

Welcome

Home

Project Planning

Permitting

Related Laws and Requirements

Frequently Asked Questions

Why we're involved

The mission of the U.S. Army Corps of Engineers' Regulatory offices is to protect the nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions.

The United States Congress authorizes the Corps to regulate activities that may impact wetlands and waters of the United States. This authority is granted and defined under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Federal Water Pollution Control Act Amendments of 1972, also known as the Clean Water Act.

The Rivers and Harbors Act focuses on protecting navigable waterways. The Clean Water Act requirement applies to valuable aquatic areas throughout the U.S., including wetlands and streams. Even though individual changes to wetlands and other waters of the United States may be minor, the cumulative effect of multiple changes can result in damage to these valuable resources.

Contact us

To talk to a regulatory project manager or schedule a pre-application consultation before you submit an application.

[Contact Us](#)

[Print application](#)

Choose another district

Getting started

This interactive module and the accompanying video will give you the guidelines and checklist for gathering information you will need to fill out and send in a permit application form.

The video below provides tips to help you submit complete information by focusing on the items that permit applicants often find most difficult.

[Permit application video](#)

Steps for successful permit application

The interactive module provides further information and technical resources on important topics discussed in the video. After watching the video, it's important that you visit these links in order to know what information you need to provide to the corps. The links will aid in completing your permit application form and supplemental information.

1 Project Planning

2 Permitting

3 Related Laws

4 Print Application

Project Planning

Corps Authority

Waters of the U.S.

Wetland Delineation

Purpose and Need

Avoidance and Minimization

Streamlined Reviews

Construction Timing

Stormwater Management Plan

Dredging

Project Planning

As an applicant, you can make the permitting process easier by first taking time to consider how your project will impact the environment. One of the U.S. Army Corps of Engineers' goals is to help you understand what you should be thinking about while you're planning and designing your project, before you apply for a permit. Something as easy as changing the types of materials you propose to use, or the time of year you plan to do the work can affect the time it takes to review your permit application.

The information in the following tabs will explain why the Corps needs these details to effectively evaluate your project and the impacts it will have on our environment. If you have additional questions during the planning of your project, you may contact your local Regulatory Project Manager to request a Pre-Application Meeting.

Corps Authority

The U.S. Army Corps of Engineers is responsible for protecting many of the nation's aquatic environments including oceans, rivers, lakes, streams, ponds, and wetlands. These areas are referred to by the Corps as waters of the United States. Work in, over or under waters of the United States may require a permit from the Corps. Permits, licenses, or similar authorizations may also be required by other federal, state, and local agencies.

There are three primary laws under which the Corps regulates activities impacting waters of the United States: the Rivers and Harbors Act of 1899, the Clean Water Act and the Marine Protection, Research and Sanctuaries Act.

Section 10 of the Rivers and Harbors Act of 1899

Section 10 governs work impacting navigable waters.

Examples of activities requiring Section 10 permits:

- Construction or installation of piers, wharves, bulkheads, dolphins, marinas, ramps, floats, overhanging decks, buoys, boat lifts, jet ski lifts, intake structures, outfall pipes, and cable or pipeline crossings.
- Dredging and excavation.
- Overhead transmission lines, tunnels, or directional bore holes.

[Click here](#) to see a list of navigable waters in your state.

Section 103 of the Marine Protection, Research and Sanctuaries Act

Section 103 provides the authority to issue permits for transporting dredged material excavated from navigable waters of the United States to be dumped into ocean waters. This includes dredged material shipped by truck to a port site for ocean disposal.

Section 404 of the Clean Water Act

Section 404 regulates the placement of dredged or fill material into waters of the United States.

Examples of activities requiring Section 404 permits:

- Depositing fill, dredged, or excavated material.
- Grading or mechanized land clearing of wetlands.
- Ditch excavation activities in wetlands and associated discharge of dredged materials into wetlands.
- Fill for residential, commercial, or recreational developments.
- Construction of revetments, groins, breakwaters, beach enhancement, jetties, levees, dams, dikes, and weirs.
- Placement of riprap and road fills.
- Bank and stream channel stabilization projects.

Section 404 Exemptions (33 CFR 323.4)

You do not generally need a permit under Section 404 for activities associated with normal farming, ranching, and forestry activities that are established and ongoing. Some of these activities include plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products. To find out whether specific activities are exempt, contact your local Corps office.

Waters of the United States

The U.S. Army Corps of Engineers has jurisdiction over two broad categories of water: navigable waters of the United States and waters of the United States (33 CFR 328 & 329).

Navigable waters of the United States

Navigable waters of the United States are regulated under Section 10 of the Rivers and Harbors Act. These are waters that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past or could be used to transport interstate or foreign commerce.

[Click here](#) to see a list of navigable waters in your state.

Waters of the United States

These waters are regulated under Section 404 of the Clean Water Act. These include navigable waters, lakes, ponds, small streams, ditches, and adjacent wetlands. Isolated waters such as old river scars, cutoff sloughs, prairie potholes and abandoned construction and mining pits may also be waters of the United

States. An important point is that waters of the United States include natural areas as well as areas that are man-made. If you are unclear about whether you have waters of the United States in your project area, please check with your local Corps Project Manager.

[Click here](#) to see a graphic depiction of the geographic limits of the Corps' Regulatory Jurisdiction.

Geographic Extent

The Corps' regulatory jurisdiction extends to the following geographic boundaries.

1. Tidal waters of the United States

Corps jurisdiction over tidal waters of the United States is outlined in Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Section 10 says the Corps' jurisdiction in tidal waterways extends to the *mean high water line* [Definition]. (*Rollover definition: Mean High Water Line: The line on the shore established by the average of all high tides. It is established by survey based on available tidal data (preferable averaged over a period of 18.6 years because of the variations in tide). In the absence of such data, less precise methods to determine the mean high water mark are used, such as physical markings, lines of vegetation or comparison of the area in questions with an area having similar physical characteristics for which tidal data are readily available.*). Section 404 says Corps jurisdiction in tidal waters extends to the *high tide line* [Definition]. (*Rollover definition: High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.*).

