

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NO. 96

Routine Transportation Activities
ARIZONA

Presentation Updated:
September 12th, 2023

Why A Regional General Permit (RGP)?

A permit specific to typical ADOT activities enables the following:

- Eliminates unnecessary duplication of regulatory control
- Reduces paperwork and processing times
- Reduces delays to conduct work
- Means to accomplish activities that result in minimal impact to the aquatic environment



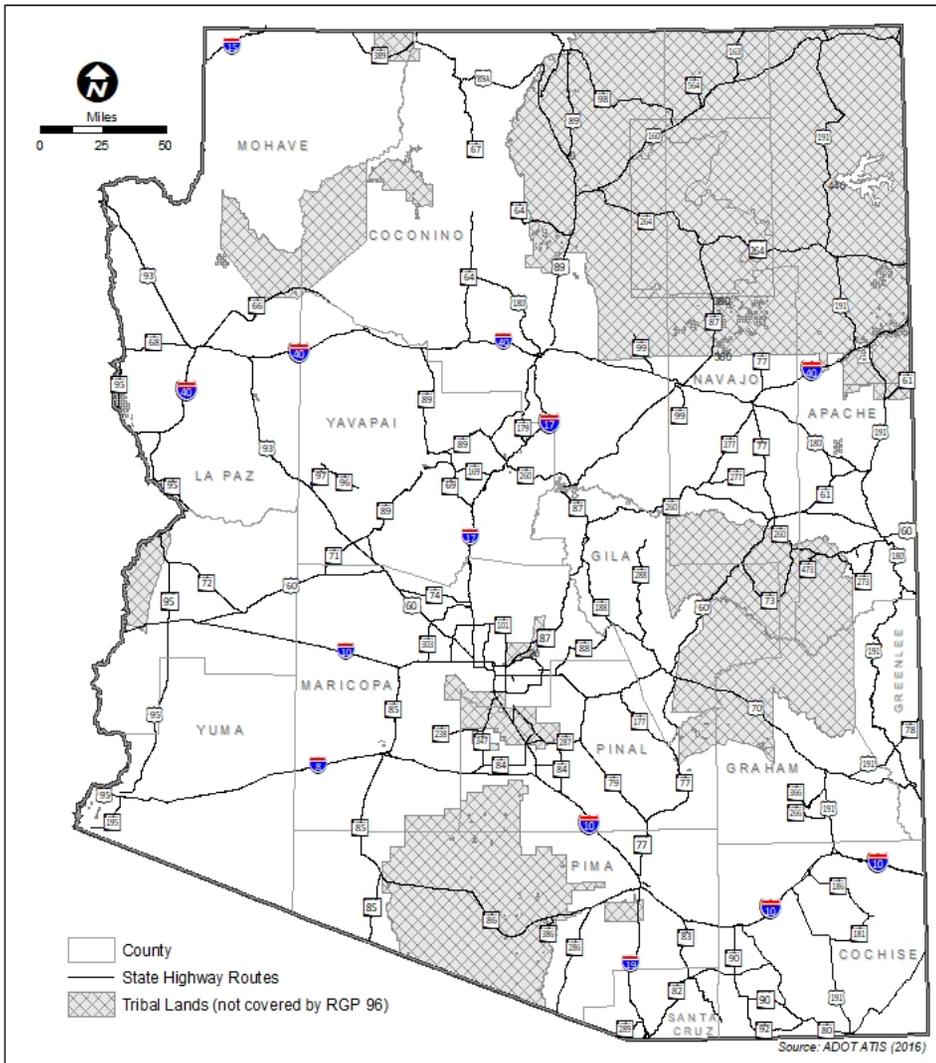
Where Does The RGP Apply?



Arizona statewide Waters of the U.S. (Waters) occurring within:

- ✓ Non-tribal lands
- ✓ ADOT ROW/EASEMENT = ADOT right-of-way or easements (including temporary construction easements)
- ✓ LPA ROW/EASEMENT = Local public agency (LPA) projects federally-funded by Federal Highway Administration FHWA that are bid and administered by ADOT.
- ✓ Minor amounts of newly acquired ADOT ROW/EASEMENT or LPA ROW/EASEMENT

The RGP Does NOT Apply To:



- X Tribal Lands
- X Construction of new alignments
- X Activities evaluated under a National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS)
- X Activities that exceed RGP impact thresholds
- X Activities that do not meet RGP conditions
- X Activities more appropriate for authorization under a Nationwide Permit

Authorized Activities

- Structure Maintenance
- Sediment and Debris Removal
- Erosion Repair
- Emergency Activities
- Geotechnical Activities
- Bed and Bank Stabilization
- Routine Linear Transportation Projects

Authorized Activities (cont.)

