

Galveston District Regulatory Policy on Offshore Pipeline Abandonment

OOC Offshore Pipeline Abandonment
Regulatory Compliance and Permitting Forum
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US Army Corps of Engineers
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Pertinent Statute

▪ Rivers and Harbors Act of 1899

- Structures and/or work in or affecting navigable waters of the United States
- Structures and/or work outside the limits of navigable waters, IF these structures or work could affect the course, location, or condition of the waterbody so as to impact its navigable capacity
- Artificial islands, installations, or other devices on the outer continental shelf



Lateral extents of Rivers and Harbors Act Jurisdiction

- Ocean and coastal waters
 - Shoreward limit is mean high water
 - All ocean and coastal waters, to the limit of the territorial seas (3 nautical miles from baseline)*. Wider zones are recognized for special regulatory powers exercised over the outer continental shelf (33 CFR 322.3(b))
 - Entire surface and bed of waterbody subject to tidal action, even if portions are not “navigable in fact”
 - Includes shallow areas, even if obstructed by shoals, vegetation, and other barriers



Outer Continental Shelf Lands Act

DA permits are required for the construction of artificial islands, installations, and other devices on the seabed, to the seaward limit of the outer continental shelf, pursuant to section 4(f) of the Outer Continental Shelf Lands Act as amended. (See 33 CFR 320.2(b).)



General Condition 2 in Individual Permits

You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.



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1937-1954 Special Condition

That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of War, it shall cause unreasonable obstruction to the free navigation of said water, the owner will be required, upon notice from the Secretary of War, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners shall-, without expense to the United States, and to such extent and in such time and manner as the Secretary of War -may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.



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1974 Special Condition

That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States, at the direction of the Secretary of the Army and in such time and manner as the secretary or his authorized representative may direct restoration of the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.



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1986 Special Condition

That when structures or other work authorized by this permit are determined by the District Engineer to have become obstructive to navigation or when the structures or other work have ceased to be used for the purpose for which they are constructed, the permittee shall remove such structures or other work, the area cleared of all obstructions and written verification thereof given thereof to the District Engineer.



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2000 Special Condition

The permittee understands and agrees that if future operations by the United States require the removal, relocation or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate or alter the structural work or obstructions caused thereby without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.



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2001 Galveston District Pipeline Abandonment Policy

Based on the above referenced regulations and past permitting conditioning it is apparent that the Corps' jurisdiction over navigable waters includes requiring the removal of abandoned pipelines that may affect the navigable capacity of said waters. Permitted work and/or structures are authorized based on a specific purpose and need. Once a permitted structure is considered 'abandoned', it no longer serves its permitted purpose or need and, therefore, should be removed. Historically, special conditioning on Section 10 pipeline permits were the recognized method of addressing the issues of abandonment within navigable waters. Although the current standard conditions do impose the removal requirement, they are not explicitly identified. CECE-OR has addressed this conclusively in a memorandum received electronically on 22 May 2000. By inference, the legal premise is that if a permit is required for a pipeline to be placed in a navigable water and then abandoned, then logic would require removal.



2001 Galveston District Pipeline Abandonment Policy cont.

Galveston District's policy regarding 'abandoned' pipelines is to require removal unless there is an overwhelming reason for allowing the pipeline remain. Circumstances to allowing a pipeline to remain in place should be rare and allowed only after careful evaluation of key factors associated with the pipeline and it 's route. Key factors to be considered in allowing an 'abandoned' pipeline to remain in place include, but are not limited to, the potential effects to navigation and Federal projects, and the potential for significant environmental impacts due to pipeline removal. This policy ensures the fulfillment of our responsibilities under Section 10 to keep navigable waters free of obstructions for navigation (33 CFR 322.3) . This premise is substantiated by past practices of permit conditioning as demonstrated in the general conditions.



Conclusion

- Default is removal upon abandonment.
- Circumstances for abandonment in place should be rare and;
- Should be based on significant environmental impacts due to pipeline removal



Questions?



“Mind you, I’m not responsible for the entire pipeline – just the section that flows through my office.”



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