2. Non-tidal waters of the United States

In non-tidal waters of the United States, the Corps' jurisdiction extends to the ordinary high water mark, a term used by the Corps in reference to the line on the shore of streams and lakes established by fluctuations of water. The physical characteristics of these fluctuations include a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding areas. When adjacent wetlands are present, the Corps' jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands. When the water consists only of wetlands, the jurisdiction extends to the limit of the wetland boundary.

3. Territorial seas

The Corps' jurisdiction in territorial seas begins at the shoreline and extends in a seaward direction a distance of three nautical miles. The Outer Continental Shelf Lands Act extends the jurisdiction of the Corps, under Section 10 of the Rivers and Harbors Act, to the seaward limit of the outer continental shelf for the construction of artificial islands, installations, and other devices on the seabed.

Wetland Delineation

The Corps has jurisdiction over waters of the United States, including wetlands. A wetland delineation identifies the boundaries of a wetland and may also identify the limits of other potential waters of the United States found on a property. It is particularly helpful since a wetland might not be wet year-round; in fact, some high-value wetlands are only seasonally wet. A Wetland Delineation report helps the Corps determine if a permit is required for a proposed activity.

What is a wetland?

Wetland identification is complex; however, they are generally characterized by:

- Soils that are saturated or flooded during some parts of most years.
- Vegetation that is adapted for moist soil conditions such as bulrush, cattails, rushes, sedges, willows, etc.
- Hydrology that has a presence of surface water or saturation during some part of the growing season.

Examples include swamps, marshes, bogs, vernal pools, interdunal swales, wet prairies and similar areas.

Additional information/resources on wetland delineation:

[Corps of Engineers Wetland Delineation Manual \(PDF\)](#)

[Regional Supplements to the Wetland Delineation Manual](#)

[Field Indicators of Hydric Soils in the U.S. \(PDF\)](#)

[National Wetland Plant List](#)

[USFWS' National Wetland Inventory \(NWI\)](#)

Completing a Wetland Delineation

Wetland delineations are prepared in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and the applicable Regional Supplement. A wetland delineation is performed by individuals who have been trained in delineating wetlands and have the required technical expertise. The wetland delineator will take data points to help them identify the wetland boundary. The delineation is summarized in a Wetland Delineation Report. The report contains data sheets supporting the delineator's conclusions and a map showing the location of all wetlands and other potential waters of the United States on the property.

The location of wetlands and other waters are incorporated into any project plans where a permit is being requested and the report is provided with the permit application for review and concurrence. A wetland delineation may also assist the reviewer in determining where wetland impacts can be avoided or minimized and to assess the secondary and cumulative impacts of the proposal.

Watch Video [Wetland Delineation](#)

Purpose and Need

A permit application requires a purpose and need statement [33 CFR 325.1(d)].

The applicant should write this in their own words, telling the Corps what they believe the purpose to be. The Corps will use this information to develop a more formal “purpose and need” statement, which will help identify project alternatives that need to be considered as part of the evaluation under the National Environmental Policy Act, the Section 404(b)(1) Guidelines, and the Corps’ own public interest review factors.

The need for a project typically is something that can be measured or quantified. For example, a community needs housing to accommodate the housing needs of the 1000 new employees hired by a local company.

A project’s purpose is based on the need it satisfies and is defined in two ways: basic and overall. The basic purpose is defined in the simplest terms. For example, the basic purpose of residential development is to provide shelter or housing. The overall purpose is more specific and captures the more detailed aspects of why the project is needed. For example, the project proposes to build townhomes, duplexes and apartments.

Another example of a purpose and need statement submitted by an applicant:

“To remove accumulated sediment in front of the Sunshine Harbor boat ramp in order to allow continued operation of the Sunshine ferry.”

The purpose of the project is to remove sediment, which is needed to allow continued ferry operation. The next step is to use this statement to identify the different ways that sediments can be removed (or project alternatives), such as dredging, sluicing, flow modification, and/or other measures. Please see “Alternatives Analysis” under the “Permitting” tab to learn more about how project alternatives may be developed and evaluated.

A purpose and need statement may also explain anticipated benefits of a project, such as any public, social, economic, or environmental benefits of the project. For example:

“To improve fish and wildlife habitat functions in degraded wetlands through restoration activities at the Wetland Prairie Preserve. Anticipated benefits include environmental enhancements to habitat for migratory birds and amphibian

species in the area through increased acreage of forested and palustrine emergent wetlands.”

Please note that project benefits are part of the overall project review. They are not used to eliminate or screen out project alternatives, but are taken into consideration in the permit decision.

Avoidance and Minimization

Protecting our nation’s aquatic resources requires the Corps to evaluate each proposed project for its possible impacts on the environment. This means applicants must consider ways to avoid or minimize impacts to waters of the United States, including wetlands. Avoidance means a project avoids or does not impact waters of the United States. This could be done by building a project at a different location or changing its size or configuration. Minimization means reducing impacts to the aquatic environment to the greatest extent possible, maybe through a smaller or different project design, technique or the time of year you do construction.

Practical application – what this means to you

Include a statement in your permit application addressing measures you plan to take, showing how your project avoids or minimizes impacts to the aquatic environment.

Why it’s important

The Corps is required to consider all possible mitigation solutions, including avoidance, minimization or ways to rectify or compensate for unavoidable project impacts (33 CFR 320.4(r)). A permit cannot be issued by the Corps unless your project has avoided or minimized impacts to the aquatic environment to the greatest extent feasible.

