

# Regional General Permit Quick Guide

# RGP A

## **RGP A: Linear Transportation Projects**

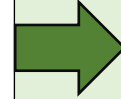
**Activities:** Construction, expansion, modification, or improvement of linear transportation projects (e.g., roads and highways) in waters of the U.S.

### **Limitations of RGP A:**

- >0.5 acre of waters of the U.S.
- Impacts to Designated Critical Resource Waters
- Any activity which impacts bogs and/or fens.

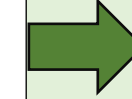
**Examples:** New roadway, realignment, additional lanes (turn lanes, ramps, inside widening, outside widening, intersection improvement, roundabout), new bridge, new bike path/trail, new sidewalk, roadway and railway grade separation.

**Mitigation:** If the proposed activity requires a PCN and will result in greater than 0.1-acre of permanent impacts to wetlands, and/or a loss of 300 linear feet of stream, mitigation will be required.



## **USACE Pre-Construction Notification (PCN) Thresholds:**

1. Loss of waters of the U.S. > 0.1 acre.
2. Discharges in a special aquatic site (including wetlands).
3. Discharge to Section 10 waters >25 CY.
4. Total permanent/temporary discharge to a stream >300 linear feet per single and complete project.
5. Work in components of the National Wild and Scenic River System, or "study rivers".
6. If activity also requires Section 408 permission from the USACE because it will alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project.
7. Temporary or permanent discharges of fill material into Category 3 wetlands.
8. Temporary or permanent discharges of fill material into Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation; or water bodies with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Water.
9. All activities in State Wild and Scenic Rivers.
10. All wetland activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry, and Fulton counties.



## **OEPA Section 401 Water Quality Certification**

### **Thresholds:**

1. Stream crossings exceeding a total of three per stream mile per stream.
2. For an individual stream, a culvert extension >300 linear feet.
3. Category 1 and 2 wetland impacts >0.50 acre per crossing.
4. Impacts to Exceptional Warmwater habitat, Cold water habitat or Seasonal Salmonid streams.
5. Impacts to streams with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Water.
6. State Wild and Scenic River impacts.
7. National Wild and Scenic River System impacts.
8. Impacts to general high quality water bodies that harbor federal and state listed threatened or endangered aquatic resources.
9. Temporary or permanent impacts to Category 3 >0.1 acre.

### **Helpful Hints:**

Q: What happens when the Limitations of the RGP are exceeded? A: The project no longer qualifies for the RGP. The next step is to see if the project would fit the Nationwide General Permit. If it does not fit the Nationwide General Permit, then the project must be permitted under a USACE Section 404 Individual Permit.

Q: If a project does not fit within the limitations of the RGP (or NWP) and requires a USACE Section 404 Individual Permit, what does OEPA require? A: OEPA requires a Section 401 Water Quality Certification (aka. Individual 401 Permit).

Q: If a project meets the conditions of the RGP (with or without a PCN) but it exceeds the OEPA Section 401 limitations, what does that mean? A: The applicant has 3 choices: 1) they can submit for OEPA Section 401 WQC (aka. apply for an Individual 401 permit), 2) the applicant can request an OEPA Director's Authorization (DA), or 3) reduce or avoid impacts that would trigger the need to apply for OEPA Section 401 WQC.

Q: What is an OEPA Director's Authorization? A: This is an intermediate level of permitting, which avoids the Individual Section 401 WQC process and significantly reduces the review and approval timeframe. If the limits of the OEPA's pre-certification are exceeded and the applicant can demonstrate that impacts will result in a minimal impact on water quality, then OEPA will grant a DA and not require Individual Section 401 WQC. Note that mitigation is required when wetland impacts exceed 0.1 acre and for all new stream impacts (i.e., stream mitigation is not required for the length of a culvert replacement).