Maintain Structure

Repair, rehabilitation, or replacement of an existing, currently serviceable structure or fill.



Sediment/Debris Removal

Removal of debris, vegetation, and obstructions in the vicinity of existing structures.



Authorized Activities (cont.)

Erosion Repair

Removal of accumulated sediment for repairing erosion cuts in Waters



Emergency Activity

Repair, rehabilitation, or replacement of existing structures or fills damaged by a discrete event in the past 3 years.



Authorized Activities (cont.)

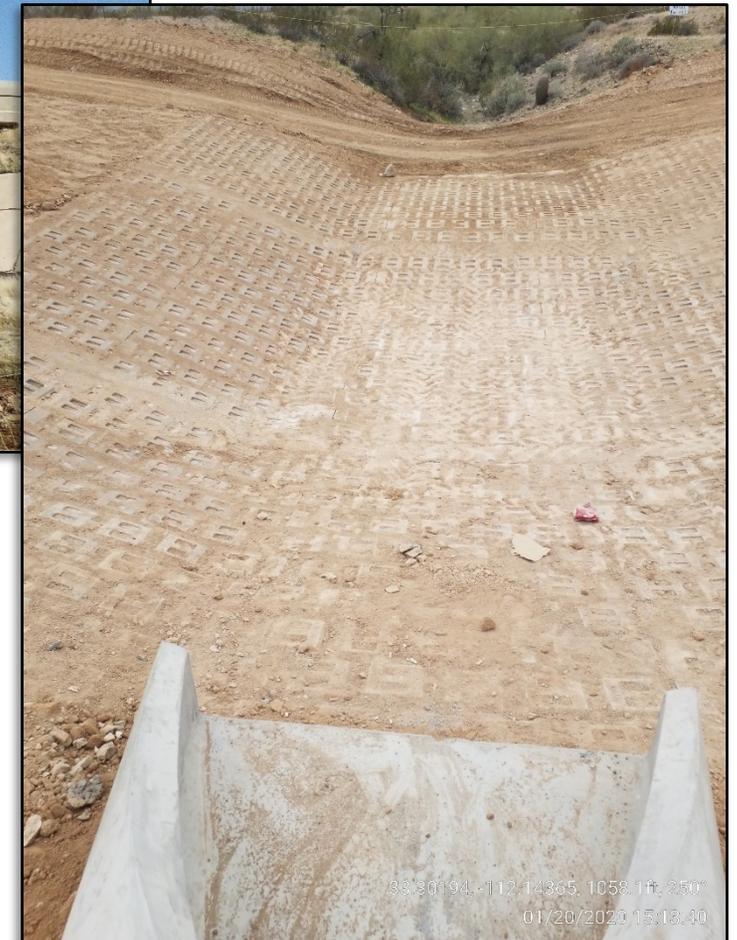
Bank Stabilization

Construction of Permeable or impermeable materials



Bed Stabilization

Stream bed stabilization of existing structure or fill



Authorized Activities (cont.)

Geotechnical Activities

Temporary access and construction of temporary pads is authorized under this activity.



Routine Linear Transportation Projects

New construction, replacement, or modifications of bridge piers and shafts, culverts, ditches, erosion protection measures, bridge scour retrofit, or roadway fill.



Activities Covered by the RGP with Associated Limitations and Requirements

Authorized Activities	Non-Notification	Pre-Construction Notification
Maintain Structure – repair or replacement of an existing structure or fill.	<p>These activities do not have acreage threshold requirements for notification. However, maximum impact thresholds for authorization under this RGP would apply (Section C).</p> <p>Other notification requirements may apply in the following situations:</p> <ul style="list-style-type: none"> - Permanent impacts to intermittent waters - Permanent impacts to perennial waters - Special aquatic sites (wetlands) - Proximity to Impaired Waters or Outstanding Arizona Waters (OAWs) - Endangered Species Act (ESA) - National Historic Preservation (NHPA) <p>Refer to Notification Requirements from RGP NO. 96 Section D to determine if pre-construction notification is required</p>	
Sediment/Debris Removal – no greater than 200 linear feet from structure		
Erosion Repair – fill placed within 100 linear feet of structure		
Emergency Activity – repairs must occur within 3 years of the damage caused by a discrete event		
Geotechnical Activities*	Less than 4 samples in each Waters and sampling holes less than 3-feet in diameter and total impacts (i.e., temporary and permanent) less than 0.10 acre (including impacts from access)	Greater than 4 samples and/or 0.10 acre or greater of total impacts (i.e., temporary and permanent) in each Waters and sampling holes greater than 3-feet in diameter, up to 1 acre of total impacts to each Waters (including impacts from access)
<p>* In addition to threshold exceedance, these activities may require notification due to impacts associated with ESA or NHPA special aquatic sites, impaired Waters, or OAWs; and permanent impacts to intermittent and perennial Waters. Refer to RGP No. 96 Section D for notification requirements.</p>		