Things to consider when looking for ways to avoid and minimize project impacts

- Alternative on-site configurations, including those that don’t require a permit

- Alternative sites - you do not need to own the site for it to be considered, however you must be able to reasonably obtain, utilize, expand or manage the site to fulfill the basic purpose of the activity (40 CFR 230.10(a)(2)).
- Least environmentally damaging *practicable* [Definition] (*rollover definition*: Practicable: An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonable be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered.) alternative.

Presumptions made by the Corps when considering a project proposal

There are a few things the Corps will assume about a project unless your application shows otherwise. For instance, if your project is not *water dependent* [Definition] (*rollover definition*: Water Dependent: Examples of water dependent activities: marina construction or a boat dock. Examples of activities that are NOT water dependent: housing developments or roads.) it will be presumed that there is no need to discharge material into waters of the United States. If you must place fill in waters of the United States, including wetlands, you must also prove there is no reasonable, less damaging alternative available. You'll find specifics about presumptions in 40 CFR 230.10(a).

Streamlined Reviews

The U.S. Army Corps of Engineers offers some tools which can expedite the permitting process. They are programmatic consultations and general permits. We encourage you to become familiar with these when planning your project.

Programmatic Consultations

A common type of programmatic consultation is a Programmatic Biological Opinion, or BiOp. When a proposed project will affect species listed under the Endangered Species Act, the Corps is required to consult with the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service. The Corps cannot issue a permit until that consultation is complete. Through the programmatic consultation process, Endangered Species Act compliance is completed ahead of

time for a group of activities. If your project design fits the criteria of a programmatic consultation, it can significantly reduce the consultation time. If your project does not fit into a programmatic consultation, an individual consultation is required. Individual consultations can take up to 135 days depending on project impacts and might be longer in some cases.

Click for programmatic consultations in your district: [Programmatic Biological Opinions 1 Slopes IV Restoration and Worksheet](#) and [Programmatic Biological Opinions 2 SLOPES IV Transportation](#)

General Permits

General permits authorize activities that are similar in nature and cause only minimal adverse environmental impacts to aquatic resources, separately or on a cumulative basis. There are two types of general permits: nationwide permits and regional general permits.

Nationwide permits

Nationwide permits issued on a national basis. They are intended to streamline authorization of projects such as commercial developments, utility lines or road improvements, which have minimal impacts to the aquatic environment. They can minimize delay and reduce paperwork for certain activities determined to have minimal impacts. Nationwide permits typically have regional conditions designed to protect local aquatic ecosystems. An example of a regional condition is requiring the permittee to install and maintain adequate soil erosion control measures during and after construction to protect downstream waters.

[Click here](#) for a list of the current nationwide permits.

Regional general permits

Regional general permits are very similar to nationwide permits, but are issued for a specific geographic area by individual Corps Districts. Each regional general permit has specific terms and conditions, all of which must be met before the project-specific action can be authorized. Regional general permits may be issued with an associated Endangered Species Act compliance document, water quality

certification, or other required laws to further streamline the permit process by eliminating the need to complete these processes for individual permit actions. [Click here](#) for regional general permits in your district.

Review times

If your proposed project falls within the guidelines of a general permit, our goal is to process these within 60 calendar days. However, some activities, issues or legal requirements may require additional review and take more time.

Construction Timing

In some states, there are guidelines in place to assist the public in minimizing potential impacts to important fish, wildlife and habitat resources. This means that the work you propose to do may only be allowed during a specified time of year.

[Click here](#) to determine if your state has specified construction windows

Additionally, if your proposed project has the potential to affect endangered/threatened species, their Critical Habitat and/or Essential Fish Habitat you should anticipate that the Corps may need to consult with the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service during its review of your permit application. If a Biological Opinion is prepared for the project, it may specify when the work can occur in order to minimize the effects to their trust resources.

Stormwater Management Plan

Preplanning to avoid or minimize stormwater run-off can save you money and time. By simply developing an erosion and sediment control plan, it's possible to reduce or eliminate the need for costly mitigation, pre-treatment and monitoring requirements.

Stormwater runoff, whether from land or areas such as paved streets, parking lots and building rooftops, often contains pollutants. Some effects of stormwater runoff include accelerated channel erosion, degraded stream habitat, declines in

invertebrate and vertebrate populations and introduction of pollutants such as copper, zinc, oil, pesticides and sediment to the aquatic environment.

If your project could cause pollutants to be released into wetlands, ponds, lakes, streams, rivers, marine waters or groundwater, you will likely need a permit from the state agency responsible for water quality. These discharges may occur through a variety of systems including stormwater run-off, land irrigation, seepage ponds or onsite sewage systems.

A Clean Water Act Section 401 Certification is a water quality permit that must be obtained prior to issuance of a Corps permit. In some cases, before your state can issue a 401 water quality certification, they may require a stormwater management plan.

Learn more about Section 401 water quality certifications in the “Related Laws & Requirements” section.

Dredging

When the Corps reviews permit applications that involve dredging, we must consider if the material being removed contains contaminants. The Corps will use site history information you provide to determine if further sediment testing will be required. Testing is necessary to ensure that contaminated material is handled and disposed of properly. If contaminants in the dredge area exceed screening thresholds, your project may need to be modified. Early coordination is essential to ensure compliance with federal laws, to streamline the permitting process, and to ensure aquatic, human health, and bioaccumulation impacts are minimized.

