

REGULATORY SUBPLAN

1. Purpose. This subplan provides the general policies and procedures for the execution of quality control and quality assurance for products, services, and activities within the Detroit District Regulatory Office.

2. Applicability

a. This subplan applies to all activities of Regulatory Office, including Field Offices.

b. This subplan applies to all major business functions and services provided by the Regulatory Branch. These business functions and services include regulation of structures or work in or affecting navigable waters and discharges of dredged or fill materials in waters of the US, as summarized below.

(1) Evaluating permits for activities in waters including adjacent wetlands and performing compliance inspections for permitted work.

(2) Investigation of violations of Section 10 of the River and Harbor Act and Section 404 of the Clean Water Act (Exhibit B-5-1).

3. References

a. 33 CFR 320 to 331 published, Federal Register November 13, 1986

b. 40 CFR Part 230, Federal Register December 13, 1996

c. Corps of Engineers Standard Operating Procedures for the Regulatory Program, 15 October 1999

d. Regulatory Guidance letters from USACE-CWOR and relevant U.S. Court decisions.

4. Regulatory Branch Quality Control Responsibilities. The references in paragraph 3 above provide procedural and evaluative guidance on regulatory processes/procedures to be used in support of District missions. In the day-to-day conduct of its business, Regulatory Branch will adhere to this guidance. Furthermore, the Regulatory Branch has prepared this quality control subplan based upon the references.

5. Quality Control Process. The quality control process involves a series of actions to ensure all work under the jurisdiction of Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act area processed in accordance with laws and regulations governing the program as cited in references.

QUALITY CONTROL FOR REGULATORY ACTIVITIES

1. Business Products. Permits issued under Section 10 of the River and Harbor Act of 1899 for construction work in navigable waters and under Section 404 of the Clean Water Act for placement of fill in waters of the United States. Investigation of unauthorized activities and compliance inspections for permitted work.

2. Roles And Responsibilities

a. Regulatory Functions Branch. Responsible for administration of the Department of the Army Permit Program. A Section 10 permit must authorize all structures or work in or affecting navigable waters of the United States. Structures or work requiring a permit includes such activities as construction of commercial and recreation docks, dredging, placement of bank protection, pipeline and aerial transmission line construction and placement of fill. Permit decisions are made after a full public-interest evaluation and review, including opportunity for comment by the public, local, state and federal agencies, public interest groups, and industry. Permits are issued or denied after the full public-interest review is completed.

b. Customer Focus. The Regulatory customer includes any of the various individuals or entities who could share an interest in protecting our nation's water resources. These include applicants, violators, state and federal agencies, interest groups and the general public. All customers will be treated with dignity, courtesy, compassion and sensitivity.

3. Responsibilities. Regulatory Office has a staff of 41 employees, which includes a civil engineer, biologists, ecologists, physical scientists and administrative staff.

a. Chief, Regulatory Office. Responsible for administration of the Detroit District Regulatory Program and overall quality control of the program.

b. Chief, Permit Evaluation Branch A. Responsible for administration of permit actions in Indiana, Western half of Lower Peninsula, and all of the Upper Peninsula.

c. Chief, Permit Evaluation Branch B. Responsible for administration of permit actions in Eastern half of Lower Peninsula, including the metropolitan Detroit area.

d. Enforcement Branch. Responsible for compliance inspections, investigations of unauthorized activities, and completing the technically complex wetland delineations.

e. Administrative Section. Responsible for clerical support of all permits actions, compliance inspections, and quality control of Regulatory Program in the Detroit District.

4. Quality Control Processes. Quality control processes involve a series of actions to ensure all construction, work, and filling under the jurisdiction of Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act are processed in accordance with law and the regulations governing the program as published in the Federal Register. Laws and regulations require all permit actions be fully coordinated with federal, state and local agencies, and the public. All permit decisions must fully consider the overall public interest before final decisions are reached. Regulations require that permit actions be completed within prescribed time frames. Coordination requirements, factors that must be considered, and time frames prescribed by regulations all provide the quality control guidelines to ensure a quality product is delivered to the public.

a. Quality Production

(1) Hire a staff of highly qualified individuals with expertise in biology, ecology, wetland and environmental sciences and experience working with the public.

(2) Provide staff training in Prospect classes, wetland classes, Section 106 courses, and continuing education at local universities.

(3) Provide opportunities for staff development by encouraging participation in professional conferences, workshops, professional group meeting, and branch meetings and provide regulatory guidance from OCE by way of regulatory teleconference notes, RGLs, and other information supplied.

(4) Define, in TAPES, expected employee job performance standards and review twice yearly.

(5) Recognize achievement through award presentations (i.e. on the spot, performance)

b. Internal Checks And Reviews

(1) Enter incoming work into database (RAMS) and assign to staff as designated by Branch Chief.

(2) Follow existing application processes and time frames for evaluating applications, handling violations, or responding to jurisdiction inquiries.

(3) Route all outgoing work through appropriate review offices (e.g., Office of Counsel, H&H, DE).

(4) Review workload and discuss projects and decision-making with Branch Chiefs at periodic meetings.

(5) Respond to all Congressional and FOIA inquiries in a timely manner and according to internal suspense system.

(6) Respond to customer telephone inquiries in respectful and timely manner.

(7) Use existing delegation of authority to properly process outgoing responses.

(8) Route controversial/complex projects correspondence and decision-making documents through additional internal review as appropriate before being staffed to the District Engineer or Office Chief for decision.

c. External Checks And Reviews

(1) Pre-application meetings with the applicant and representatives from involved federal, state, and local agencies are conducted on proposed projects that benefit from input received prior to application submission.

