form included in Appendix E of the RP 30-35 document must be submitted to EPD. This form must also be submitted to CRD for non-notifying RP 30 or 31 in the 11 coastal counties of Brantley, Bryan, Camden, Charlton, Chatham, Effingham, Glynn, Liberty, Long, McIntosh, or Wayne (RP WQC Requirement VI.2).

The Ecologist should review all PCN requirements included in Section VII of the RP 30-35 document prior to preparing a PCN for a GDOT project. However, special attention should be paid to the following requirements.

- > Units of Impact (Section VII.6) – For the purposes of submitting PCNs for use of RPs 30-35, the minimum units of measurement for stream impacts is linear feet (no fractions or decimals) with all tenths, hundredths or thousandths rounded to the nearest linear foot (See Table 2 below).
- > PCN Package Requirements (Section VII.7) – The Ecologist must review the PCN Checklist for GDOT Projects to verify that all requirements are included in the PCN package.

Pre-Construction Notification Checklist

US Army Corps of Engineers

All information listed under Section VII.7 must be submitted to the USACE for the PCN to be considered complete for processing. The following requirements may require coordination with the Project Manager (PM) and/or Design:

- Temporary Channel Constriction (Section VII.7.k) – Hydraulic analysis is required for structures occupying greater than 25% of the cross-sectional area of critical flow. The Ecologist must coordinate with Design if temporary dewatering structures (jetties, bulkheads, cofferdams, etc.) are proposed for construction of bridges or other in-stream structures to verify temporary structures do not occupy greater than 25% of the cross-sectional area of critical flow. These temporary structures must be shown on Section 19 and/or 20 plans (whichever is applicable to the project) and enclosed with the PCN.
- Utility Relocations (Section VII.7.k [intended to be VII.7.l but listed as VII.7.k]) – For projects that involve road-widening or other activities that would result in the relocation or modification of an aerial or buried utility line located perpendicular or parallel to the roadway, the PCN package must include the owner's name and contact information, verification of the owner's awareness of the project, and provide general information on utility relocation. The Ecologist should consult the PM for this information.

Special Conditions (RP 30-35 Section V)

The Ecologist should review all RP Special Conditions prior to preparing a PCN. However, the following Special Conditions may require more attention due to the need for coordination with the PM, Environmental Analyst, and/or Design. Many of the conditions discussed below are covered in greater detail in other guidebooks.

- > Conditional Re-Authorization (Section V.5) – Although RPs expire 5 years after issuance, RPs are eligible for automatic re-authorization until October 5, 2028 as long as the RPs are reauthorized, the RPs do not change substantively, and the project is unchanged.
- > Navigable Waters (Section V.6 and V.7) – Structures over navigable waters must be approved by the US Coast Guard (USCG). Coordinate with the Environmental Analyst and/or Bridge Design to document project compliance with USCG regulations pertaining to authorized facilities in navigable WOTUS. For projects including bridge construction over navigable waters, documentation of agency coordination regarding the need to obtain a USCG permit must be enclosed with the RP PCN.
- > Altering Civil Works (Section V.10, Real Estate Outgrant Process) – USACE authorization pursuant to 33 USC 408 (Section 408) must be issued prior to Section 404 permit authorization. The USACE South Atlantic Division and GDOT entered into a Memorandum of Understanding (MOU) for coordinating the review and approval of Real Estate Outgrants. A copy of this MOU and a detailed GDOT process chart based on the provisions of the MOU are available on the GDOT ROADS website. The PM is responsible for obtaining Section 408 authorization; however, the Ecologist coordinates with the PM if a project requiring an RP will alter a USACE civil works project.
- > Anadromous Fish (Section V.11) – USACE will need to coordinate with US Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration (NOAA) Fisheries during the permitting process if the project is in or within 1,000 feet of those waters identified in Appendix B of the RPs.
- > Fish Passage (Section V.16) – For projects involving construction of a new culvert or replacement of an existing culvert on a perennial stream, all information listed in RP PCN Requirements VII.7.j must be provided, as well as documentation of project compliance with Culvert Restrictions for Perennial Streams listed under RP Special Condition V.16. Information required includes diagrams of the longitudinal profile and cross sections (existing and as-built) of the perennial stream in the vicinity of the proposed culvert. Culvert restrictions and associated PCN information are not required for the extension of existing culverts on perennial streams. RP Appendix C includes examples of the required diagrams and examples of aquatic-passage friendly culvert designs from USFWS.