Permitting

Alternatives Analysis

Types of Permits

Mitigation

Permitting

The mission of the U.S. Army Corps of Engineers' Regulatory Program is to protect the nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. During the permit process, the Corps considers the views of other federal, state and local agencies, Native American tribes, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

The Corps' permit application process gives applicants the opportunity to demonstrate that they have avoided and minimized impacts to waters of the United States as much as possible. If it's shown that impacts cannot be completely avoided and minimized, the Corps may require mitigation to offset those impacts. The information in this module tells you what permits are available on both a nationwide and regional basis, details the Corps' needs regarding your plans to avoid and minimize impacts to aquatic resources, and how to compensate when impacts are unavoidable.

Watch Videos [Alternative Analysis](#), [Mitigation](#), [Cumulative Impacts](#), [Public Interest Review](#)

Alternatives Analysis

You can make the permitting process easier by first taking time to consider how your project will impact waters of the United States, and then finding alternatives to avoid, minimize or compensate for those impacts. An alternatives analysis may be a required as a part of the Corps' review. But whether it's a formal report or information provided in the application form, the design stage is the best time to

identify alternatives in order to avoid or minimize impacts to waters of the United States, while still meeting your project's purpose.

The alternatives analysis is documentation that explains the range of alternatives that you have considered. It describes alternative sites and project designs that were considered to avoid or minimize impacts to waters of the United States. This analysis should include alternative designs with less impact and reasons why the alternatives were not chosen.

This is a requirement under the National Environmental Policy Act and Section 404(b)(1) Guidelines of the Clean Water Act for projects that would involve placing dredge or fill material into waters of the United States.

What the 404(b)(1) Guidelines say about alternatives:

- “No discharge of dredged or fill material shall be permitted if there is a practicable [Definition] (*rollover definition*: Practicable: If it is available and capable of being done after considering cost, existing technology, and logistics in light of overall project purpose (40 CFR 230.10(a)).) alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” (40 CFR 230.10(a))

Where does this fit into the permit process?

Nationwide Permits –If your project fits under a nationwide permit you don't have to complete a detailed alternatives analysis. However, you still must also comply with the General Condition for Mitigation that requires:

- You design and construct your project to minimize adverse effects to Waters of the United States
- You incorporate avoidance, minimization, and compensation measures to the extent necessary to ensure adverse effects are minimal

Individual Permits – An alternatives analysis is a requirement of National Environmental Policy Act for all permits and a requirement of the Section 404(b)(1) Guidelines for Section 404 permits. The Section 404(b)(1) Guidelines prohibit discharges into aquatic areas where less environmentally damaging, practicable alternatives exist. If the alternatives analysis does not clearly

demonstrate that your project is the least environmentally damaging practicable alternative (LEDPA), then your permit must be denied by the Corps.

Appropriate level of analysis in the documentation

The level of detail and documentation is flexible depending on the project, but should reflect the significance and complexity of the discharge activity. The level of scrutiny should be commensurate with the severity of the environmental impact as well as the scope and cost of the project. The burden of proof to demonstrate compliance with Section 404(b)(1) Guidelines rests with the applicant. If there is not sufficient information to clearly demonstrate compliance, the permit will be denied (40 CFR 230.12(a)(3)(iv)).

Consideration of small landowners (RGL 95-01)

(Rollover definition: Regulatory Guidance Letter 95-01: Regulatory Guidance Letters provide practical guidance and interpretation from HQ on how to interpret or implement policy that may be unclear. Regulatory Guidance Letters are used only to interpret or clarify existing Regulatory Program policy, but do provide mandatory guidance to the Corps Districts. Regulatory Guidance Letters are sequentially numbered and expire on a specified date. However, unless superseded by specific provisions of subsequently issued regulations or Regulatory Guidance Letters, the guidance provided in the Regulatory Guidance Letters generally remains valid after the expiration date. These can be found on the HQ website under Regulatory Guidance Letters.)

The Corps presumes that off-site alternatives located on property not currently owned by the applicant are not practicable for the following types of small landowners:

- single family home
- expansion of a barn or farm building
- expansion of a small business facility

However, these small land owners still must minimize impacts and compensate if appropriate.

Some factors to consider in the alternatives analysis

- Project purpose
- Acreage needed for proposal
- Utilities, including cost
- Infrastructure, including cost

- Water dependency [Definition] (*Rollover definition: Water Dependency: Examples of water dependent activities: marina and/or boat dock construction or wetland restoration. Examples of activities that are NOT water dependent: housing developments or roads.*)
- Availability of alternative sites

Reasons a proposal might not comply with the 404(b)(1) Guidelines

- Feasible alternatives with less adverse impact on the aquatic ecosystem exist
- The project significantly degrades the aquatic ecosystem
- The application does not include all appropriate and practicable measures to minimize harm to the aquatic ecosystem
- Violates state water quality standards
- Jeopardizes the continued existence of a species listed under the Endangered Species Act
- Insufficient information to make a determination

Watch Videos [Alternative Analysis](#)

Types of Permits

The Corps has two types of Department of the Army permits: general permits and individual permits.

Permit Cost/Fees

There are no fees for general permits and letters of permission issued by the Corps. The following fees apply when a project has been approved and a standard individual permit is issued by the Corps and accepted by the applicant:

- \$10 for individuals (non-commercial activities)
- \$100 for businesses (commercial and industrial activities)
- No fees are charged to governmental agencies

General permits (sub-tab)

General permits

General permits authorize activities that are similar in nature and cause only minimal adverse environmental impacts to aquatic resources, separately or on a

cumulative basis. There are two types of general permits: nationwide permits and regional general permits.

Nationwide Permits

Nationwide permits are issued by the Corps on a national basis and are designed to streamline Department of the Army authorization of projects such as commercial developments, utility lines or road improvements that impact the nation's aquatic environment. To ensure activities authorized by nationwide permits cause only minimal adverse environmental effects, Corps division engineers are authorized to add regional conditions to protect local aquatic ecosystems. The nationwide permits are proposed, issued, modified, reissued or extended, and revoked from time to time, after the opportunity for public notice and comment. An activity may be authorized under a nationwide permit only if it meets both the national and regional conditions of the nationwide permits, including compliance with the Endangered Species Act and any special conditions added by the Corps. If the Corps finds that the proposed activity would have more than minimal individual or cumulative net adverse impact on the environment, or may be contrary to the public interest, you would need to modify your proposal to reduce or eliminate those adverse effects, or apply for a standard individual permit.