Activities Covered by the RGP with Associated Limitations and Requirements (cont.)

Authorized Activities	Non-Notification	Pre-Construction Notification
Bed Stabilization* – Stream bed stabilization of an existing structure or fill.	Less than 0.10 acre of total impacts (i.e., temporary and permanent) to each Waters	Greater than 0.10 acre up to 1 acre of total impacts (i.e., temporary and permanent) to each Waters
Bank Stabilization* – Permeable Bank Stabilization Methods	Equal to and less than 1,000 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the ordinary high-water mark (OHWM)	Greater than 1,000 linear feet up to 3,000 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM
Bank Stabilization* – Impermeable Bank Stabilization Methods	Equal to and less than 600 linear feet total impact and up to an average of 2 cubic yards of material per running foot below the OHWM	Greater than 600 linear feet up to 2400 linear feet total impact or greater than 2 cubic yards of material per running foot below the OHWM
Routine Linear Transportation Projects*	Less than 0.10 acre permanent impact to each Waters	Greater than 0.10 acre up to 1 acre permanent impact to each Waters
<p>* In addition to threshold exceedance, these activities may require notification due to impacts associated with ESA or NHPA special aquatic sites, impaired Waters, or OAWs; and permanent impacts to intermittent and perennial Waters. Refer to RGP No. 96 Section D for notification requirements.</p>		

Maximum Limitations

- 1 acre Permanent Impact to Waters per drainage crossing
- 0.025 acre total impacts* to Special Aquatic Sites, such as wetlands
- 1 acre total impacts* to Waters from geotechnical activities
- 1 acre total impacts* to each Waters impacted by bed stabilization
- 3,000 linear feet total impact* from permeable bank stabilization methods
- 2,400 linear feet total impact* from impermeable bank stabilization methods



*Total Impact includes both temporary and permanent impacts

Notification Thresholds

Non-notification - Requires no advance notification to the U.S. Army Corps of Engineers (Corps) prior to project commencement.

If project is federally funded and has potential to affect threatened or endangered species or historic properties, project may proceed **ONLY** after ADOT follows compliance procedures* for ESA and NHPA

Non-notification does **NOT** allow:

- X Work in Special Aquatic Sites
- X Impacts or work within certain distances of Impaired Waters or OAWs
- X Permanent Impacts to Intermittent or Perennial Waters.
- X State-funded project that has potential to affect threatened or endangered species or historic properties
- X Impacts exceeding the non-notification threshold

**Note: Environmental review, consultation, and other actions required by applicable Federal environmental laws are carried out by ADOT pursuant to 23 U.S.C 326 and a Memorandum of Understanding dated January 4, 2021, and executed by Federal Highway Administration and ADOT.*

Notification Thresholds (cont.)

Pre-Construction Notification (PCN) - Requires advance notification to the Corps, followed by verification prior to project commencement

Corps verification will be processed within 14 days but may extend as-warranted by other requirements, (i.e., compliance with ESA and NHPA)

Required for the following:

- ✓ Impacts exceeding non-notification thresholds (greater than 0.10 acre up to 1 acre of Waters)
- ✓ Permanent Impacts in Intermittent or Perennial Waters
- ✓ Impacts in Special Aquatic Sites (up to 0.025 acre)
- ✓ Impacts or work within certain distances of Impaired Waters or OAWs
- ✓ State-funded projects with potential to affect ESA-listed species, critical habitat, or historic properties
- ✓ Activities that require Section 408 review/permission