Q: When is it appropriate to request a Director's Authorization from OEPA? A: Typically, a DA is best suited for situations where the project would be authorized by the USACE under the RGP or NWP, trigger an individual 401 WQC but impacts are minor in nature. OES will ultimately make the decision if pursuing a DA is appropriate and may consult OEPA for guidance.

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## RGP B

### RGP B: Maintenance

**Activities:** The maintenance of existing transportation infrastructure resulting in the discharge of fill material into waters of the U.S. associated with the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, provided that the structure or fill is not to be put to uses differing from those uses specified in the original permit or the most recently authorized modification.

#### **Limitations of RGP B:**

- A total of 200 feet of sediment removal in Section 10 waters.
- A total of 600 feet of new or additional rip rap from the structure.
- Any activity which negatively impacts bogs and/or fens.
- Does not authorize new stream channelization or relocation.

**Examples:** Culvert, bridge, abutment, trail, and constructed embankment repair/replacement/rehabilitation; culvert extension, culvert maintenance, RCP, pier encasement, and temporary access fills to complete maintenance activities.

**Mitigation:** If the proposed activity requires a PCN and will result in a loss of greater than 0.1-acre of wetlands, and/or 300 linear feet of permanent stream, mitigation will be required.



### USACE Pre-Construction Notification (PCN) Thresholds:

1. The activity involves the discharge of greater than 25 cubic yards of dredged and/or fill material below the ordinary high water mark of a Section 10 water.
2. The activity involves the dredging and/or removal of sediment in a Section 10 water.
3. The activity requires the use of vertical sheet piling and closed structures in special habitat waters of Lake Erie (Critical Resource Waters).
4. Total temporary discharge to a perennial or intermittent stream >300 linear feet per single and complete project.
5. Work in components of the National Wild and Scenic River System, or "study rivers".
6. Any activity proposed in designated critical resource water, including wetlands adjacent to those waters.
7. If activity also requires Section 408 permission from the USACE because it will alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project.
8. Temporary or permanent discharges of fill material into Category 3 wetlands.
9. All activities in State Wild and Scenic Rivers.
10. All wetland activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry, and Fulton counties.



### OEPA Section 401 Water Quality Certification Thresholds:

1. Temporary or permanent impacts to Category 3 wetlands >0.1 acre.
2. Category 1 and 2 wetland impacts >0.50 acre.
3. Replacing structures that are open to flow of water with structures that are not open to flow of water.
4. For an individual stream, a culvert extension >300 linear feet.
5. Replacement bulkheads that exceed more than one foot waterward of the OHWM of the waterbody. (See additional notes on Lake Erie in RGP)
6. Removal of sediment more than once per year (except in emergency situations).

#### **Reminder:**

Culvert lining fills are 404 exempt. If any temporary dewatering fills or other fill activities are required, those will need to be quantified and authorized.

#### **Waterway Links:**

Designated Critical Resource Waters: Refer to pages 13-14 of the 2019 Regional General Permit

Stream Use Designation (i.e. Warmwater Habitat): [https://epa.ohio.gov/dsw/rules/3745\\_1#use designations](https://epa.ohio.gov/dsw/rules/3745_1#use%20designations). Use the Index on the website to locate the drainage basin associated with the waterbody you are investigating. Then use the correlating information to locate the individual basins to search for the stream use designation.

Antidegradation Category (i.e. Superior High Quality Water): <https://epa.ohio.gov/portals/35/rules/01-05.pdf> A list of definitions can be found here: [https://epa.ohio.gov/Portals/35/wqs/AntiDegSum\\_Aug18.pdf](https://epa.ohio.gov/Portals/35/wqs/AntiDegSum_Aug18.pdf)

National Wild and Scenic Rivers: <http://www.rivers.gov/> & Interactive Map: <https://nps.maps.arcgis.com/apps/View/index.html?appid=ff42a57d0aae43c49a88daee0e353142>

State Wild and Scenic Rivers: <http://watercraft.ohiodnr.gov/scenicriversmap>

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# RGP C

## RGP C: Bank Stabilization

**Activities:** Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques.

### **Limitations of RGP C:**

- The activity is no more than 500 feet in length along the bank, unless the USACE waives this criterion.
- A bulkhead that is greater than 1,000 feet in length along the bank (requires waiver).
- The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the USACE waives this criterion.
- The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the USACE waives this criterion.
- Stream channelization activity is not authorized.
- This RGP does not authorize material that is dumped from the top of bank resulting in uncontrolled spilling of material over the bank into the waterway.
- Any activity which impacts bogs and/or fens.

