

## CHAPTER 4

### OVERVIEW OF REGULATORY PROCESSES

#### 4.1 OVERVIEW

This chapter summarizes the state and federal regulatory processes for obtaining approval of dredging projects undertaken in the Lower Columbia River Management Area (LCRMA). Distinctions are made among three processes: a) the overall permit process for new dredging projects (Section 4.3 and Figure 4.1); b) the verification or renewal of approval for on-going maintenance dredging work (Section 4.4 and 4.5 and Figure 4.2); and c) the dredged material evaluation process that is integrated into the other two processes (Section 4.6 and Figure 4.3). The submittal of a Dredging Quality Control Plan constitutes the last step before starting dredging (Section 4.7)

Included in Section 4.8 of this chapter is a description of the role of the Portland District Corps of Engineers in carrying out congressionally authorized dredging projects in the LCRMA. Below is a description of the role of the two district offices, Seattle and Portland, who share the workload for issuing permits for dredging projects in the LCRMA.

#### 4.2 THE ROLE OF THE CORPS DISTRICT OFFICES

The Seattle and Portland Districts share the workload for permits issued in the Lower Columbia River. The Portland District handles permits for Corps or congressionally authorized dredging; all permits originating from the Oregon side of the river; and all permits for Ports located on the Washington side of the river. The Seattle District handles all other private applicant permit applications originating from the Washington side of the river.

**4.2.1 Seattle District.** The Seattle District's Dredged Material Management Office (DMMO) provides a common point for dredged material evaluations. The staff is available to answer questions related to dredged material evaluations, assist in the development of sampling and analysis plans (SAP), and help troubleshoot during sediment sampling and testing (see DMMO on Figures 4-1, 4-2, and 4-3). The DMMO coordinates SAP and data reviews with the other regulatory agencies which jointly administer the Lower Columbia River Dredged Material Evaluation Framework, prepares the SAP approval letters, and prepares the draft and final suitability determinations. The DMMO interfaces with the Regulatory Branch and provides consultation services on dredged material management issues. Any questions, problems or

issues related to dredged material management should be directed to the DMMO, via phone, fax, or mail at:

Department of Army, Corps of Engineers  
Seattle District, CENWS-OD-TS-DMMO  
P.O. Box 3755  
Seattle, WA 98124-2255  
Telephone: (206) 764-6945, 764-6550, or 764-3768  
Fax: 206-764-6602

**4.2.2 Portland District.** The Dredged Material Management Team (DMMT) in Portland District is comprised of personnel from the Portland District's Regulatory Branch, Navigation Section, and Hydraulics and Hydrology Branch. The DMMT provides a unified process for the evaluation of sediment quality for both Corps and non-Corps dredging projects. The Regulatory Branch and Navigation Section coordinate permits and dredging projects in their functional areas. The Dredged Material Quality Manager interfaces with the Corps Regulatory Branch and Navigation Section and provides consulting services on dredged material quality issues.

The DMMT coordinates SAPs and data review with the other regulatory agencies which jointly administer the Lower Columbia River Dredged Material Evaluation Framework. Staff is available to answer questions related to dredged material evaluations, assist in the development of (SAPs), and help troubleshoot during sediment sampling and testing (see DMMT on Figures 4.1, 4.2, and 4.3). Issues related to Columbia River dredged material evaluation may be directed to the DMMT, via phone, fax, or mail at:

Dredged Material Quality Manager  
Department of Army, Corps of Engineers  
Portland District, CENWP-PE-HR  
P.O. Box 2946  
Portland, OR 97208-2946  
Telephone: (503) 808-4885  
Fax: (503) 808-4875