U.S. Army Corps of Engineers (USACE) Los Angeles District, Arizona Branch REGIONAL GENERAL PERMIT 96 PRECONSTRUCTION NOTIFICATION FORM (PCN)			
To be completed by the Arizona Department of Transportation (ADOT) when a PCN is required for proposed activities authorized by Regional General Permit (RGP) 96: Routine Transportation Activities - Arizona. Refer to the RGP documentation for when this form is required.			
This form is designed to be completed in Microsoft Word with expandable fields. However, the applicant may also attach additional information to this form if additional space is needed. The complete form should be submitted in PDF format, excluding any bulk upload sheets.			
Administrative Information			
Date Submitted by ADOT:	Click or tap to enter a date.	Corps File Number:	SPL-Year-Number or Unknown
Project Name:			
ADOT Project Number:			
Contact Information			
Applicant Information		Agent Information (if different)	
Name: First and Last Name		Name: First and Last Name	
District: ADOT District (if applicable)		District: ADOT District (if applicable)	
Address:		Address:	
City:		City:	
State: AZ		State: AZ	
Zip Code:		Zip Code:	
Phone Number:		Phone Number:	
Email Address:		Email Address:	
Project Information			
Project Location Description:	For example: Route and Milepost, Municipality, Township/Range/Section, etc.		
Name of Waterbody: (if known)		Project's Center Coordinates in Decimal Degrees:	Lat: Long: -
Type of Waterbody: (e.g. Wetland, Intermittent, Perennial)		Is the project within 1 mile upstream or 1/2 mile downstream of an impaired water or Outstanding Arizona Water? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Project Purpose and Description of Existing Features/Facilities/Fill:	Describe the purpose and need for the proposed project, focusing on the activities occurring within the Corps' jurisdiction. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Existing facilities may be listed in the table on the following page (optional).		
Description of the Work Proposed in Waters of the U.S.:			
Describe the overall activity or project. Give appropriate dimensions of structures such as wing walls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). The optional table on below can be used if work would occur in several locations (delete if not needed). If the project includes bank stabilization, describe whether method is permeable or impermeable and include both linear footage and average cubic yards per linear footage. If the project would require management of flows, describe the methods used to.			

General Conditions



1. Unreasonable obstruction to the free navigation of navigable waters may result in removal, relocation, or alteration of work authorized by the RGP
2. Terms and conditions of the RGP must be met
3. Terms and conditions of the RGP will continue to be binding on a new owner if property is transferred
4. Representatives from the Corps can inspect authorized activities at any time to ensure compliance
5. Permittee shall comply with all requirements and conditions in the letter of Clean Water Act Section 401 Certification from the Arizona Department of Environmental Quality

Special Conditions



- Like the conditions of Nationwide Permits that authorize similar projects.
- Grouped into the following categories:
 - Project Planning Requirements
 - Project Implementation
 - Resource Protection
 - Other Requirements
- Special Conditions unique to this RGP are highlighted on the following slides.

Special Conditions (cont.)



Project Planning Requirements:

- 1.a. Preconstruction Notification.** For projects that require a PCN a Request for Jurisdictional Determination (JD) or aquatic resource delineation must be completed.
- 3. Activities Affecting Structures or Works Built by the United States.** An activity that alters or occupies a federally authorized Civil Works project (“Corps project”) must submit a PCN, and requires Section 408 review and permission by the Corps prior to authorization under RGP 96.
- 5. Use of Multiple Permits.** RGP 96 cannot be combined with other Section 404 authorizations to increase scope of work, area of impacts to Waters, or limits of discharge of fill material. However, geotechnical activities are considered a single and complete project.
- 6. Permit Availability.** A copy of the RGP must be provided to all field staff, contractors, subcontractors, and equipment operators; and must be readily available on the work site during construction.

Special Conditions (cont.)



Project Implementation:

- 7. Project Boundaries.** Prior to construction, the four corners of the OHWM must be clearly marked with flagging for any Waters in the work area.
- 8. Sediment Removal.** Sediment removal authorized under the RGP can not occur more than once annually per location.
- 10. Management of Water Flows.** Appropriate measures, such as temporary dewatering or flow diversion, must be taken to maintain near normal downstream flows and minimize flooding during project activities in Waters. Flows shall not be diverted outside the OHWM unless approved by the Corps. Fill materials must not be eroded by high flows
- 11. Staging and Stockpiling.** Staging and equipment storage areas shall be located uplands a minimum of 100 feet from Waters. Storage areas located less than 100 feet from Waters shall be approved by the Corps.

Special Conditions (cont.)