**Examples:** Bank stabilization in which the stream is encroaching on the roadway, or bank stabilization adjacent to a maintenance project where maintenance can be completed separately from the stabilization.

**Mitigation:** If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, and/or a loss of 300 linear feet of stream, stream mitigation is required.

**Waivers:** RGP C includes some limitations that can be waived by the USACE District Engineer. OES will determine if a waiver request is appropriate, and if the USACE indicates that a waiver is likely, the request will be included in the PCN, along with a demonstration of no more than minimal adverse effect on the environment.

## USACE Pre-Construction Notification (PCN)

### Thresholds:

1. The activity involves discharges into special aquatic sites
2. The activity is in excess of 500 feet in length
3. The activity will involve the discharge of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line
4. The activity involves the discharge of greater than 25 cubic yards of dredged and/or fill material below the ordinary high water mark of a Section 10 water
5. The activity is located in Lake Erie, Sandusky Bay, or Maumee Bay and involves the discharge of greater than 10 cubic yards of dredge and/or fill material below the ordinary high water mark.
6. The activity involves the use of any permanent vertical bulkhead in Lake Erie, Sandusky Bay, and Maumee Bay.
7. The activity is located in Lake Erie, Sandusky Bay, and Maumee Bay
8. Work in components of the National Wild and Scenic River System, or "study rivers".
9. Any activity proposed in designated critical resource water, including wetlands adjacent to those waters.
10. If activity also requires Section 408 permission from the USACE because it will alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project.
11. Temporary or permanent discharges of fill material into Category 3 wetlands.
12. All activities in State Wild and Scenic Rivers.
13. All wetland activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry, and Fulton counties.

## OEPA Section 401 Water Quality Certification

### Thresholds:

1. Any temporary or permanent impacts to Category 3 wetlands.
2. Category 1 and 2 wetland impacts >0.50 acre.
3. Impacts to Exceptional Warmwater Habitat, Cold Water Habitat or Seasonal Salmonid streams.
4. Impacts to streams with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Water.
5. State Wild and Scenic River impacts.
6. National Wild and Scenic River System impacts.
7. Impact to general high quality water bodies that harbor federal and state listed threatened or endangered aquatic resources.
8. Impacts to other streams and lake shorelines when the activity is >500 linear feet along the bank or shoreline.
9. Vertical bulkheads more than one foot waterward of the OHWM of the waterbody. (see note in RGP for Lake Erie specifics)

### **Bank Stabilization vs. Maintenance vs. Linear Transportation, Which Permit Applies?**

Making the distinction between a bank stabilization project and a maintenance project or what the USACE would consider a linear transportation project is a tricky task. In these instances, it is best to coordinate early with OES-WPU for project scoping.

As a general rule of thumb, a project is more likely to be considered maintenance (RGP B) if the roadway is failing and the associated roadway embankment and streambank coincide. Repair of an existing roadway embankment or retaining wall is also more likely to be viewed as maintenance.

A project is more likely to be considered bank stabilization (RGP C) if the road is not in eminent danger of failing and the project intent is to stabilize a stream bank prior to an impact to the roadway or roadway embankment.

Lastly, if a new slope or new retaining wall is being proposed and/or a stream relocation is necessary, RGP A (Linear Transportation) is likely a more appropriate permit.

Because of the nuances between permits and project specifics, the examples above are very general and OES-WPU should be consulted.