

Ecology

Section 404 Individual Permits

- Applicability
- Regulations, Guidance, and Policy
- Pre-Application
- Individual Permit Application Template
- Additional Required Deliverables
- Other Requirements
- Schedule and Timeline
- Permit Extensions and Modifications

APPLICABILITY

[Section 404 of the Clean Water Act \(CWA; 33 USC § 403\)](#) 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. Impacts to WOTUS associated with most GDOT projects can be authorized under a Section 404 General Permit, which includes Regional General Permits (RGPs) and Nationwide Permits (NWP); however, projects that would result in more than minimal individual or cumulative impacts, most commonly major widenings and new location roadways, will require a Section 404 Individual Permit (IP). A proposed project is considered one that would result in more than minimal individual or cumulative impacts if its impacts would exceed the thresholds afforded by RGPs or NWPs, or if all conditions of RGPs or NWPs cannot be met.

Furthermore, the US Army Corps of Engineers (USACE) has discretionary authority to determine when an IP is required. The USACE may require an IP on projects that do not exceed General Permit impact thresholds and/or projects that meet General Permit conditions when there is public controversy, or the project is determined to result in substantial impacts to a proposed federal project. For details on current conditions and impact thresholds for RGPs and NWPs, refer to the associated GDOT guidebooks and the latest issued permits available on the [USACE Savannah District website](#).

Ecology Environmental Procedures Guidebooks,
GDOT Office of Environmental Services

REGULATIONS, GUIDANCE, AND POLICY

Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into WOTUS. Administration of the Section 404 permit program is assigned to the 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. Likewise, Section 404 permitting requirements for GDOT projects are largely specific to those of 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 \(33 USC § 2352\)](#), allowing for dedicated 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 for GDOT projects prepared by Ecologists and submitted to USACE must demonstrate that all practicable efforts have been made to avoid and minimize impacts to WOTUS, that adequate and appropriate compensatory mitigation would be provided for all unavoidable impacts, and that the project would not result in significant degradation of water quality (i.e., successful completion of the [Section 401 CWA Water Quality Certification](#) [WQC] process). Additionally, an IP Application includes a public notice, public interest review, environmental documentation, and a [Section 404\(b\)\(1\) Guidelines](#) analysis.

PRE-APPLICATION

The [Local Coordination Procedures \(LCP\)](#) is a framework for coordination by GDOT, the Federal Highway Administration, and the USACE to improve consistency and streamline the permit process for GDOT projects under Section 404(b)(1) Guidelines of the CWA. In the final step of the LCP, prior to receiving the Concept Report Layout (see Appendix O of GDOT's [Plan Development Process \[PDP\] Manual](#)), the project team develops a Practicable Alternatives Review (PAR) report, which identifies the preliminary Least Environmentally Damaging Practicable Alternative (LEDPA) and ensures Section 404(b)(1) Guidelines will be fulfilled. The LCP and Chapter 5 of the PDP detail pre-application procedures and agency coordination required for receiving agency agreement on the preliminary LEDPA. For additional information on the LCP, please reference the GDOT *Section 404 LCP* guidebooks, as well as the *IP Training Modules* available on [GDOT's Learning Management System](#).

INDIVIDUAL PERMIT APPLICATION TEMPLATE

GDOT has developed an IP Application template that streamlines the application process and follows the sequence of information required in the USACE’s “Decision Document,” which the USACE completes prior to issuance of the IP. The current IP Application template, as well as a letter template for transmittal of the IP Application, can be found on the [Ecology Section SharePoint](#)¹ site.

The main components of GDOT’s IP Application template are summarized below. For an in-depth explanation on how to complete each section, please reference the IP Application template and the IP Training Modules.

Joint Application Form (CESAS Form 19)

The Joint Application form was developed by the USACE Savannah District along with the Coastal Resources Division (CRD) and the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources. The form allows applicants to jointly apply for both a federal Section 404 CWA Permit and federal [Section 10 of the Rivers and Harbors Act](#) Permit, as well as a [Coastal Marshland Protection Act](#) Permit, [Revocable License](#), and WQC. The IP Application template reproduces the Joint Application form and includes guidance for each fillable portion of the form. Required information includes applicant and project location information, project description, adjoining property owners’ information, agency coordination, project-specific activities and impacts, avoidance and minimization measures (AMM), mitigation, and water quality requirements.