Regional General Permits

A regional general permit is issued for a specific geographic area by an individual Corps District. Each regional general permit has specific terms and conditions, all of which must be met for project-specific actions to be verified. If your project does not comply with all of the terms and conditions, authorization may be granted by another type of Department of the Army permit, however, the process will likely take longer. Therefore, to expedite the Corps' review of your application, we recommend you modify your project to meet all terms and conditions of the applicable regional general permit.

Individual permits

Individual permits

Individual permits are for activities that do not fit the guidelines for a nationwide permit or regional general permit. There are two types of individual permits: standard individual permits and letters of permission.

Standard individual permits

A standard individual permit is required for activities having more than minimal impacts and/or for activities that do not qualify for a nationwide permit or regional general permit. An important distinction between an individual permit and a nationwide permit or regional general permit is the public review requirement. Nationwide permits and regional general permits undergo public review as part of their development process; however, project-specific actions can be authorized by nationwide permit or regional general permit without further public review. A standard individual permit is subject to the public interest review process on a project-specific basis. A public notice will be issued for a standard individual permit application to allow federal, state and local agencies, adjacent property owners and the general public an opportunity to review and comment on the plan or to request a public hearing. Applications involving public notices are typically completed within four to six months. However, some complex activities, issues or legal requirements may require additional review and take more time.

Upon receipt of your permit application, you will be sent an acknowledgement of receipt and a Corps reference number specific to your file. You should refer to this number when inquiring about your application. If your application is incomplete, the Corps will request the additional information needed to continue its review. The project will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors.

Letter of Permission

A letter of permission is a type of individual permit issued through a more streamlined process. Letters of permission are typically for activities subject to

Section 10 of the Rivers and Harbors Act. Individual Corps districts may develop letter of permissions applicable for work subject to Section 404 of the Clean Water Act after coordinating with state and federal agencies and allowing the opportunity for public comment.

A letter of permission may be issued for projects where proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and isn't expected to encounter appreciable opposition. These types of projects usually include minor dredging and construction, maintenance, or replacement of piers, mooring buoys, piles, or floats. Compliance reviews under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act still apply for a letter of permission.

Watch Videos [Cumulative Impacts](#) [Public Interest Review](#)

Mitigation

Mitigation

Mitigation is an important part of the U.S. Army Corps of Engineers' permitting process. It includes avoiding, minimizing and compensating for impacts to aquatic resources. If you haven't already done so, please refer to the "Project Planning" section in this module. If your project cannot avoid or sufficiently minimize affects to wetlands or other waters of the United States, you must compensate for the impacts. This is called compensatory mitigation and is the restoration, establishment, enhancement or preservation of aquatic resources to offset unavoidable losses due to project impacts.

The mitigation rule

Mitigation requirements are outlined in [Compensatory Mitigation for Losses of Aquatic Resources Final Rule](#) (33 CFR Part 332). The mitigation rule promotes consistency and predictability and improves ecological success of mitigation efforts through better site selection, use of a watershed approach for planning

and project design, and use of ecological success criteria to evaluate and measure performance of mitigation projects.

Providing compensatory mitigation

There are three ways compensatory mitigation can be provided: Mitigation Banks, In-Lieu Fee Programs and Permittee-Responsible Mitigation. Mitigation banks and in-lieu fee programs are generally the preferred options for mitigation because they consolidate resources and involve more financial planning and scientific expertise. These factors help reduce the risk of failure of mitigation projects. The following are acceptable mitigation options, listed in order of environmental preference as described in the mitigation rule:

Mitigation bank

A mitigation bank is one or more sites where aquatic resources such as wetlands or streams are restored, established, enhanced and/or preserved for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. A bank sells mitigation “credits” to permittees. The obligation to provide mitigation is then transferred to the bank sponsor. The bank sponsor is then responsible for implementing the mitigation, monitoring its performance and long-term site management.

In-lieu fee program

An in-lieu fee program involves the restoration, establishment, enhancement and/or preservation of aquatic resources through funds typically paid to state governments, local governments, or non-profit natural resources management organizations. As with banks, credits are sold to permittees by the in-lieu fee sponsor. The in-lieu fee sponsor is then responsible for implementing the mitigation, monitoring its performance and managing the site long-term.

Permittee-responsible mitigation

Individual mitigation projects constructed by permittees can also compensate for environmental impacts authorized by the Corps. This option makes the permittee responsible for implementing the mitigation, monitoring its performance and long-term site management. Mitigation projects may occur on the same site as the permitted project or at an off-

site location usually within the same watershed. In some cases, permittee-responsible mitigation is the only option. This is typical when proposed impacts are not located within the service area of an approved mitigation bank or in-lieu fee program, or if these mitigation options would not provide appropriate mitigation for the proposed impacts.

What to include in the mitigation plan

If you're using a bank or in-lieu fee program you do not need to provide all of the components listed below. However, you should include a description of the baseline conditions at the impact site, the number and type of resource credits to be secured and how these were determined.

If compensatory mitigation is required, you must submit a mitigation plan. There are 14 required components in every mitigation plan. These components are described in detail in the mitigation rule (33 CFR 332.4) and are listed below.

