

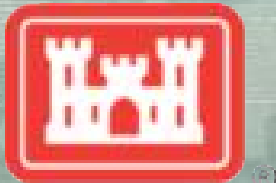
Department of Army Permit Evaluation Process

Felicity A. Dodson

Regulatory Project Manager
Regulatory Division

Galveston District Stakeholder's Forum
USACE Galveston District, Jadwin Building
Galveston, Texas

August 27, 2015



Regulatory Jurisdiction: Do I need a Permit?

“Corps Permits” are called *Department of Army (DA) Permits*.
Need is based on:

Geographic Jurisdiction = Where

Regulated Activities = What



Rivers and Harbors Act: Geographic Jurisdiction under Section 10*

WHERE:

All navigable waters of the U.S.

- subject to ebb and flow of the daily tide
- presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce

Boundary is Mean High Tide Line (MHTL) or Ordinary High Water Mark (OHWM).

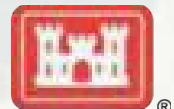


*Section 10 of the Rivers and Harbors Act of 1899
(33 U.S.C. 401)

Rivers and Harbors Act: Regulated Activities under Section 10

WHAT:

A permit is required, from the Corps, for structures or work in, or affecting, the course, location, or condition of a navigable water of the United States.



Clean Water Act: Geographic Jurisdiction Under Section 404⁺

WHERE:

Waters of the United States,
including the territorial seas.

Their tributaries, adjacent wetlands,
and isolated waters where the use,
degradation or destruction of such
waters could affect interstate or
foreign commerce.

Boundary is Ordinary High Water
Mark (OHWM) or edge of wetland.



⁺Section 404 of the Clean Water Act
(33 U.S.C 1344)

Clean Water Act: Regulated Activities under Section 404

WHAT:

Discharge of Dredged or Fill Material into wetlands and waters of the U.S.

Poured concrete

Dirt behind bulkheads

Boat ramp paving

Beach renourishment

Levees

Breakwaters

Rip-rap

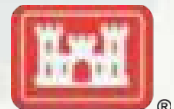
Dams and dikes

Artificial islands

Mechanical land clearing

Grading with a blade

Filling previously excavated site



Section 103** Marine Protection, Research, and Sanctuaries Act

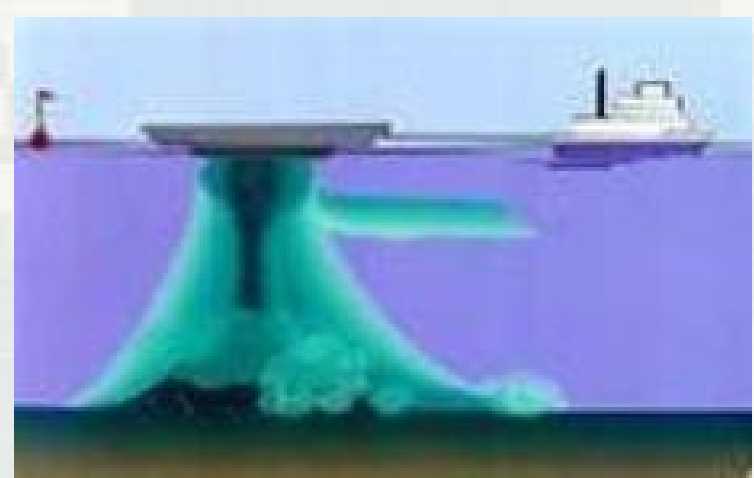
Where:

Ocean waters at sites designated by EPA under 40 CFR 228.

What:

Transportation of dredged material by vessel or vehicle for purpose of dumping.

Third Party Use process currently evaluated on a case-by-case basis, while evaluation process is being updated.



Department of the Army Permits

<http://www.swg.usace.army.mil/BusinessWithUs/Regulatory/Permits.aspx>

NATIONWIDE PERMITS (NWP's)

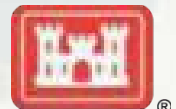
- ▶ Can authorize Section 10 and/or Section 404 actions
- ▶ Minimal impact to aquatic environment
- ▶ Streamlined permit review process
- ▶ Pre-Construction Notifications (PCNs) have 45-day timeline, from Federally Complete Date, provided no waiver is required.

LETTERS OF PERMISSION

- ▶ Authorizes Section 10 Actions ONLY
- ▶ Non-Controversial Actions
- ▶ 15-Day Interagency Coordination

INDIVIDUAL PERMIT

- ▶ Authorizes Section 10 and Section 404 Actions
- ▶ Controversial Actions
- ▶ 30-Day Public Notice



Nationwide Permits (NWP)

<http://www.swg.usace.army.mil/BusinessWithUs/Regulatory/Permits/NationwideGeneralPermits.aspx>

FREQUENTLY USED NWPS:

- NWP 3 – Maintenance (not including dredging)
- NWP 12 – Utility Lines
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 19 – Minor Dredging
- NWP 35 – Maintenance Dredging of Existing Basins

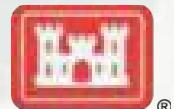
BE SURE TO CHECK:

- Pre-Construction Notification (PCN) requirement
- Waiver requirements
- General Conditions
- Regional Conditions (by state or geographic region)



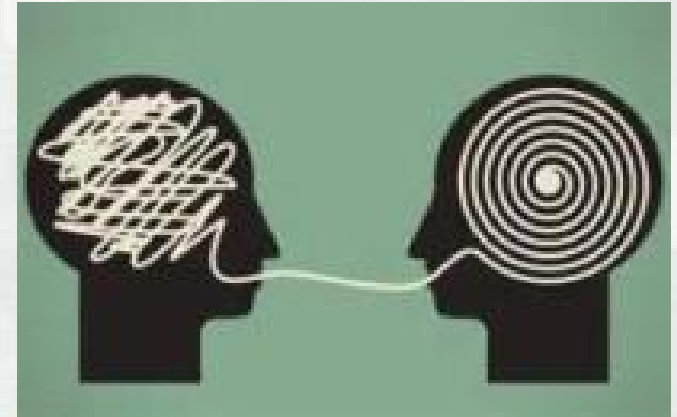
Why does the permit process take so long?