Decision Document Information

This section of the IP Application template provides information to support the USACE’s “Decision Document,” which constitutes their Environmental Assessment, Section 404(b)(1) Evaluation, Public Interest Review, and Statement of Findings for projects requiring an IP. Each subsection includes standardized language, dropdown selections, and general guidelines and considerations to aid in filling out the required information. Any effects or conclusions proposed in this section of the application are GDOT’s recommendations and are subject to the USACE’s review and final determination.

Supplemental Information

This section addresses regional permit requirements that are unique to the USACE Savannah District. A summary table provides a synopsis of the section’s contents, which are subject to change due to periodic updates to the governing regulations set by the USACE. Within the table, each item is listed as a question for which “Yes” or “No” should be marked. Items marked “Yes” should provide a narrative response beneath the appropriate subsequent heading. For such instances, the template includes instructions

¹ See instructions for accessing SharePoint on the [Office of Environmental Services Guidebooks website](#).

and guidance on what information to state, reference materials for background information, and whether associated attachments will be needed. Commonly applicable items include 303(d) listed waters, EPD Buffer Variance, culverts in perennial streams, and project phasing.

Appendices

The Appendices contain additional materials such as plan sheets, proof of agency coordination, and compensatory mitigation worksheets that support the project information previously discussed in the IP Application. The template provides a cover page for each appendix with guidance that lists what should be included, if applicable to the project. Some appendices or their components may not be relevant to every project and, therefore, may be omitted.

ADDITIONAL REQUIRED DELIVERABLES

To facilitate the USACE's review of the IP Application, the following items must also be provided at the time of submittal.

Electronic Files via GDOT OES SharePoint Site – USACE Transmittals Folder:

- > Copy of the application, excluding attachments in Microsoft Word format
- > PDFs of relevant NEPA documents and the most current Ecology and Cultural Resources reports or addenda
- > PDFs of any previous coordination with the USACE (e.g., ARDR, SOA, PAR report, etc.)

Electronic Files via E-mail (with Transmittal of Application to USACE):

- > Copy of the IP Application Transmittal Letter in Microsoft Word format
- > ORM Tables in Microsoft Excel format

Hard Copy via Mail, if applicable:

- > Property Owner Mailing Labels for Public Notice – Coordinate with the USACE Project Manager to determine if mailing labels are appropriate to provide via mail. If yes, pre-typed, adhesive labels for all property owners (including names and addresses) should be mailed to the address provided by the USACE Project Manager.

OTHER REQUIREMENTS

401 Water Quality Certification

The Joint Application form includes a request to EPD for Section 401 WQC. As part of this request, a copy of the complete IP Application must be sent to EPD via a separate transmittal letter. A letter template with instructions for requesting WQC can be found on the GDOT Ecology SharePoint site. Issuance of the IP is contingent upon completion of EPD's WQC.

Prior to requesting WQC, EPD must be notified at least 30 days prior to transmittal of the request, during which time a pre-filing meeting may be required by EPD, per the CWA Section 401 Certification Rule. An email template for submitting this request is available on the GDOT Ecology SharePoint site.

Revocable License Agreement

For projects resulting in impacts to coastal marshlands and/or tidal waters in the 11 coastal counties, the Joint Application form must include a Revocable License (RL) Request to CRD. A Letter of Authorization and executed RL from CRD is required prior to USACE issuance of the IP. For more information on RLs, please refer to the *Miscellaneous Permits* guidebook.

Permit Compliance

Upon IP issuance, the Ecologist must review the permit to ensure there are no errors or inconsistencies that might require resolution. In rare cases, GDOT Environmental Commitments and/or Special Provisions may need to be updated to comply with permit conditions. Once the Ecologist completes their review and resolves any issues, if necessary, the permit should be signed and dated by the GDOT Environmental Administrator, or their designated representative, and sent back to the USACE for their signature, after which the permit is officially authorized.

Upon completion of authorized work in WOTUS, GDOT must submit a Certification of Compliance to the USACE, which is typically attached to the issued permit. At that time, the USACE may schedule a compliance inspection of the project.

SCHEDULE AND TIMELINE

Pre-Application

Pre-application, by way of the LCP process, is completed in the Concept Phase of a project, with a PAR report and agency agreement on the preliminary LEDPA needed before completion of the Concept Report Layout. For more details on the timing of the LCP process, including Checkpoints, see the *Local Coordination Procedures* and the GDOT *Section 404 LCP* guidebooks linked above.