- 1 - Preparation and Approval
- 2 - Objectives
- 3 - Site selection
- 4 - Site protection instrument
- 5 - Baseline information
- 6 - Determination of credit
- 7 - Mitigation work plan
- 8 - Maintenance plan
- 9 - Performance standards
- 10 - Monitoring requirements
- 11 - Long-term management plan
- 12 - Adaptive management plan
- 13 - Financial assurances
- 14 - Other relevant information

Although not required, assistance from a qualified environmental consultant may be beneficial in developing a comprehensive and acceptable mitigation plan. All mitigation plans require approval from the Corps.

Additional mitigation information and tools

- [Wetland Mitigation Brochure HQ](#)
- [Compensatory Mitigation for Losses of Aquatic Resources; Final Rule](#)
- [Questions & Answers](#) on Final Compensatory Mitigation Rule
- [Regulatory Guidance Letter](#) 08-03 Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources Rule
- [Components of a Mitigation Plan per the Final Rule](#)
- [Regional Internet Bank Information Tracking System \(RIBITS\)](#)
- [EPA's Wetland and Compensatory Mitigation Website](#)

[Click here](#) for Mitigation guidance specific to your state

Watch Video [Mitigation](#)

Related Laws and Requirements

Protected Species

Cultural Resources

Section 401 of the Clean Water Act

Other Related Laws

Related Laws and Requirements

The U.S. Army Corps of Engineers receives its authority from the following Federal Laws: Section 404 of the Clean Water Act; Section 10 of the Rivers and Harbors

Act; and Section 103 of the Marine Protection, Research and Sanctuaries Act. Before a Department of the Army permit is issued or verified, the Corps must ensure that we have met all of our obligations under any related federal and state laws. This means that the Corps may need to request additional information from the applicant or the applicant may need to supply additional information to another agency. In some cases, it is solely the applicant's responsibility to obtain other authorizations.

The amount and complexity of the additional information needed depends on the type and location of the project. When related to the Corps authorization, the Corps will make you aware of other agencies' requirements as soon as possible and will work with you to fulfill those requirements as expeditiously as possible.

Watch Video [Protected Species, Cultural Heritage, 404 \(b\) \(1\) Guidelines](#)

Protected Species

All applications are reviewed by the Corps on a case-by-case basis for potential effects to threatened or endangered species. Permits cannot be issued by the U.S. Army Corps of Engineers until the requirements of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act have been satisfied. Some Corps Districts have developed [programmatic consultations](#) and other tools that help streamline the ESA and MSA consultation processes.

Depending upon the results of the consultation, the Corps may add conditions to the permit related to conservation of protected species. All applications are reviewed by the Corps on a case-by-case basis for potential effects to threatened or endangered species. The Corps may require additional information for use during the consultation. Information requirements will differ depending on the type and location of your project and the species being affected. Early coordination is one of the most effective methods of streamlining any consultation. Ensuring you have considered the potential effects of your project on listed species in the design stage will reduce the need for project modifications.

Endangered Species Act

The purpose of the Endangered Species Act is to protect and recover many of our nation's native plant and animal species that are in danger of becoming extinct.

This protection extends to the habitats upon which they depend. The ESA is administered by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The USFWS consults on birds, terrestrial animals, plants, amphibians and most freshwater fish. The NMFS consults on salmon, marine fish, marine mammals and marine reptiles. Under Section 7 of the ESA, the Corps is required by law to consult with the USFWS and/or NMFS on any permit application for proposed work that has the potential to affect threatened or endangered species or their designated critical habitat.

Steps involved in a Section 7 consultation

1. The Corps, or the applicant, contacts the appropriate local USFWS and/or NMFS office to determine if listed species are present within the action area and obtains a list of species that may be present in the vicinity of the proposed project.
2. If listed species are present, the Corps will evaluate whether the proposed project might affect them. If the Corps determines that the project will have *no effect* [Definition] (*Rollover definition*: No effect: The appropriate ESA determination when the proposed action, including its interrelated and interdependent actions, will not affect (i.e., influencing or bring about any change) listed species or designated critical habitat either directly or indirectly), consultation with the USFWS and/or NMFS is not required.
3. If your project is *not likely to adversely affect* [Definition] (*Rollover definition*: Not likely to adversely affect: May affect, but “not likely to adversely affect” means that all effects are beneficial, insignificant, or discountable.) listed species, the Corps must initiate informal consultation with the USFWS and/or NMFS. If the USFWS and/or NMFS agrees with the Corps’ “not likely to adversely affect” determination, the USFWS and/or NMFS provides concurrence in writing and no further consultation is required.
4. If the project is likely to adversely affect listed species, then the Corps must request initiation of formal consultation. This request is made in writing to the

USFWS and/or NMFS and includes a *biological assessment* [Definition] (*Rollover definition*: Biological Assessment: A document prepared for the Section 7 process to determine whether a proposed major construction activity under the authority of a Federal action agency is likely to adversely affect listed species, proposed species, or designated critical habitat.) containing details about your project and how it may affect listed species. If the package is incomplete, the USFWS and/or NMFS notify the Corps of the deficiencies. The Corps, in turn, will request more information from you about the project's design, potential alternatives, and impacts. The USFWS and/or NMFS will prepare a *biological opinion* [Definition] (*Rollover definition*: Biological Opinion: A document that is the product of formal consultation, stating the opinion of the USFWS and/or NMFS on whether or not a Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.) that will generally include an incidental *take* [Definition] (*Rollover definition*: Take: As defined in the ESA, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.) statement that contains terms and conditions that must be met. The USFWS and NMFS are allowed 135 days from the date that formal consultation is initiated, to consult, prepare and submit a biological opinion to the Corps.