(2) Public notices, inviting comment, are mailed to the applicant, adjacent property owners, federal and state resource agencies, political representatives, local post offices, and to an existing mailing list for that particular state (the public may request to be on the mailing list).

(3) All comments received in response to a public notice become a part of the file and are considered in the decision making process.

(4) All comments and requests for public hearings are acknowledged by letter.

(5) Copies of comments received and/or readily apparent substantive issues are provided to the applicant to allow opportunity to address these issues for the record.

(6) Meetings with the applicant and representatives from resource agencies are conducted as needed to review the proposed project and recommend modifications as appropriate.

(7) Permit decision letters are provided to those who comment on proposed projects.

(8) Renewals/changes in general permits are advertised by public notice to invite comment.

5. Performance Measures. These standards are based on performance and numerical goals regarding permit issuance to provide a source of workload and performance information on the Regulatory Program, and are frequently requested by Congress, other agencies, and non-government organizations.

- a. A percent of standard permits completed in less than 120 days
- b. A percent of all actions completed in less than 60 days.

6. Quality Control Plans. Separate quality control (QC) plans have been developed for each Regulatory Branch product. A list of Regulatory Branch products requiring specific QC plans is provided below, specific QC plans for each is at Exhibits B-5-2 through B-5-5.

- a. Standard Permit Process
- b. Nationwide/Regional Authorization
- c. Field Determination of Waters of the United States
- d. Compliance/Enforcement Inspections.

STANDARD PERMIT PROCESS

PROCEDURE:

- (1) An application for a permit is assigned to Project Manager (PM) by the Branch Chief based on level of complexity, experience of PM, and specialization if any.
- (2) PM reviews this application to see if it impacts a "water of the United States." For a Standard Permit, the application is processed in accordance with the requirements of 33 CFR Part 325 ("Processing of Department of the Army Permits").
- (3) Review by other elements of Detroit District staff for specialized requirements such as Cultural Resources, Hydrology & Hydraulics, as requested by the Branch Chief.
- (4) Receive all other necessary approvals prior to issuance or denial of a permit such as the State 401 Water Quality Certification or endangered species clearance. Coordinate with other federal agencies in accordance with signed memoranda of agreement (MOA).
- (5) Prepare a Statement of Findings (SOF) to be signed at an appropriate level. This document which will be a combination of environmental assessment and a public interest review document.
- (6) This decision is communicated to the applicant after signing of the SOF.

TYPICAL DOCUMENTATION REQUIRED: The PM will maintain a work file that shall include:

- (1) An application and sufficient information to prepare a public notice
- (2) Copy of Public Notice
- (3) Comments received from individuals, organizations, federal, state, and local agencies to the public notice
- (4) All correspondence prepared or received by the Regulatory Branch for the application, along with logs of telephone calls, photographs, site inspection reports, memoranda for record
- (5) Reports for wetland delineations, or for special studies such as cultural resources, endangered species
- (6) Permit signed by issuing officer and permittee
- (7) Signed SOF.

NATIONWIDE/REGIONAL PERMIT AUTHORIZATIONS

PROCEDURE:

- (1) Application for a permit is assigned to Project Manager by the Branch Chief.
- (2) Project Manager reviews application to see if the project affects a "water of the United States."
- (3) Prepare an appropriate nationwide authorization in accordance with 33 CFR Part 330, or a regional permit authorization in Accordance with 33 CFR Part 325.
- (4) For nationwide authorizations requiring agency coordination, the Project Manager shall contact the appropriate coordinating agencies using a copy of the application to seek their views.

TYPE OF DOCUMENTATION REQUIRED: The Project Manager shall maintain a work file which shall include:

- (1) An application with sufficient information to process the action
- (2) All correspondence prepared or received by the Regulatory Office for the application, along with logs of telephone calls, photographs, site inspection reports, memoranda for record
- (3) Reports for wetland delineations, special studies such as cultural resources, endangered species
- (4) Copy of nationwide or regional permit authorization letter.

FIELD DETERMINATION OF WATERS OF THE "UNITED STATES"

PROCEDURE:

(1) Project is assigned to personnel from the Regulatory Office by the Branch Chief, or is received directly by field staff.

(2) A determination is made in accordance with the requirements of 33 CFR Part 328 (Definitions of Waters of the United States).

(3) Wetland determinations or delineations are made in accordance with the procedures described in the currently prescribed Corps of Engineers Wetland Delineation Manual. These procedures are to be undertaken only by personnel who have received appropriate training in the 1987 Wetland Delineation Manual.

(4) The results of the determination are communicated to the applicant.

TYPICAL DOCUMENTATION REQUIRED: The project Manager or field personnel shall maintain a work file, which shall contain:

(1) Site inspection/site visit reports, photographs, telephone logs, wetland delineations submitted by third parties, memoranda for record, meeting rosters

(2) Any correspondence prepared concerning the determination of the extent of the "waters of the United States".

COMPLIANCE/ENFORCEMENT INSPECTIONS

PROCEDURE: Field inspection of project sites is done to determine compliance with issued Permits. Enforcement actions are done to determine if work performed in "waters of the United States" has received a permit.

- (1) Project is assigned to field or office staff by the Branch Chief.
- (2) This project is processed in accordance with the requirements of 33 CFR Part 326.
- (3) Action may be forwarded to Office of Counsel or referred to the US Environmental Protection Agency (USEPA) in accordance with the 1989 Memorandum of Agreement on Enforcement between the Corps and the USEPA.

TYPICAL DOCUMENTATION REQUIRED: The project Manager shall maintain a work file which shall contain:

- (1) All site visits reports, photographs, telephone logs, memoranda of record, meeting roster
- (2) All correspondence prepared or received by the Regulatory Office for this action.