

# **U.S. Army Corps of Engineers Huntington District**

## **Goals of the Regulatory Program**

**To enhance the efficiency of the Corps administration of its regulatory program.**

**To provide strong protection of the Nation's aquatic environment, including wetlands.**

**To ensure that the Corps provides the regulated public with fair and reasonable decisions.**

## **A Brief Guide to The Regulatory Permit Program**

### **Corps of Engineers Regulatory Program**

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 brochure discusses the regulatory program of the U.S. Army Corps of Engineers: what it is, how it began, how it may affect you, and what you as a concerned American can do to help.

If you are planning work in a river, stream, or wetland, a Corps permit 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 of Engineers 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 water 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?

Section 10 of the Rivers and Harbors Act of 1899 requires approval prior to the accomplishment of any work in or over navigable waters of the United States, or which affects the course, location, condition or capacity of such waters. Typical activities requiring Section 10 permits are:

- Construction of piers, commercial and recreational docks, bulkheads, marinas, ramps, intake structures, and aerial or submerged cable and/or pipeline crossings.
- Dredging and excavation

Section 404 of the Clean Water Act requires approval prior to discharging dredged or fill material into the waters of the United States. Typical activities requiring Section 404 permits are:

- Depositing of fill or dredged material in waters of the U.S. or adjacent wetlands.
- Site development fill for residential, commercial, or recreational developments.
- Construction of rip-rap, gabion baskets or other bank protection, and stream channelization.
- Placement of riprap and road fills.

## 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 includes essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters, and all impoundments of these waters.

**"Wetlands"** are areas characterized by growth of wetland vegetation (bulrush, cattails, rushes, sedges, willows, button bush) where the soil is saturated during a portion of the growing season or the surface is flooded during some part of most years. Wetlands generally include swamps, marshes, bogs, and similar areas.

The Corps' provides a brochure on titled Recognizing Wetlands which is available on the Huntington District website at <http://www.lrh.usace.army.mil/Missions/Regulatory/Wetlands.aspx>

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 shores 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.

### **Navigable Waters**

Navigable waters are defined as waters that have been used in the past, are now used, or are 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. A complete list is available in the District Office.

### **Pre-Application Consultation**

You are encouraged to contact the Corps of Engineers for proposed work in waters in your area.

Exemptions, nationwide, regional and individual permit requirements will be reviewed. By discussing all information prior to application submittal, your application will be processed more efficiently.

An official determination as to the need for a Department of the Army permit will be provided upon request.

## **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.

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

## Nationwide Permits

A nationwide permit is a form of general permit which authorizes a category of activities throughout the nation. These permits are valid only if the conditions applicable to the permits are met. If the conditions cannot be met, a regional or individual permit will be required. Summaries of the nationwide permits are available.

## Regional Permits

Regional permits are issued by the District Engineer for a general category of 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 please visit the Huntington District Regulatory Branch website at <http://www.lrh.usace.army.mil/Missions/Regulatory.aspx>

### North Branch

(Serving Ohio)

U.S. Army Corps of Engineers  
Attn. CELRH-RD-N  
502 Eighth Street  
Huntington, WV 25701  
(304) 399-5210

### South/Transportation Branch

(Serving West Virginia & Ohio)

U.S. Army Corps of Engineers  
Attn. CELRH-RD-S  
502 Eighth Street  
Huntington, WV 25701  
(304) 399-5710

### Energy Resource Branch

(Serving West Virginia & Ohio)

U.S. Army Corps of Engineers  
Attn. CELRH-RD-E  
502 Eighth Street  
Huntington, WV 25701  
(304) 399-5610

### Cincinnati Field Office

(Serving southwestern Ohio)

10557 McKelvey Road  
Cincinnati, OH 45240-3929  
(513) 825-2752