



**US Army Corps  
of Engineers  
Alaska District**

# FACT SHEET

Individual Permits for Placer and Hard Rock Mining

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 mining operations on state, federal, and private lands.

## **Individual Permit (IP) required when:**

1. For **Mechanical Placer Mining** operations, an IP is required when the disturbance area exceeds the terms of Regional General Permit POA-2006-1944-M, which allows up to 10 acres of wetlands and upland disturbance, and/or a stream diversion up to 2,000 linear feet.
2. For **Hard Rock Mining** operations, an IP is required when the features of a project exceed the limits of any applicable NWP, including:
  - NWP 3, Maintenance allows for repair, rehabilitation, or replacement of structures or fill. An IP may be required if the structure or fill is no longer serviceable, if the purpose or use of the structure or fill changes from the original purpose or use, or when the change in footprint is determined to have a greater than minimal impact.
  - NWP 6, Survey Activities allows exploration activities. An IP may be required when the area of unreclaimed temporary pads exceeds 0.10 acres.
  - NWP 14, Linear Transportation Projects: An IP is required for impacts over 0.50 acre of fill in non-tidal waters of the U.S., and over 0.33 acre of fill in tidal waters of the U.S.
  - NWP 18 for Minor Discharges: Pads over 0.10 acre require an IP.
3. For **Floating Recovery Devices** (previously known as suction dredging) in Section 10 waters, an IP is required when a project is proposed in the following locations or situations:
  - In a biologically important habitat, such as a coral reef, eelgrass, seagrass, or kelp bed, macro-algae, vegetated shallow, shellfish bed, mudflat, or wetland.
  - In Essential Fish Habitat, when the National Marine Fishery Service (NMFS) has commented that the project would have an adverse effect.
  - When NMFS or the U.S. Fish & Wildlife Service comment that the project would have an adverse effect on Endangered Species or Critical Habitat.
  - In a state designated Special Area, such as a Game Refuge, Sanctuary, or Critical Habitat.
  - In a federally designated area (existing or nominated), such as a National Wildlife Refuge or Park.
  - When the project area contains an archaeological, cultural, or historic property that might be on or eligible for listing on the Register of Historic Properties.

4. For **Floating Camps located in navigable waters**, an IP is required under Section 10 of the Rivers and Harbors Act. All tidal and marine waters are considered navigable. Also, Alaska District has an approved list of non-tidal waters where Corps has navigation responsibilities available here: <http://www.poa.usace.army.mil/Portals/34/docs/regulatory/NavWat.pdf>

#### General Information:

- **The APMA is not accepted as an application for the IP.** Applicants must fill out a separate Department of the Army (DA) permit application (**ENG FORM 4345**). (See “To Apply” below)
- Operators are responsible for obtaining an IP.
- Advance planning is necessary. There is a 90- to 120- day timeline before a permit can be issued. The IP is flexible, and can be modified or time-extended. An IP typically lasts for 5 years.
- Operators who need a permit and work without authorization are subject to fines or penalties.

**To Apply:** All materials needed for an IP application may be found at <http://www.poa.usace.army.mil/Missions/Regulatory.aspx>

- Eng Form 4345**
- Aerial photo: Must be of sufficient quality to differentiate uplands, wetlands and vegetation. The photo must clearly show all aspects of the operation and the proposed work. It must show all mine activities, including stream diversions, mechanical stripping, cuts and fills, roads, camps, and overburden stockpiles.
- Jurisdictional determination (JD):** Applicants must submit a consultant supplied JD report, with data sheets and photographs. A wetland functional assessment may be required. You may consult the Corps in advance of hiring a consultant to determine the scope of detail needed.
- Vicinity map showing location of and access to project
- Latitude and Longitude of project
- Maps, Plans and Section Views –Checklist for Drawings may be found on our website.
- Mitigation Statement:** Under the **Section 404 (b)(1) Guidelines**, all permit applicants are required to provide a written statement how they will avoid, minimize, and compensate for unavoidable adverse impacts to waters of the U.S. when they construct their projects. Currently, the Corps regards reclamation as accepted by the land manager as a minimization measure only. The wetland functional assessment provided with your JD helps to determine the level of aquatic ecosystem function at your site prior to mining and will assist in predicting what level of function may be restored or gained through reclamation or other measures. Your ideas about how reclamation can be improved to increase ecosystem function are important. Compensatory mitigation is not required until all reasonable steps have been taken to avoid and minimize adverse impacts to waters of the U.S. Compensatory mitigation for IP mining projects will be determined on a case-by-case basis.

**IP Evaluation:** Once you submit your IP application, the Corps has 15 days to determine if it is “complete”, or to request missing information. Once determined “complete”, the Public Interest Review period starts. A Public Notice (15 or 30 days in length) is distributed to resource agencies, adjacent landowners, and interested parties, in order to comment on your project within their area of jurisdiction or expertise. You will have an opportunity to respond to any comments submitted. The Corps writes an Environmental Assessment document, balancing the benefits of your project against detriments, according to a list of public interest review factors. A permit is issued, unless your proposal is found to be contrary to the public interest or fails to comply with the Section 404(b)(1) Guidelines, discussed above. Your permit will generally contain several conditions, which you must follow. You may negotiate or appeal the terms of your permit before it is signed.