



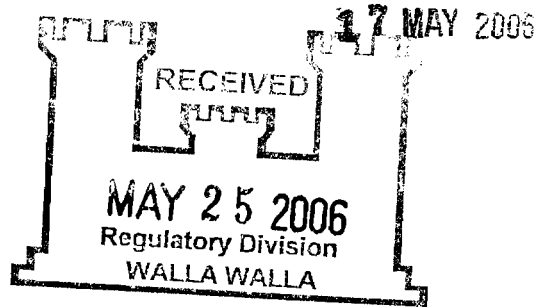
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND OR 97208-2870

REPLY TO
ATTENTION OF

CENWD-PDS

MEMORANDUM FOR

Commander, Portland District
Commander, Seattle District
✓Commander, Walla Walla District



SUBJECT: Dredged Material Evaluation; Oregon, Washington and Idaho Districts,
Northwestern Division Regulatory Program

1. References:

- a. 33 CFR Part 325.1(d)(1-9), Processing of Department of the Army Permits, Content of Application
- b. 33 CFR Part 325.1(e), Additional Information
- c. 33 CFR Part 325.2(a)(1-2), Processing of Applications, Standard Procedures
- d. Ocean Dumping Manual: Joint USACE/EPA Evaluation of Dredged Material Proposed for Ocean Disposal (Testing Manual), EPA Doc 503/8-91/001, Feb. 1991
- e. Joint USACE/EPA Implementation Memorandum for "Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Testing Manual" (Inland Testing Manual), 12 Feb 1998
- f. Text from the cover page of the Inland Testing Manual

2. A question has arisen regarding if the Corps of Engineers can require applicants for a Department of the Army Permit to include the results of sampling and testing of dredged material, or an evaluation of such material, with their permit application in order for the application to be considered "complete." In direct relation to this question, the Northwestern Division, in conjunction with the Environmental Protection Agency (Region 10), U.S. Fish and Wildlife Service, National Marine Fisheries Service and the States of Oregon, Washington and Idaho, is developing a regional sediment evaluation manual. This manual will provide for a consistent approach to the evaluation of dredged sediments within the three-state region, so it's important that Districts within these states answer the "question" in the same manner.

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3. Corps' regulations at 33 CFR Part 325.2(a) require that District Engineers issue a public notice within 15 days of receipt of a complete application. In accordance with 33 CFR Part 325.1(d)(9), applications are considered complete when the information contained in 33 CFR Part 325.1(d)(1-8) has been provided. District and Division Engineers are not allowed to develop additional information forms, but may request additional information on a case-by-case basis.

4. The following two sections of 33 CFR Part 325.1(d) detail information to be included with permit applications for dredging projects:

a. 33 CFR Part 325.1(d)(3): If the activity would involve dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

b. 33 CFR Part 325.1(d)(4): If the activity would include the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of disposing of it in ocean waters the application must include the source of the material; the purpose of the discharge, a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site. Certification under Section 401 of the Clean Water Act is required for such discharges into waters of the United States.

5. In addition to the information required for a complete application, and in accordance with 33 CFR Part 325.1(e), applicants are required to submit any additional information District Engineers determine necessary to make a public interest determination, or a determination of compliance with the Section 404(b)(1) guidelines or ocean dumping criteria. However, this information is required before a permit may be issued, not before issuance of a public notice.

6. In 1998, the Corps and Environmental Protection Agency issued the "Inland Testing Manual" (ITM) with a joint implementation memorandum. The memorandum states:

"The purpose of the ITM is to provide guidance regarding technical protocols under Section 404 of the Clean Water Act (CWA) for evaluating proposed discharges of dredged material associated with navigational projects into waters of the United States." The joint memorandum goes on to say, "The ITM applies to the evaluation of proposed discharges of dredged material associated with navigational projects into waters of the United States, where disposal is proposed for open water." In addition, "Where non-navigational dredging and subsequent discharge activities are of essentially the same character as navigational dredging and disposal in open water, the ITM may be applied."

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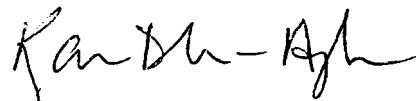
7. The cover page of the ITM contains the following language (emphasis added):

“The Manual does not alter the statutory and regulatory framework for permitting decisions under section 404 of the CWA. Under that framework, testing is conducted in order to assist the permitting authority in making factual determinations regarding the effect of the discharge on the aquatic ecosystem, and in determining whether the discharge will comply with the 404(b)(1) Guidelines.”

8. Therefore, in accordance with the above regulations, guidance and regional initiative, the following policy is established regarding applications for Department of the Army Permits, when the project purpose includes dredging, for Districts within the States of Oregon, Washington and Idaho:

Applicants will be encouraged to submit sediment evaluations, to include sampling and testing results using protocols contained in the appropriate manual (if necessary), with their permit applications. Submittal of such evaluations will provide for a streamlined review of permit applications by both the Corps and resource agencies. If a sediment evaluation is not submitted with the permit application, it will likely be required before a permit may be issued, in accordance with the above references.

9. Districts with Areas of Responsibility that include the States of Oregon, Washington and Idaho shall post this clarifying guidance on their websites. Point of contact for this action is Mr. Timothy Carey at (303) 979-4120 or Mr. Peter Gibson at (505) 808-3880.



KAREN L. DURHAM-AGUILERA, P.E.
Director, Programs