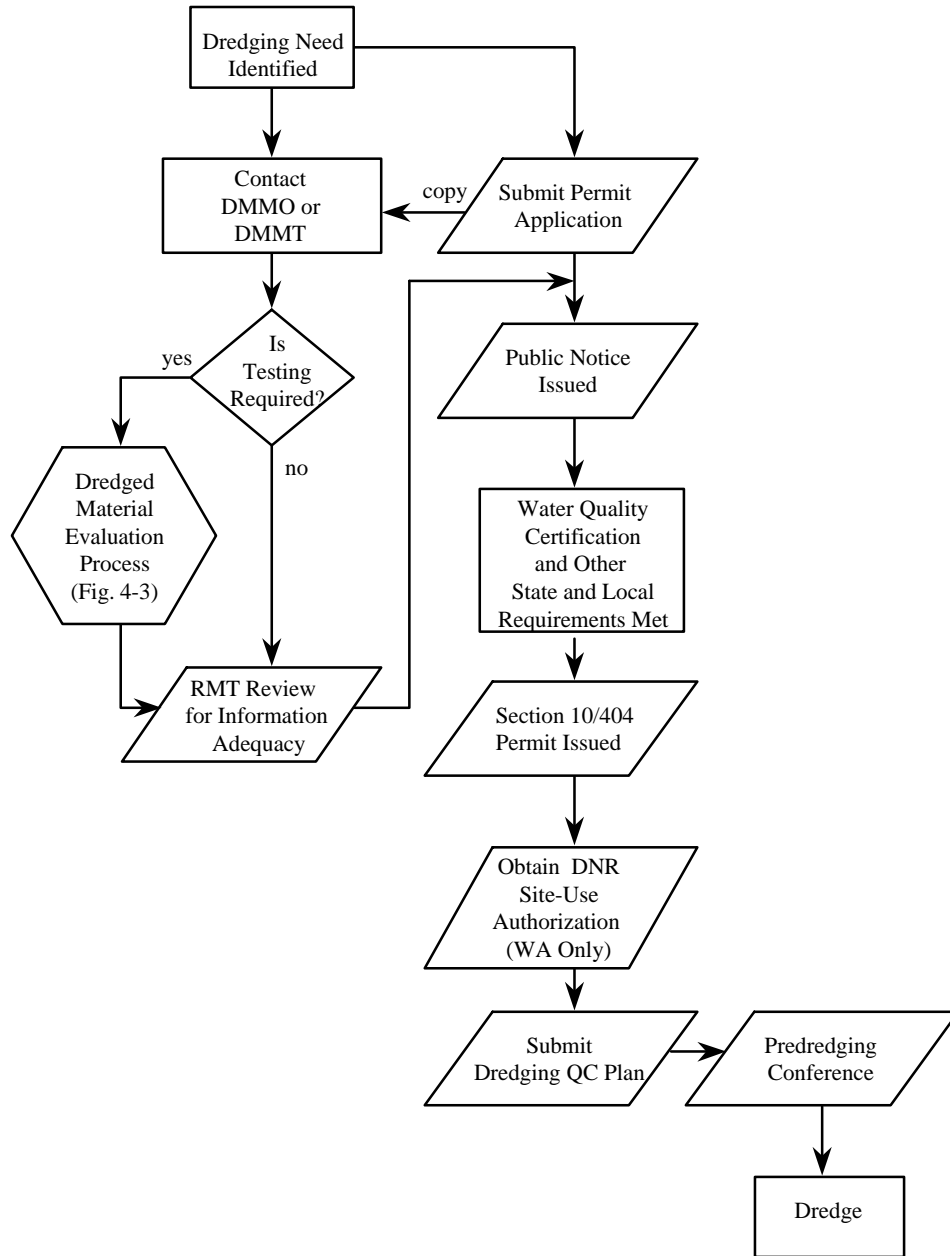


FIGURE 4-1  
SECTION 10/404 REGULATORY PROCESS  
(NEW PERMIT REQUIRED)