The primary cause of delay in evaluating applications is incomplete, inaccurate, or contradictory information.



Tips for Completeness

- ✓ Original Signature on Letter or Application
- ✓ Agent authorization with original signature
- ✓ Legible project plans that can be scanned
 - 8 ½ x 11 inch pages
 - Readable font size and style
 - Colors are legible and clear
 - All jurisdictional areas included
 - Avoid too much information
 - Descriptions understandable to someone outside the project
- ✓ Consistent information throughout the package



Have someone new read the final package.

Does it make sense?



Specific Issues Related to Dredge Material Placement



- Confined Dredge Material Placement Area (DMPA)
- Beneficial Use (BU) Options
- Material testing requirements
- If DMPA/BU site is located in Louisiana (LA), coordination with LA State Agencies is required



Confined Placement of Dredged Material

- Several DMPA options may be requested in permit application.
- Federal DMPAs must be approved by Operations Division (OD) prior to issuance of DA Permit.
- Coordination with OD required before each dredge cycle.
- Inclusion of DMPA in DA Permit does not guarantee its use.



Beneficial Uses of Dredged Material

Evaluated on case-by-case basis for:

- ▶ Wetland Habitat
- ▶ Shoreline Protection
- ▶ Beach Renourishment
- ▶ Many other options

Capacity and repeat usage depends on site characteristics.

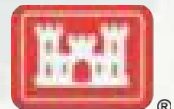
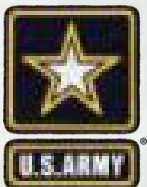


Sediment Testing Requirements

- Requirements vary by site
- May be required by multiple agencies
 - ▶ DMPA or BU Sponsor/Owner
 - ▶ Navigation District
 - ▶ State Water Quality Certifying agency (TCEQ, LADEQ)
 - ▶ EPA (in certain cases)
 - ▶ Oversight rests with the requiring agency.



Early consultation can save your schedule and budget!



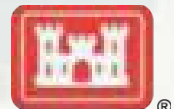
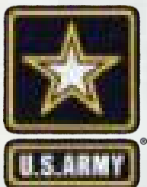
San Jacinto Waste Pits (SJWP) Area of Concern (AOC) 2009 Public Announcement

<http://www.swg.usace.army.mil/Portals/26/docs/regulatory/SanJacinto.pdf>



SJWP AOC Review Process

- All projects in AOC reviewed by TCEQ Superfund Section for potential impacts
- All Nationwide Permits in AOC require PCN
(No non-reporting NWPs in AOC)
- For dredge material placement: Test results determine possible placement options
- See link to Public Announcement for detailed process and agency contact information
- Existing Permits in AOC, that still require work or maintenance, must complete AOC process



Integration with other Business Lines

- Initial project information coordinated via Internal Review (includes project description, location, plans set).
- Other Corps Offices respond with inquiries or statements, as appropriate.
- Section 408 review must be complete BEFORE DA permit decision can be made.
- Real Estate review begins AFTER DA Permit decision made.



Questions?

Contact us:

Permit Mailing Address:

U. S. Army Corps of Engineers

Galveston District

CESWG-RD

P.O. Box 1229

Galveston, TX 77553-1229

Telephone: 409-766-3869

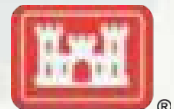
Fax: 409-766-6301

(call ahead to schedule a meeting)



Regulatory on the web at:

<http://www.swg.usace.army.mil/BusinessWithUs/Regulatory.aspx>



Other Resources

Galveston District Home Page

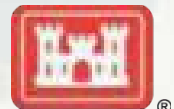
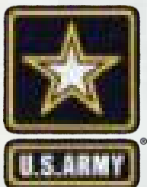
<http://www.swg.usace.army.mil/Home.aspx>

Fort Worth District Home Page

<http://www.swf.usace.army.mil/Home.aspx>

Other Corps Districts:

<http://www.usace.army.mil/Locations.aspx>



Glossary of Acronyms

AOC	Area of Concern (as related to SJWP)
BU	Beneficial use of dredged material
CFR	Code of Federal Regulations
Corps	US Army Corps of Engineers (also USACE)
DA	Department of Army
DMPA	Dredge Material Placement Area
EPA	Environmental Protection Agency
LA	Louisiana
LADEQ	Louisiana Department of Environmental Quality
MHTL	Mean High Tide Line
MPRSA	Marine Protection, Research, and Sanctuaries Act
NWP	Nationwide Permit
OHWM	Ordinary High Water Mark
PCN	Pre-construction Notification
SJWP	San Jacinto Waste Pits (San Jacinto River at Interstate 10, in Houston, Harris Co, TX)
TCEQ	Texas Commission on Environmental Quality
USACE	US Army Corps of Engineers (also Corps)
USC	United States Code

