



**US Army Corps
of Engineers**

The Regulatory Permit Program

A Brief Guide from the Louisville District Corps of Engineers

Water is one of our nation's most valuable resources. It is becoming increasingly important that we protect the quality of our inland waters and wetlands for the use and benefit of future generations.

This information sheet discusses the regulatory program of the U.S. Army Corps of Engineers (Corps): what it is, how it began, how it may affect you and what you as a concerned citizen can do to help.

If you are planning work in a river, stream, reservoir or wetland, a Corps permit (Section 10 or Section 404) may be required.

The program provides for the consideration of all concerns of the public -- environmental, social and economic -- in the Corps' decision-making process to either issue or deny permits. As part of its responsibility to protect water quality, the Corps' Section 404 permit program extends to many areas that were not regulated prior to the Clean Water Act.

The purpose of the Section 404 program is to insure that the physical, biological and chemical quality of our nation's waters is protected from irresponsible and unregulated discharges of dredged or fill material that could permanently alter or destroy these valuable resources.

History

The U.S. Army Corps of Engineers has been involved in regulating certain activities in the nation's water since 1890. Until 1968, the primary thrust of the Corps' regulatory program was the protection of navigation. As a result of several new laws and judicial decisions, the program evolved to one that considers the full public interest by balancing the favorable impacts against the detrimental impacts.

What Work Requires a Permit?

A Corps permit is required if you plan to locate a structure or discharge dredged or fill material in waters or navigable waters of the United States. This information is directed to those individuals, companies, corporations, and government agencies planning construction activities in a river, stream, lake or wetland within the jurisdiction of the Corps.

Examples of regulated activities are materials placed in a waterway or wetland for any purpose including: commercial, industrial or recreational construction; roadfills and causeways where portions of the construction are in waters or wetlands; dams and dikes; and protection devices such as levees, groins, riprap and other bank stabilization.

Who Should Obtain a Permit?

Any person, firm, or agency (including Federal, state, and local government agencies) planning to work in navigable waters of the United States, or dump or place dredged or fill material in waters of the United States, must first obtain a permit from the Corps of Engineers. Permits, licenses, variances, or similar authorization may also be required by other Federal, state and local statutes.

Waters of the United States

Waters of the United States are administratively defined as (1) the traditional "navigable waters of the United States" including adjacent wetlands; (2) all interstate waters including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), prairie potholes, mudflats, etc.; (4) all impoundments of these waters; (5) tributaries of the above listed waters; and (6) wetlands adjacent to the above waters. Section 404 permits are required for construction activities in these waters.

Navigable waters are defined as waters that have been used in the past, are now used or susceptible to use as a means to transport interstate or foreign commerce up to the head of navigation. Section 10 and/or Section 404 permits are required for construction activities in these waters.

"Wetlands" are areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

The landward regulatory limit for non-tidal waters (in the absence of adjacent wetlands) is the ordinary high water mark. The ordinary high water mark is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Types of Permits

Individual Permits

Individual permits are issued following a full public interest review of an individual application for a Department of the Army permit. A public notice is distributed to all known interested persons. After evaluating all comments and information received, final decision on the application is made.

The permit decision is generally based on the outcome of a public interest balancing process where the benefits of the project are balanced against the detriments. A permit will be granted unless the proposal is found to be contrary to the public interest.

Processing time usually takes 60 to 120 days unless a public hearing is required or an environmental statement must be prepared.

To apply for an individual permit, an application form must be completed. This application is available online or from all regulatory offices.

Nationwide Permits

A nationwide permit is a form of general permit authorizing a category of activities throughout the nation. These permits are valid only if their terms and conditions are met. If the terms and conditions cannot be met, a regional general permit or individual permit will be required. Many of the nationwide permits require **Notification** to the District Engineer prior to use. **Regional conditions** have been added within each state and are available from the Regulatory Office or on our web page. In many cases, individual **water quality certification** must be obtained pursuant to General Condition 25 of the nationwide permits. Summaries of the nationwide permits are available from the Regulatory Office or on our web page.

Regional Permits

Regional general permits are issued by the District Engineer for a general category of fill activities when (1) the activities are similar in nature and cause minimal environmental impact (both individually and cumulatively), and (2) the regional permit reduces duplication of regulatory control by State and Federal agencies. Contact the District Regulatory office in your area for information regarding regional permits.

You Can Help

The understanding and support of the American people is vital to the success of this program. To protect our nation's water resources and assure their use and enjoyment for future generations, we must all join this vital effort. We ask your help in "passing the word" to others concerning the permit requirements outlined in this brochure and solicit your views and comments on better ways of attaining the goals of this program. Your comments, questions, and suggestions should be directed to one of our regulatory offices.

For additional information or to apply for a permit, please contact one of our Regulatory Offices or call the Louisville District Regulatory Office at 502-315-6733. To find us on-line type www.lrl.usace.army.mil and click on Obtain a Permit.