Lockdown Plans

Due to the complexity of the application and extended review timeline with the USACE, lockdown plans are to be received 38 weeks prior to the Management Let date for projects requiring an IP, as outlined in the PDP. (In contrast, lockdown plans are typically needed only 31 weeks prior to the Management Let date for General Permits.) These plans are necessary to finalize assessment of proposed impacts to WOTUS and required compensatory mitigation prior to completion of the IP Application and submittal to USACE. Lockdown plans signify that no plan changes should occur within environmental resources, including WOTUS, to ensure that the proposed impacts in the final plan set match those presented in the IP Application. However, if design changes within WOTUS or other environmental resources are proposed after lockdown, approval to implement them is required from GDOT's Engineering Division Director, because revisions at this point could put the project schedule at risk.

Individual Permit Application Preparation, GDOT Review, and Transmittal

Drafting of the application, GDOT review, revisions to the draft, and ultimate transmittal of the final IP Application must be completed within approximately 8 to 10 weeks. This timeframe is critical, and any delays will impact the project schedule. It is key to communicate any delays with the project team as soon as possible.

Section 401 Water Quality Certification Request

The WQC request should be transmitted to the EPD concurrently with the electronic submittal of the IP Application to the USACE. Prior to transmitting the hard copy WQC request, EPD should be notified 30 days prior to its transmittal, during which a pre-filing meeting may be required by the EPD. The Ecologist should notify EPD via email once the IP Application is under GDOT review.

USACE Review and Permit Issuance

The USACE's review process includes an initial review, JPN, final review and evaluation, and "Decision Document" and issuance. The duration of the USACE's review is not stipulated or mandated by regulations. However, IP Applications for relatively low-complexity projects typically take 120 days to process from the time a complete application is received. This includes the comment period of the JPN, which is usually open for 30 days. For more complex projects, the overall duration can be substantially longer. (In practice, recent GDOT projects have a median review timeline of 9 months, with some authorizations extending beyond this timeframe.) Extended review durations are often not accounted for in the project schedule; therefore, a request for an expedited review and/or schedule adjustment may be needed and should be discussed with the project team.

Associated Deliverables and Approvals

For timelines related to associated deliverables and approvals such as Ecology reports and addenda, Buffer Variance Applications, and Revocable Licenses, please see the associated guidebooks or the *Miscellaneous Permits* guidebook.

PERMIT EXTENSIONS AND MODIFICATIONS

Individual Permit Extension

IPs are typically effective for five years from the permit issuance. However, this duration is often insufficient, since most GDOT projects using an IP are complex and/or require a “phased” approach, where some portion of the overall project design is outstanding at the time of application. If project construction will exceed the IP’s effective period, an extension should be requested from the USACE at least one month prior to the expiration date. Information in the extension request letter should include the status of project construction (by phase if appropriate), the projected completion date, and a justification for the extension request. The term of the extension is at the discretion of the USACE Project Manager and will be based on the information provided in the request. Often the USACE will extend the permit by several years.

Individual Permit Modifications

In contrast to General Permits, such as RGPs and NWPs, IPs can be modified if project changes are proposed that would increase or otherwise alter previously authorized impacts to WOTUS. Modifications can be required due to design refinement on phased projects or due to deviations in construction methods. A request for a permit modification should include a transmittal letter that summarizes the project status, proposed plan changes, revised impacts to WOTUS by type, additional required mitigation, and updated agency coordination, if applicable. If additional mitigation is required, the status of mitigation purchase should be indicated. (The GDOT Special Projects Coordinator can provide this information.) Attachments should include current plan sheets with mark-ups and labels depicting impact changes, revised compensatory mitigation worksheets, and documentation of updated agency coordination, if applicable.

Guidebook Revision History

| Revision Description | Relevant Sections | Revision Date |
|---|---|----------------------|
| Initial Publication | All | 5/22/2019 |
| Revision Table Added | Last Page | 9/21/2020 |
| Updated Acronyms, Hyperlinks | All | 12/09/2020 |
| Updated Hyperlink Buttons | Individual Permit | 4/22/2021 |
| Updated Text | 401 Water Quality Certification; Revocable License Agreement | 6/29/2021 |
| Major Revisions and Updates: Inclusion of the IP Application Template & hyperlinks | All | 7/2/2024 |
| Font update and content review (no updates) | All | 1/22/2025 |