



**US Army Corps
of Engineers**

Alaska District
Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-6898

Special Public Notice

Date 15 July 2004
Identification No. **SPN-2004-08**
In Reply respond to above identification #

GENERAL PERMIT 96-7M VILLAGE BULK FUEL STORAGE FACILITIES

A General Permit has been re-issued pursuant to Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. seq.), and in accordance with the Department of the Army Regulations (33 CFR Part 320-330). The GP authorizes the discharge of dredged and fill material into waters of the United States, including wetlands, for the purpose of: constructing, replacing, relocating, upgrading or consolidating bulk fuel storage facilities in rural Alaska. The maximum fill footprint allowed under the GP would be 2.0 acres including wetland and upland fills. A copy of the 96-7M, which describes the criteria which must be met in order for work to be authorized under this GP, is attached.

This GP will not authorize projects in the following communities: the Municipality of Anchorage, Kenai Peninsula Borough, Palmer, Wasilla, Fairbanks, North Pole, Juneau, Douglas, Ketchikan, Wrangell, Petersburg, Sitka, Haines, Skagway, Homer, Seward, Kenai, Soldotna, Kodiak, Valdez, and Cordova.

In response to Special Public Notice 2004-05, dated April 16, 2004, GP 96-7 was revised to reflect changes submitted by local, state and federal agencies and individuals. Based on a review of all pertinent information including a prepared environmental assessment, I have concluded that the re-issuance of this GP will not have more than minimal impact on the environment and is not contrary to the public interest.

GP 96-7M has been issued for a period of five years effective the date of the signature on the last page of the permit. The District Engineer may modify, suspend, or revoke the permit at any time if deemed necessary to protect public interests.

Questions or requests for more information should be directed to: Alaska District Corps of Engineers at the address above or phone (907) 753-2712 or toll free to (800) 478-2712.

District Engineer
U.S. Army, Corps of Engineers

Attachment

GENERAL PERMIT 96-7M

VILLAGE BULK FUEL STORAGE FACILITIES

The Alaska District, United States (U.S.) Army Corps of Engineers, in accordance with its regulations and pursuant to Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq.), is considering the re-issuance of General permit 96-7 which would allow the discharge of dredged and/or fill material into waters of the United States, including wetlands, for the purpose of upgrading, moving, or constructing new bulk fuel facilities in rural Alaska.

Authorized activities would include: the discharge of fill material, mechanized land clearing, ditching and backfilling in wetlands, for the purpose of new construction, relocation, replacement, consolidation, or upgrade of facilities for the transfer, storage, distribution, and dispensing of bulk fuel, along with associated support facilities including roads.

The proposed GP would authorize the placing of dredged or fill material for: 1) structural fills for the support of bulk fuel storage tanks; 2) the construction of secondary containment dikes and structures; 3) for piping, pumps, buildings, equipment storage (including protected and secure storage for oil spill response equipment), vehicle parking, and security fencing; 4) fills for fuel dispensing stations and tanks; and 5) fills associated with fuel transfer and dispensing pipelines.

The maximum fill footprint allowed under GP 96-7M would be 2.0 acres including wetland and upland fills. Access roads up to 2,000 feet in length would be included in the 2.0 acre total.

Note: Authorizations granted under GP 96-7M would apply only to work subject to the regulatory authority of the U.S. Army Corps of Engineers. GP authorizations would not change in any manner the requirements or the need to meet other required federal, State or local governmental authorizations. If the work authorized under the GP is subsequently modified by any other Federal, State or local governmental authorization, a modification of the authorization to perform activities may need to be obtained from the Corps of Engineers.

PURPOSE AND APPLICABILITY

The purpose of the GP is to facilitate the permitting of projects which correct environmental and safety deficiencies in fuel storage and delivery systems. The GP will not authorize projects in the following communities: the Municipality of Anchorage, Kenai Peninsula Borough, Palmer, Wasilla, Fairbanks, North Pole, Juneau, Douglas, Ketchikan, Wrangell, Petersburg, Sitka, Haines, Skagway, Kodiak, Valdez and Cordova.