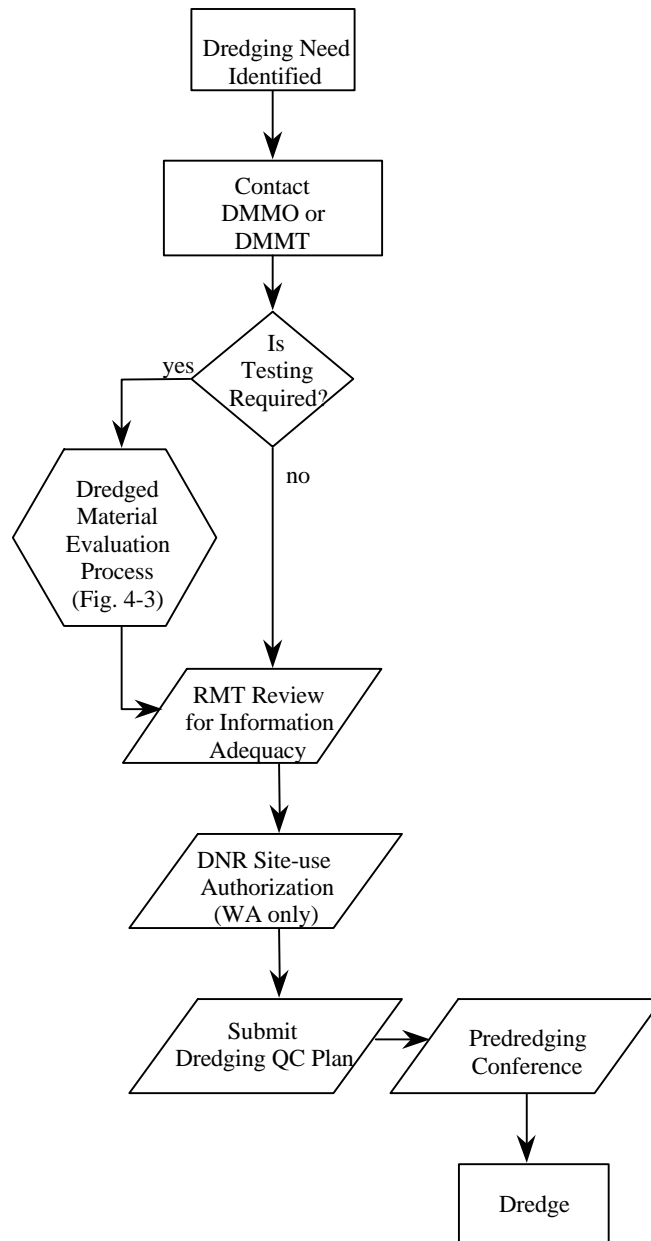


FIGURE 4-2  
SECTION 10/404 REGULATORY  
(NEW PERMIT NOT REQUIRED)

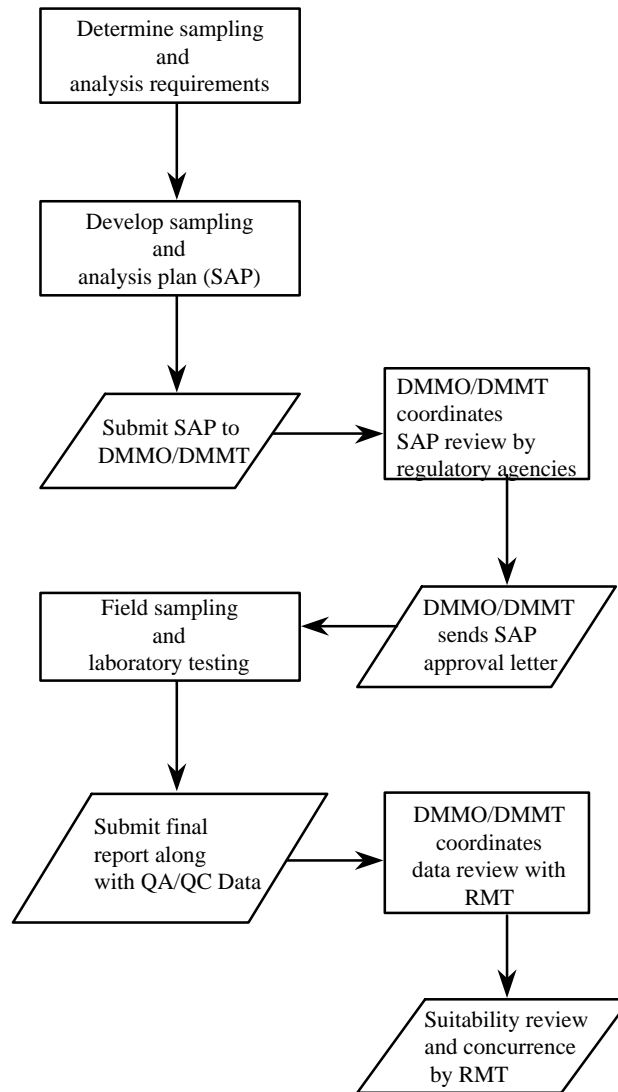


FIGURE 4-3  
DREDGED MATERIAL EVALUATION PROCESS

### 4.3 STANDARD REGULATORY PROCESS FOR NEW DREDGING

Figure 4-1 illustrates the standard regulatory process for acquiring the major permits required for a new dredging proposal. This process involves a second integrated process, the dredged material evaluation process, described in Section 4.6. The standard process consists of a series of progressive steps applicable to most dredging projects, as summarized below:

- < A Section 10/404/103 permit application is submitted to the Regulatory Branch of either the Portland or Seattle District Corps of Engineers.
- < The permit application is forwarded to the Dredged Material Management Office (DMMO) of the Seattle District or Dredged Material Management Team (DMMT) of the Portland District which initiates the dredged material evaluation process. Note: Applicants (dredging proponents) are strongly encouraged to begin this evaluation process prior to submitting a formal application.
- < The dredged material evaluation process is carried out by the applicant with guidance from DMMO/DMMT. The adequacy of the resulting information is verified by the DMMO/DMMT. If the information is determined to be adequate, the permit application is considered complete from the perspective of the sediment evaluation process. The project is then returned to the Regulatory Branch to begin or continue the standard Public Notice process.
- < During the Public Notice process, the Regulatory Branch may receive comments from the general public and state and federal agencies. Comments that bring up potential issues of concern may be passed on to the dredging proponent for response.
- < Prior to or concurrent with the Corps permit process, dredging proponents will be required to obtain permits/approvals from local jurisdictions and/or state agencies.

Likely permits/approvals required in the State of Washington include:

- (a) Shoreline Permits
- (b) Hydraulic Project Approval Permit
- (c) Section 401 Water Quality Certification

Likely permits/approvals required in the State of Oregon include:

- (a) Removal/Fill Permit
- (b) Section 401 Water Quality Certification
- (c) Coastal Program Approval
- (d) State Beaches

- < The Regulatory Branch issues a Section 10/404/103 permit that incorporates the provisions of state 401 certification and other appropriate conditions that result as a response to comments or as revisions to the project.
  
- < The dredging proponent must prepare and submit a Dredging Quality Control Plan to the Regulatory Branch of the respective Corps offices for approval prior to the start of the dredging operation.
  
- < In Washington, the dredging proponent must get a disposal site use authorization from the Department of Natural Resources.

#### **4.4 RENEWAL OF CORPS PERMITS FOR MAINTENANCE DREDGING**

Corps permits must be renewed on a periodic basis (as specified in the permit). This requires completion of a new public interest review process. The permit renewal follows a process similar to the process described in Section 4.3, but some state and local permits may not need to be renewed. Sediment testing information will be reviewed, and existing information may be adequate for permit renewal without additional testing.

#### **4.5 VERIFICATION OF MULTI-YEAR MAINTENANCE DREDGING PERMITS**

Corps permits for maintenance dredging may be issued for a period of up to 10 years. During this time no additional Corps permitting activity may be required. The dredged material evaluation process has a different set of approval requirements and timelines that focus on a year-to-year evaluation of maintenance dredging projects to assure that the material is still suitable for unconfined aquatic disposal. These requirements are covered under the concepts of Recency and Frequency described in Chapter 5. Holders of permits for maintenance dredging will have to continue to coordinate with DMMO/DMMT to determine if additional sampling and analysis is necessary before dredging is begun anew in any given year. Figure 4.2 summarizes the steps involved in obtaining approval for the continuation of maintenance dredging for a particular project.

#### **4.6 DREDGED MATERIAL EVALUATION PROCESS**

The dredged material evaluation process is integrated into both the overall permit process (Section 4.3) and the verification of existing permits (Section 4.5) as explained above. The dredged material evaluation process for the LCRMA is undertaken as a "Tiered Evaluation Process" as described in Chapter 5 and is summarized below.