Magnuson-Stevens Fishery Conservation and Management Act (sub-tab)

The Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act is the primary law governing marine fisheries management in U.S. waters. The MSA established procedures to identify, conserve and enhance Essential Fish Habitat for those species regulated under a federal fisheries management plan. EFH are waters and habitat necessary to fish for spawning, breeding, feeding, or growth to maturity. If your proposed project may adversely affect EFH, the MSA requires the Corps to consult with the NMFS. This consultation may be combined with a Section 7 ESA consultation. For more information and guidance on EFH, including assessments, templates and a list of designated EFH for your area, please see the National Marine Fisheries Service's EFH website.

Watch Video [Protected Species](#)

Cultural resources

Before issuing a permit, the U.S. Army Corps of Engineers must fulfill requirements and procedures set forth in applicable historic preservation laws, including the National Historic Preservation Act and federal trust responsibilities with Native Americans.

Cultural resources and historic properties

Section 106 of the National Historic Preservation Act of 1966 requires federal agencies to take into account the effects of their undertakings on historic properties. A Department of the Army permit is considered to be such a federal undertaking. Historic properties, commonly referred to as cultural resources, are archaeological sites, historic districts, buildings or structures, and traditional cultural properties that are included in the National Register of Historic Places, or meet the criteria for inclusion in the National Register. The term encompasses artifacts, records and human burials related to and located within such properties. If there are indications your project has the potential to effect historic properties, you may be asked to complete a cultural resource assessment, which may include a historic property or cultural resource survey. The Corps uses the assessment or survey, to determine the possible effects of your project. We also consult with the State Historic Preservation Officer, Native American tribes and other interested parties. If the cultural resource assessment and consultation find that your project has the potential to adversely affect a historic property, you may be asked to modify your project to avoid or minimize the effects to the historic property. If the potential adverse effects cannot be resolved you may be required to enter into a Memorandum of Agreement, which outlines agreed-upon measures you will take to mitigate the adverse effects on historic properties.

Federal trust responsibilities

The federal government's unique relationship with Native American tribes is embodied in the U.S. Constitution, treaties, court decisions, federal statutes and executive orders. Native American treaties are not a granting of rights, but a protection and preservation of land and certain rights retained by the tribes when they sign treaties. Treaties with tribes are equal to federal laws passed by Congress. As a federal agency the Corps has federal trust responsibility to ensure

that Native American rights reserved by treaties are not compromised as part of our permit application review.

In some states, there are as many as 29 federally recognized tribes. Depending on the location and scope of your work, Corps representatives may be required to consult with one or more tribes as part of the application review process. Consultation with these tribes may be formal or informal, but once initiated it must be complete before a permit decision can be finalized.

Watch Video [Cultural Heritage](#)

Section 401 of the Clean Water Act

The Clean Water Act aims to protect water quality in the United States. Increased surface runoff from development has the potential to cause significant changes in aquatic ecosystems. Discharges of runoff may carry pollutants such as eroded soil, oil, metals, and pesticides that adversely affect oceans, streams, wetlands, lakes, and groundwater.

Section 401 of the CWA specifically addresses the discharge of pollutants by ensuring compliance with effluent limitations, new source performance standards, toxic pollutant limitations and other appropriate requirements of law or regulation. Section 401 water quality certifications are issued by state water pollution control agencies. This authority is delegated directly from the U.S. Congress to the states, and allows each state to establish policies to ensure that approved activities will meet applicable water quality standards.

When you apply for a Section 404 permit from the Corps, you are required to obtain Section 401 water quality certification from the appropriate state agency. On tribal lands, Native American tribes or the Environmental Protection Agency have Section 401 certification authority. In most cases, Section 401 certification is conducted at the same time as the Corps' review. The Section 401 certification can cover both the construction and operation of the proposed project. Conditions of the Section 401 certification become conditions of the permit issued by the Corps.

Do I need to include anything with my application?

In order to receive Section 401 certification, certain activities permitted by the Corps may also require the development and implementation of a stormwater management plan, mitigation plan, operation and maintenance plan, and/or restoration plan. The applicant is responsible for submitting application materials to the responsible state agency, Native American tribe or the EPA.

Is there a streamlined Section 401 process for projects with minimal impacts?

Some of the Corps' nationwide and/or regional permits may already have Section 401 certification, or your state may have pre-certified categories of projects that meet certain criteria. Projects that are not pre-certified will require you to apply to the state for individual Section 401 certification.

[Click here](#) for more information on Section 401 water quality certification in your state.

Other Related Laws

The federal laws which most commonly apply to the Corps Regulatory process are the Endangered Species Act, the National Historic Preservation Act and Section 401 of the Clean Water Act. Some projects will require additional evaluation under other related laws and regulations. The lists below are not exhaustive. They are provided to make you aware of other laws which affect our program. Some of these laws apply regularly and some of them are rarely applicable. You can contact your local Corps' Regulatory Project Manager for more information.

Related Laws

- National Environmental Policy Act
- Clean Water Act - Section 402
- Coastal Zone Management Act of 1972
- Marine Mammal Protection Act
- Marine Protection Research and Sanctuaries Act of 1972 - Section 302
- Native American Graves Protection and Repatriation Act
- Wild and Scenic Rivers Act
- Fish and Wildlife Coordination Act
- Migratory Bird Treaty Act of 1918
- The Federal Power Act of 1920
- The Interstate Land Sales Full Disclosure Act

- The Deepwater Port Act of 1974
- The Ocean Thermal Energy Conversion Act of 1980
- The National Fishing Enhancement Act of 1984
- Outer Continental Shelf Lands Act of 1953 as amended

Related Regulations

- 40 CFR Part 230 – Clean Water Act Implementing Regulations and 404 (b)(1) Guidelines
- 40 CFR Part 22 - Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits
- 40 CFR Part 233 - State Program Regulations
- 40 CFR Part 233G - Tribal Regulations
- 40 CFR Part 1500 et seq - Council on Environmental Quality
- 36 CFR Part 800-899 - Advisory Council on Historic Preservation
- 50 CFR Parts 400-499 - Endangered Species Regulations
- 50 CFR Part 600 - Essential Fish Habitat Regulations