Resource Protection:

- 15. Discovery of Previously Unknown Artifacts or Remains.** If previously unidentified archeological or architectural properties are discovered or affected, all work near the potential cultural resource discovery shall be suspended until project activities are reauthorized.
- 17. Migratory Bird Treaty Act (MBTA).** Nesting birds protected by the MBTA must be avoided by activities authorized under this RGP.
- 18. Invasive and Noxious Plant Species.** Invasive and noxious plant species must be removed and properly disposed.
- 20. Hazardous Material Spills.** The Corps Regulatory Division project manager must be notified within 12 hours of detection of any spill of hazardous materials to Waters.

Mitigation

- Required by Special Condition 4
- Temporary and permanent impacts to Waters and special aquatic sites that can not be avoided or minimized shall be mitigated in accordance with Corps Mitigation Rule (33 CFR 332, April 2008)
- Compensatory mitigation, if deemed appropriate, will be determined by the Corps.



RGP Annual Reporting

ADOT maintains an internal tracking system with documentation on all completed non-notification construction and maintenance activities covered by the RGP.

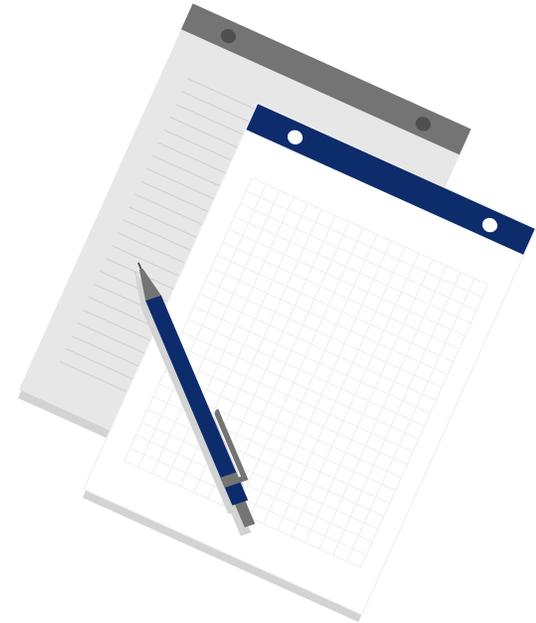
Maintenance documentation:

- Activity description
- Start and end dates of work
- Project coordinates

Construction documentation :

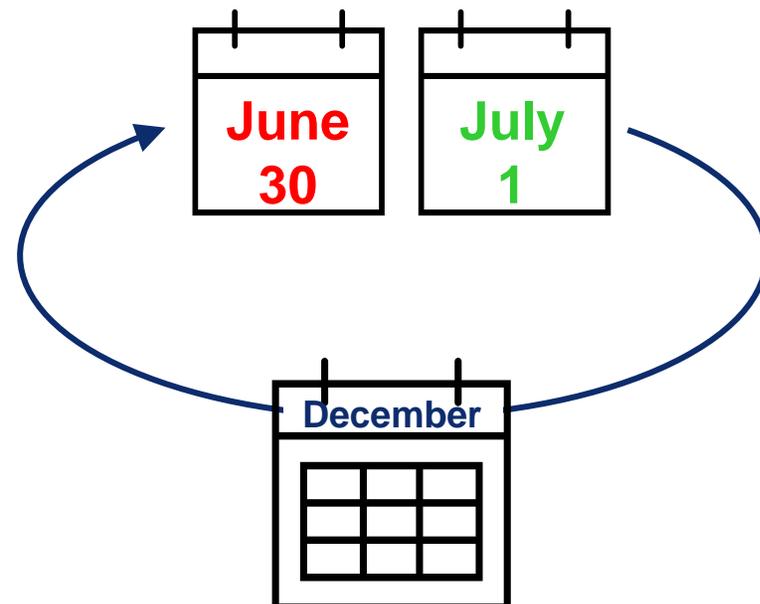
Includes maintenance documentation listed above and the following:

- Temporary and permanent impact amounts
- Site restoration/revegetation activities and date installed (plus before and after photos of construction and revegetation)
- Brief discussion of problems and corrective measures



RGP Annual Reporting (cont.)