- < Applicant contacts either the DMMO (Seattle) or DMMT (Portland) to initiate the dredged material evaluation process (Section 4.2).
- < Applicant submits project description and historical information as required in the Tier I evaluation (Chapter 5).
- < If DMMO/DMMT can make a favorable suitability determination based upon the existing Tier I information, the determination is distributed for review and concurrence by the LCRMA Regional Management Team (RMT). No further sediment evaluation will be required.
- < If DMMO/DMMT finds that Tier I information is not adequate to make a favorable suitability determination, the Applicant will be advised to prepare and submit a proposed sampling and analysis plan (SAP) to acquire additional information. The SAP must be approved by DMMO/DMMT with concurrence from the RMT (Chapter 6).
- < Applicant conducts sampling and analysis of proposed dredged material as directed by the SAP in order to furnish the information required in one of the subsequent tiers: Tiers IIA, IIB, III, or IV (Chapters 7, 8, 9 and 10).
- < Applicant prepares and submits report of results of sampling and analysis effort to the DMMO/DMMT (Chapters 6 and 11).
- < The DMMO/DMMT reviews the adequacy of the information and prepares a suitability determination and distributes for review and concurrence by RMT.

#### **4.7 DREDGING QUALITY CONTROL PLAN**

The final step before beginning a dredging project is the preparation and submittal of a dredging quality control plan, noted in Figures 4.1 and 4.2. The purpose of the plan is to ensure that the applicant and/or dredging contractor are aware of and understand all the conditions placed on the dredging operation and the disposal of the dredged material. When required, the



plan must be submitted to the respective Corps Regulatory Branch, who will then coordinate review of the plan with other appropriate agencies. The timing of submittal is shown on Figures 4.1 and 4.2. The dredging quality control plan provides the following types of information:

- < Description of the final project.
- < Schedule for dredging and disposal.
- < Description of dredging methods and controls, including procedures to remove debris; measures to control or minimize potential water quality impacts; and, if applicable, measures to dredge and dispose contaminated sediments separate from clean sediments and subsequent verification of such work.
- < Disposal method, site coordinates, positioning procedures, and data recording and reporting.
- < List of regulatory personnel to be contacted prior to the start of work.
- < Tug operator's name and telephone number.
- < Environmental emergency procedures, such as spill containment measures.

#### **4.8 THE PROCESS FOR CORPS CIVIL WORKS DREDGING**

The majority of current Corps civil works dredging involves the maintenance of existing channels and harbor ways. The coordination of maintenance dredging in Federally authorized channels is governed by the process described in 33 CFR 335-338 (Discharge of Dredged Material Into Waters of the U.S. or Ocean Waters; Operations and Maintenance). Generally, the coordination process for civil works dredging projects mirrors the regulatory program, with a few procedural exceptions. Corps dredging is subject to requirements under the following acts: National Environmental Policy Act, Clean Water Act and amendments, Marine Protection and Research, and Sanctuaries Act, and the Endangered Species Act.

The general steps in coordinating Corps civil works dredging include:

- 1) A public notice is issued describing the proposed work. If a new sediment characterization is necessary, data are collected and analyzed prior to the issuance of the public notice.

- 2) An environmental impact statement (EIS) or environmental assessment (EA) is prepared for the project. Typically, for maintenance dredging, a "Finding of No Significant Impact" or FONSI is prepared in conjunction with the completion of a CWA Section 404 (b)(1) evaluation. If an EIS is prepared for new dredging work, Corps authorization to proceed is documented in a Record of Decision document. For work found to have "no significant impact", a document called a Statement of Findings (SOF) is completed at the end of the public coordination period.
- 3) For projects in the coastal zone, a determination of consistency with the enforceable provisions of the state coastal zone program is prepared and submitted to the appropriate state agency along with the public notice. Federal CZM consistency concurrence will be requested from the state.
- 4) If endangered species are known or suspected in the project area, the Biological Opinion will be checked to assure that the activity is covered. National Marine Fisheries Service will be notified that the activity is included in the biological opinion. If the activity is not included as part of the existing biological opinion, a biological assessment for the project will be prepared.
- 5) Any substantive comments received as a result of the public notice will be addressed to the greatest extent practicable. Maintenance dredging is not initiated until all necessary environmental coordination is completed, including the receipt of a water quality certification from the applicable state. For ocean disposal, a letter of concurrence for the activity is required from the regional EPA.