CONDITIONS OF THE PROPOSED GP

All activities identified and authorized by GP 96-7M shall be consistent with the following conditions:

1. The maximum combined dimensions of all fills shall not exceed two (2) acres, including access roads. The maximum combined lengths of access roads shall not exceed 2,000 linear feet. Fill in uplands and in wetlands are included in the two acre limit. For fills with a footprint between 1 and 2 acres (not including access roads), Pre-construction Notification (PCN) procedures must be followed as described in "Procedures" on page 4.
2. No fill for the tank farm (including the containment area), nor any fill for any other support feature (e.g., staging areas, or construction access roads), shall be discharged within 100 feet of the ordinary high water mark of any water

body, or within 300 feet of an anadromous fish stream except by Pre-construction Notification as described in "Procedures" on page 4. Pipelines and pipeline service roads are exempt from this requirement. The 100 foot (or 300 foot) buffer zone shall consist of a natural vegetative buffer, where practicable. Excavated materials must be stored and disposed of at least 100' from any waterbody.

3. The typical side slopes of all fills shall be no steeper than 2:1 (horizontal:vertical), unless an alternative means of stabilizing the side slopes is used to prevent erosion and slumping. All fills shall be stabilized and maintained as soon as possible after final configuration to eliminate erosion and sedimentation into adjacent waters or wetlands.

4. The boundaries of fill areas in wetlands shall be staked or flagged prior to construction to prevent inadvertent encroachment onto adjacent lands.

5. Culverts shall be installed and maintained to retain natural surface drainage.

6. If permafrost is present, sufficient fill (or other methods of insulation) shall be placed on the ground to provide thermal stability. Signs of thermokarsting or standing water indicate non-compliance with this condition.

7. The fill shall consist of clean, uncontaminated material, or petroleum contaminated material that has been treated and meets the Alaska Department of Environmental Conservation (ADEC) cleanup standards for reuse and other ADEC requirements on the use of contaminated material in effect at the time.

8. Tanks shall have at least one of the following mechanical or operational means to minimize the potential for tank overfilling:

- ▶ High liquid level automatic shutoff devices set to stop flow at a predetermined tank liquid level;
- ▶ High level alarms or signals that sound or display in a manner immediately recognizable by personnel conducting a transfer;
- ▶ Automatic liquid level gauges;
- ▶ Other effective mechanical and/or electrical equipment that aids in the prevention of tank overfilling; or
- ▶ Other methods which involve direct operator monitoring and intervention to prevent tank overfilling.

9. Fuel storage tanks shall be located within a secondary containment structure that has the capacity to hold the volume of the largest tank within the containment area, plus enough additional capacity to allow for local precipitation where it will reduce the effective storage capacity. Containment structures may include berms, dikes or retaining walls that are constructed to prevent the release of spilled petroleum from the containment area, or they may consist of diked or double walled tanks. Containment structures shall be constructed of or lined with materials that are resistant enough to damage by both the products stored and the prevailing weather conditions, to maintain impermeability. Impermeable material shall completely cover the secondary containment area including the area beneath the tanks. Containment structures must meet the current International Fire Code as adopted by the State of Alaska (13 AAC 50). Tank foundations shall be elevated or the containment area graded so that runoff flows away from and does not accumulate around the tank bottoms. This reduces the possibility of corrosion.

10. Fuel storage tanks shall be located above the 100-year flood level, must be designed to withstand a 100-year flood event when the 100-year flood has been

determined for the site. If the 100-year flood level has not been determined for the site, the tank flood design shall be developed by an engineer to withstand flood levels based on anecdotal evidence, physical evidence, climatic data, and good engineering judgment.

11. The permittee shall contact the Alaska Department of Transportation and Public Facilities if proposed access roads are connected to the State road system. This will ensure that the access roads and driveway widths are sufficient to meet State standards.

12. Equipment, vehicles and other materials shall not be stored, or operated in wetlands or riparian areas, except within the construction footprint.

