



FACT SHEET

**Permitting for Hardrock Exploration in the State of Alaska,
including: Survey Activities, Camps, Roads, and Airstrips**

**US Army Corps
of Engineers
Alaska District**

Under **Section 404 of the Clean Water Act (CWA)** the U.S. Army Corps of Engineers (Corps) has jurisdiction over discharge of dredged and fill material into waters of the U.S., including streams and wetlands. Under **Section 10 of the Rivers and Harbors Act**, the Corps has jurisdiction over structures and work, in or affecting, navigable waters. A Department of the Army (DA) permit is required to place dredged and/or fill material into waters of the U.S., including wetlands, and/or to perform work in navigable waters of the U.S. The CWA applies to operations on federal, state, and private land.

A number of Section 404 permitting options are available to authorize hard rock exploration activities in the State of Alaska. Floating base camps supporting exploration activities require a Section 10 permit.

Please Note: Alaska District will no longer provide written authorization for hard rock exploration projects unless the applicant sends a written request. This is because most exploration projects can be verified under Nationwide Permit (NWP) # 6 without contacting the Corps ahead of conducting the work. However, written authorization is recommended for controversial projects, as well as larger projects that will eventually require an Individual Permit (IP).

Nationwide Permit (NWP) 6, for Survey Activities

Activities include core sampling, drill pads, exploratory trenching, bulk sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil surveys, sample plots or transects for wetland delineations, and historic resources surveys.

- A jurisdictional determination is not required.
- A Pre-Construction Notification (PCN) is not required. (There is one exception in Alaska, for operations conducting 3-D seismic surveys with cables, on the ocean bottom.)
- No upward limit on the total area of exploration activities.
- However, temporary fill pads are limited to 0.10 acre within a defined project at any time.
- NWP 6 does not authorize fill placed for camps, roads, or airstrips.

Camps: Several permits types are available, depending on project location and construction methods.

- **No Permit Required:** Camps constructed in uplands do not require a permit. Camps constructed in wetlands using raised platforms, pilings, boardwalks or skids, do not require a permit.
- **NWP 18 for Minor Discharges of Fill:** Limits: Discharge may not exceed 25 cubic yards (cy) of fill below the High Tide Line or Ordinary High Water Mark. No more than 0.10 acre of waters of the U.S. and, may not be used for a stream diversion. A Pre-Construction Notification (PCN) is required. (See “Links”, below.)
- **An IP is required for floating camps in navigable waters, under Section 10.** All tidal and marine waters are considered navigable. Also, Alaska District has an approved list of 47 segments of non-tidal waters (rivers and lakes) considered navigable. (See “Links”, below.)
- **An IP is required when the limits of any applicable NWP permit are exceeded.**

Roads, airstrips:

- Exempt: Temporary roads for moving mining equipment are exempt from the CWA provided:
 - “Temporary” is defined as three years, based on past practice in Alaska District, for construction of roads used for exploration purposes. After three years, the road must be removed and the area restored to original contours.
 - Avoid discharge of fill into waterfowl breeding and nesting areas, spawning areas, and wetlands. Avoid impacts to threatened or endangered species or critical habitat.
 - Minimize length, width and overall number of roads to accomplish the project. Locate roads away from streams. Where used, construct bridges and culverts to prevent restriction of flood flows. Fill sources should be from uplands. Stabilize and maintain fill to prevent erosion into waters of the U.S. Minimize encroachment of equipment into waters of the U.S.
- No Permit Required: Roads located in uplands do not require a Corps permit.
- Nationwide Permits: Several NWP are available.
 - NWP 3, Maintenance – No upward limit to impacts for repair, rehabilitation, or replacement of serviceable roads or trails that have had a permit in the past, or were constructed before 1976. Minor changes in configuration or filled area allowed. No PCN required.
 - NWP 14, Linear Transportation Projects – Limits: Up to 0.50 acre of fill allowed in non-tidal waters of the U.S., and up to 0.33 acre of fill in tidal waters of the U.S. May be used to construct, expand, modify, or improve linear transportation projects. PCN required when (1) loss of waters of the U.S. exceeds 0.10 acre, or (2) the discharge occurs in a “special aquatic site”, including wetlands.¹
 - NWP 18, Minor Discharges: See second bullet, under Camps.
- An IP is required when any NWP limit is exceeded, or for construction of permanent features.

General and Regional Conditions

- Operators must follow the stipulations attached to the NWPs, available at: <http://www.poa.usace.army.mil/Missions/Regulatory/Permits.aspx>
- The conditions apply to all projects, even when no written verification is provided.
- General Condition # 23, Mitigation: When a PCN is required and when wetland losses exceed 0.10 acre, a minimum one-for-one ratio of compensatory mitigation may be required, unless the Corps determines in writing that: (a) some other form of mitigation would be more appropriate, or (b) that the adverse effects of the proposal are minimal, and a project specific waiver applies.
- General Condition # 31: Covers information requirements for the PCN.

Links:

Navigable Waters in Alaska

<http://www.poa.usace.army.mil/Portals/34/docs/regulatory/NavWat.pdf>

Pre-Construction Notification form for NWPs:

<http://www.poa.usace.army.mil/Portals/34/docs/regulatory/Applicant's%20PCN%20Form.pdf>

Individual Permit links: (See also FACT Sheet on IPs)

<http://www.poa.usace.army.mil/Missions/Regulatory.aspx>

¹ “Special aquatic sites include sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs, riffle and pool complexes.