The GDOT Chief Engineer issued a memorandum to various GDOT offices in September 2013 pertaining to the diagrams required for culverts on perennial streams. This memorandum, titled USACE 404 Permit Regional Conditions (GDOT Data Collection and Design Diagrams), outlines GDOT procedures for complying with USACE culvert requirements in perennial streams and includes links to more detailed guidance. Refer to this document for information regarding GDOT interoffice

coordination, field location, survey data collection and processing, and diagram development.

GDOT USACE 404 Permit Regional Conditions (GDOT Data Collection and Design Diagrams)

Georgia Department of Transportation

- > Temporary Channel Constriction (Section V.17) – *Channel constriction must be less than 33% of the channel width.* The Ecologist coordinates with Design to verify that the footprint of temporary structures (jetties, bulkheads, cofferdams, etc.) used for construction of bridges or other in-stream structures does not exceed more than 33% of the channel width at any location at any one time. These structures must be shown on Section 20 plans (Construction Staging Details) and enclosed with the PCN.

If, after coordinating with Design, it is not practicable to limit in-stream structures to less than 33% of the channel width, then an NWP may be needed for the project. The GDOT Ecologist or Ecology Team Leader should be consulted prior to preparing an NWP PCN.

- > Mitigation (Section V.18) – Compensatory mitigation plans must be in accordance with the Savannah District’s Standard Operating Procedure (SOP) for Compensatory Mitigation available on the USACE Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS) website. Instructions to navigate to the SOP on RIBITS are provided on the USACE Savannah District website.

For the purposes of calculating wetland mitigation for RP authorized projects, wetland impacts exceeding 0.1 acre should be rounded to the nearest tenth of an acre. Only for wetland impacts less than 0.1 acre, should impact values entered in the mitigation SOP worksheets be in hundredths of an acre. Stream impacts entered in the mitigation SOP worksheets should be rounded to the nearest foot for RP authorized projects.

No mitigation is required if total project impacts are less than 100 linear feet of stream and/or 0.1-acre of wetlands. If either of these thresholds are exceeded, then mitigation is required for all impacts. Table 2 provides examples of how impacts are rounded for RP authorized projects.

Table 2 – Impact Rounding Examples for RP Authorized Projects

Wetland Impact (Acres)			Stream Impact (Linear Feet)		
Calculated*	Reported**	Mitigated***	Calculated	Reported	Mitigated
0.001	0.001	0.01	0.01	1	1
0.005	0.01	0.01	0.05	1	1
0.011	0.01	0.01	0.1	1	1
0.015	0.02	0.02	0.5	1	1
0.115	0.12	0.1	1.01	1	1
0.155	0.16	0.2	1.05	1	1
1.115	1.12	1.1	1.1	1	1
1.155	1.16	1.2	1.5	2	2

* Impact measured from construction plans ** Impact reported in Ecology Resource Survey and Assessment of Effects Report or Addendum ***Impact entered in Compensatory Mitigation SOP Worksheets

- > **Essential Fish Habitat (Section V.19)** – Projects that would result in the alteration or destruction of Essential Fish Habitat are subject to the consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act.
- > **Protected Species Lists (Section V.20.b)** – Although the RPs refer applicants to the traditional websites hosted by USFWS and GADNR, please refer to Georgia's Natural, Archaeological, and Historic Resources GIS and USFWS Information for Planning and Consultation website lists for federally listed species that may be affected by GDOT projects. Refer to the Ecology Resource Survey Guidebook for more information on generating species lists.
- > **Seasonal Restrictions/Anadromous Fish Waters (Section V.20.e)** – Certain species of fish require restrictive dates for spawning in the Savannah (Hydrologic Unit Code [HUC] 0306010606), Broad (HUCs 0306010401 and 0306010403), Hudson (HUC 0306010402), Oconee (HUCs 0307010202 and 0307010208), and Ocmulgee (HUC 0307010313) river systems. Coordinate with Design to avoid directly impacting gravel patches or other suitable spawning habitat. Refer to RP Special Condition V.20.e for restrictive dates and locations.
- > **Cultural Resources (Section V.21)** – For use of RP 30-35, cultural resource surveys must be conducted as required by the NHPA. If cultural resources are located on or near a proposed project, the lead Federal Agency will conduct consultation in accordance with the NHPA, and an RP cannot be authorized until the lead Federal Agency makes an effect determination and completes consultation.
- > **Best Management Practices (BMPs) (Section V.22)** – All BMPs included in RP Special Conditions are recommendations, not requirements. However, these recommendations should be reviewed for possible inclusion in GDOT Special Provisions.

Guidebook Revision History

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	5/22/2019
Revision Table Added	Last Page	9/21/2020