- Required by Special Condition 22
- Annual reports are submitted to the Corps for all completed non-notification activities in Waters including special aquatic sites.
- Annual reports cover the period of July 1 through June 30



Other Requirements & Further Information

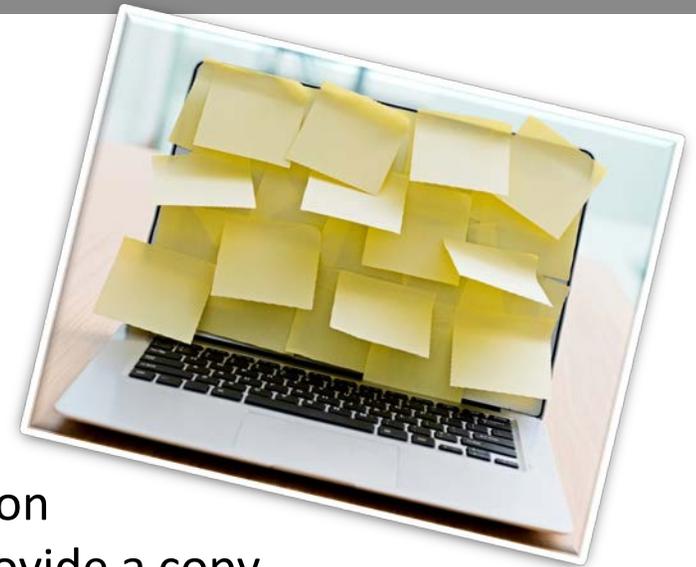
- **Effective Date:** May 6, 2021
- **Expiration Date:** May 6, 2026
- **Permit Expiration (Special Condition 21):** Additional twelve months to complete a project will be granted for an activity permitted under the RGP that has commenced or is under contract to commence on the expiration date.
- **Extensions:** Activities authorized under the RGP expire on May 6, 2026. The RGP can be reissued for an additional five years by sending the Corps a letter and requesting reissuance.
- **Reevaluation of Permit Decision:** The Corps may reevaluate its authorization decision on the RGP at any time circumstances warrant.

Section 401 Water Quality Certification

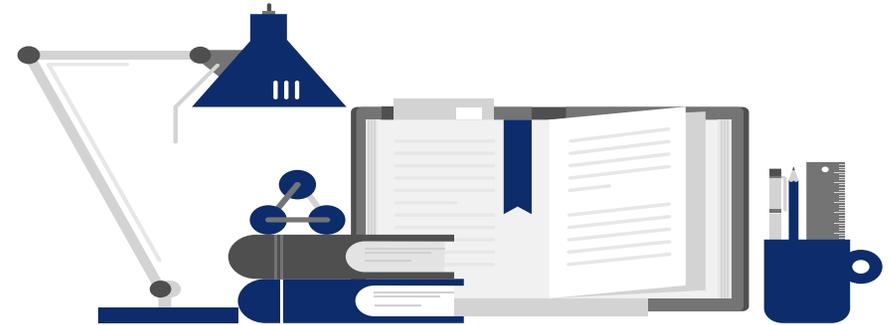
- Individual certification specific to RGP
- Authorizes only the activities in the RGP
- No additional conditions to RGP
- The project PCN must be submitted to ADEQ if project will occur within the OHWM of the following:
 - OAWs
 - Impaired Waters
 - Not-attaining Waters
 - Lake

RGP Compliance Reminders

-  **Permit Terms/Conditions:** Thoroughly read and understand the Terms and Conditions of the RGP. An RGP Verification letter may include Special Conditions that require Corps tracking.
-  **Permit Availability:** Have the RGP and RGP Verification letter readily available at the project location and provide a copy to all staff. The Corps conducts quarterly onsite inspections where they will require onsite staff to produce a copy of the RGP and RGP Verification letter.
-  **Marking OHWM Boundaries:** Ensure the OHWM is marked/flagged and maintained throughout construction; and inspect OHWM boundary marking frequently. The Corps has noted missing OHWM marks/flagging or fallen over OHWM marks/flags during their site inspections.
-  **Sediment and Erosion Control** – Ensure the appropriate BMPs are implemented for work within and/or near Waters. ADOT's Erosion and Pollution Control Manual for Highway Design and Construction (2020) provides BMPs guidance. The Corps has noted inappropriate BMPs (e.g., straw wattles) within the OHWM during their site inspections.



Resources



ADOT 404/401 Procedures

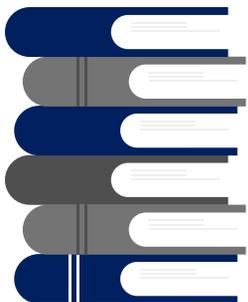
<https://azdot.gov/business/environmental-planning/biology-clean-water-act-section-404401/section-404401-procedures>

RGP 96 Pre-Construction Notification Form (download)

https://azdot.gov/sites/default/files/media/2021/05/RGP96_PCN-Form.docx

Los Angeles District Regulatory Division

<https://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process/>



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Questions?



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ADOT 404 Permits/401 Certifications

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