13. Work shall be avoided during periods of heavy precipitation.

14. A plan shall be submitted (with the required notification information) which describes how the applicant intends to avoid and/or minimize disturbance to wetland vegetation and soils when impacts to wetlands cannot be avoided. The plan shall include methods to re-vegetated disturbed areas. Site preparation, excavation, fill placement and construction must be carried out so as to minimize the generation of silt and sediment that could be carried off-site or into water bodies by surface runoff and/or silt and sediment must be contained so that it cannot be carried off-site or into water bodies. Disturbed areas must be re-vegetated as soon as practicable, preferably in the same growing season as the disturbance. Silt and sediment from site excavation and fill materials may not enter wetlands or water bodies outside the necessary working area. Erosion protection, such as silt fences, straw bales, other effective filters, matting, or settling ponds shall be provided and remain in place until the soil is permanently stabilized.

15. Materials must be available at the site to contain and clean up incidental spills and leaks, and must be used to contain and clean up any petroleum product spilled as a result of construction activity.

16. The proposed activity shall not adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973 (Act), as amended nor jeopardize the continued existence of any proposed species under the Act. A Federal or State applicant must contact the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding the presence of threatened or endangered species. The Corps of Engineers will contact the U.S. Fish and Wildlife Service on behalf of other applicants. If it is determined that threatened or endangered species are present and that an effect may occur, then the District Engineer or lead Federal Agency shall initiate Section 7 consultation with the agencies for the particular application. The presence or subsequent discovery of a threatened, endangered, or proposed species which may be affected by a permitted action or related activities may result in a delay of permit issuance or the specific operation in order to include Section 7 consultation and/or conference, as required by the Act.

17. No activity authorized by the GP shall adversely affect historic properties. If any historic properties are known to exist in the project area, the Corps shall consult with the State Historic Preservation Officer (SHPO) before authorization under the GP is granted. In the case of a Federal or State applicant, the applicant must consult with the SHPO prior to contacting the Corps of Engineers for authorization.

18. If any previously unknown historic or archaeological remains are discovered while accomplishing the work authorized by this GP, this office must immediately be notified at (800) 478-2712. In the case of a Federal or State applicant, the applicant must contact both the SHPO and the Corps of Engineers.

19. Prior to construction, the permittee must demonstrate contact with a

registered professional engineer and the Fire Marshall to ensure that requirements for storage and handling of fuel are met. This information must be sent to: North Section, Regulatory Branch, CEPOA-CO-R-N, Post Office Box 6898, Elmendorf AFB, Alaska 99506-6898.

20. The District Engineer, or his designated representative(s), must be allowed to inspect the authorized activity at any time deemed necessary to ensure that the work is being or has been accomplished in accordance with the terms and conditions of this GP.

21. The permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if the permitted activity is abandoned. The permittee may make a good faith transfer to a third party in compliance with condition 18 below. Should the permittee wish to cease to maintain the authorized activity or to abandon it without a good faith transfer, you must obtain a modification of this authorization from this office, which may require restoration of the project area.

23. Prior to selling the property associated with an activity authorized by this GP, the permittee must contact this office for the appropriate transfer documentation.

PROCEDURES:

The following procedures must be followed for work to be authorized under GP 96-7M:

- a. All persons proposing to do work under GP 96-7M must submit the following information: 1) a vicinity map, legal description (section, township, range, meridian), and latitude and longitude; 2) plan drawings with typical cross sections showing project components, and a plan view of the entire project; 3) aerial photographs or good quality copies, if available; 4) a written description of the proposed work; 5) a statement of project purpose and intended use; 6) dimensions of all fill pads (length X width X thickness); 7) cubic yards of material needed to construct the project and the source of the material; 8) acreage to be filled; 9) cubic yards of material to be excavated and the location of disposal of the material; 10) a discussion of methods taken to avoid and/or minimize impacts to wetlands; 11) a soil stabilization and revegetation plan which describes the soil stabilization methods to be implemented to eliminate erosion and sedimentation; 12) a description of the existing fuel tank farm/s (number of tanks and capacity and if in use or abandoned) in the village.
- b. The Corps' Project Manager (PM) reviews the information to determine if it is complete and if not complete, requests the required information. After the required information is provided, a determination is made as to whether the project meets the GP 96-7M criteria. If a Pre-construction Notification (PCN) is required, the Corps' PM will undertake the PCN notification process as described below.
- c. Typically, a letter authorizing the bulk fuel storage activity will be sent within 30 days of receipt of the required information. This "authorization to proceed" letter from the Corps, must be received prior to the commencing of work.

PRE-CONSTRUCTION NOTIFICATION PROCEDURE (PCN):

A PCN is required in the following circumstances: if the footprint of the filled areas, not including access roads, is larger than 1 acre; or, if any fill is placed within 100' of an open water body, or within 300' of an anadromous fish

stream; or, if deemed necessary by the Corps for other factors.

a. Once required information is submitted and GP 96-7M determined to be appropriate, the Corps PM faxes the plans and information to the appropriate interested parties and agencies.

b. The interested parties and agencies have 15 calendar days to contact the Corps, (by fax, letter or phone) with comments on the project. One 15-day extension will be granted if requested. If commenting parties and agencies agree that the project can be undertaken within the constraints of GP 96-7M, an authorization is issued. Special conditions may be added to the authorization.

c. If a project does not qualify for GP 96-7M, a standard individual permit will be required (33 CFR 325.2(a)(1-5)).

FURTHER INFORMATION:

a. Limits of the GP 96-7M authorization:

1. This permit does not grant any property rights or exclusive privileges.
2. This permit does not authorize any injury to the property or rights of others.
3. This permit does not authorize interference with any existing or proposed Federal project.

b. Limits of Federal Liability

In issuing this permit as proposed, 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 U.S. in the public interest.
3. Damages to persons, 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.

c. Reevaluation of Permit Decision - This office may reevaluate its decision regarding this GP at any time the circumstances warrant. Circumstances that could trigger a reevaluation include, but are not limited to, the following:

1. Authorized work fails to comply with the terms and conditions of the permit.
2. Appropriate new information is presented which this office did not consider in reaching the original public 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 such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring compliance with the terms and conditions of the GP and for the initiation of legal action where appropriate. Anyone doing work under the GP will be required to pay for any corrective measures ordered by this office, and if there is failure to comply with this directive, this office may, in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise, or may bill the permittee for the cost.

MONITORING AND REPORTING

Annually, the Corps of Engineers would compile a report summarizing all authorizations under GP 96-7M. The report would include, at a minimum, the number of acres filled and cubic yards of fill placed under the GP authorization. The report would be made available to all commenting agencies and any interested parties upon request.

PENALTIES FOR VIOLATIONS:

Failure to comply with the terms and conditions of this permit may result in suspension of the work, revocation of the permit, removal of dredged and/or fill material or other structures, directed restoration of wetlands, and/or imposition of penalties as provided by law.

The discharge of fill material not in accordance with the terms and conditions of GP 96-7M would be a violation of Section 301 of the Clean Water Act (33 U.S.C. 1319), and upon conviction thereof, would be punishable, in accordance with Section 309 of the Clean Water Act, by a fine up to \$50,000, per day of violation, or by imprisonment of not more than three years, or both.

REVOCAION, RE-ISSUANCE, and TIME EXTENSIONS

GP 96-7M may be revoked by issuance of a Public Notice at any time the District Engineer (DE) determines that the singular or cumulative effects of the activities authorized herein are having more than minimal adverse effect on the public interest. Following such revocation, all new requests shall be processed under individual permit application review procedures, and the DE will decide on a case-by-case basis if previously authorized activities should be revoked, suspended, or modified.

The re-issued GP 96-7M would be in effect for a period of five years. During the fifth year, the GP and the work authorized under it would again be reviewed to determine if it should be modified, extended or discontinued.

Application requests received prior to the expiration date would be considered for authorization under the GP. Any activity authorized by the GP must be completed within 12 months of the expiration date unless a time extension is granted. Requests for time extensions should be made 30 days prior to the expiration of their authorization date.

FOR THE DISTRICT ENGINEER:

7/15/04
Date

Kevin R. R...
Kevin Morgan, Chief
North Section, Regulatory Branch
Alaska District, Army Corps of Engineers