Watch Video [404 \(b\)\(1\) Guidelines](#)

Frequently Asked Questions

Frequently Asked Questions

1. **What is compensatory mitigation and why are you asking me for it?**

Mitigating the environmental impacts of necessary development actions in the Nation's wetlands and other aquatic resources is a central premise of Federal wetlands programs. The Clean Water Act (CWA) Section 404 permit program relies on the use of compensatory mitigation to offset unavoidable impacts to wetlands and other aquatic resources through, for example, the restoration or creation of wetlands. Under the "Swampbuster" provisions of the Food Security Act (FSA), farmers are required to provide mitigation to offset certain conversions of wetlands for agricultural purposes in order to maintain their program eligibility. Mitigation for wetland impacts may take place on-site, off-site, in mitigation banks, or through in-lieu fee programs. Mitigation may include creation, enhancement or restoration of wetlands and their functions or, in some cases, may include preservation of wetlands and associated upland buffers.

2. What is avoidance and minimization?

The objective of the Clean Water Act (CWA) is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” Toward achievement of this goal, the CWA prohibits the discharge of dredged or fill material into wetlands, streams, and other waters of the United States unless a permit issued by the U.S. Army Corps of Engineers (Corps), or approved State Agency, under CWA Section 404 authorizes such a discharge. When there is a proposed discharge, all appropriate and practicable steps must first be taken to avoid and minimize impacts to aquatic resources.

3. What types of permits do you authorize?

The Corps regulatory program permit evaluation process results in permit decisions that balance the need for proposed development with protection of the nation’s aquatic environment. The level of the Corps evaluation is commensurate with the level of the environmental impacts and the aquatic functions and values involved in the particular area being impacted. Authorization can range from minor permits such as Nationwide and Programmatic and Regional General Permits to Individual Permits. Impacts to higher ecological value areas will be subject to a much more detailed evaluation and a strong focus on avoidance of impacts to the aquatic environment.

4. Why do I need a state and or local agency permit in order to get my Corps permit?

Section 401 of the Clean Water Act (33 U.S.C. 1341) requires any applicant for a federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification from the State in which the discharge originates or would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the affected waters at the point where the discharge originates or would originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification

obtained for the construction of any facility must also pertain to the subsequent operation of the facility. In States with a Coastal Zone, Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires federal agencies conducting activities, including development projects, directly affecting a state's coastal zone, to comply to the maximum extent practicable with an approved state coastal zone management program. Indian tribes doing work on federal lands will be treated as a federal agency for the purpose of the Coastal Zone Management Act. The Act also requires any non-federal applicant for a federal license or permit to conduct an activity affecting land or water uses in the state's coastal zone to furnish a certification that the proposed activity will comply with the state's coastal zone management program. Generally, no permit will be issued until the state has concurred with the non-federal applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the state's coastal zone management program. (See 15 CFR part 930.).

5. Who should sign the application and who should sign the permit?

The applicant applying for authorization should sign the application and the permit if applicable. If the applicant elects to have another entity or individual obtain the permits on their behalf, the applicant and the other entity or individual will both need to sign the application.

6. Can I get a time extension for my Nationwide or Regional General Permit?

The Corps will typically reverify nationwide or regional general permit verifications, rather than extend them. Please contact your local Corps Regulatory office for more information on what information they may require for a reverification.

7. Where is my local Corps Regulatory office?

If you go to the U.S. Army Corps of Engineers Headquarters website, and then to the Regulatory section of that site, the avatar there can help you find the correct office.

8. What are waters of the United States?

“Waters of the United States” is legally defined in section 40 CFR 230.3(s) of the Clean Water Act. However, this term is also used more generally to refer to all wetlands and surface waters considered to be jurisdictional for the Corps.

9. Where can I find my section, township, and range?

The section, township and range can usually be found in the legal description of your parcel. If you don't have a copy of that, you may be able to get it on-line from your county property appraiser.

10. What do I do if all my information does not fit in the space provided?

If you need more space to provide information, please attach an extra sheet of paper marked with the appropriate block number.

11. Where can I find my adjoining property owners mailing addresses?

Information regarding adjacent landowners is usually available online through the local Property Appraiser website; or can be obtained through the office of the tax assessor in the county or counties where the project is to be developed.

12. What is the ordinary /mean high and low water line?

The term *ordinary high water mark* refers to the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. For purposes of Section 404 of the Clean Water Act (CWA), the lateral limits of jurisdiction over non-tidal waterbodies extend to the ordinary high water mark (OHWM), in the absence of adjacent wetlands. When adjacent wetlands are present, CWA jurisdiction extends beyond the OHWM to the limits of the adjacent wetlands. For States along the coast, the term *high tide line* means the line of intersection of the land with the water's surface at the

maximum height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. For purposes of Sections 9 and 10 of the Rivers and Harbors Act of 1899, the lateral extent of Federal jurisdiction, which is limited to the traditional navigable waters of the United States, extends to the OHWM, whether or not adjacent wetlands extend landward.

13. How long will it take to get my permit?

The Corps' goal is to decide on all applications within 60 days after receipt of a complete application for minor permits and 120 days for individual permits, unless (i) precluded as a matter of law or procedures required by law, (ii) the case must be referred to higher authority, (iii) the comment period of a public notice is extended, (iv) a timely submittal of information or comments is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 60-day period.

14. What is an alternative site analysis?

In accordance with the 404(b)(1) guidelines outlined in the Clean Water Act, this type of analysis for a proposed project reviews alternative site locations that would result in less impacts to the aquatic ecosystem, after taking into consideration cost, existing technology, and logistics in light of overall project purposes. The alternative site analysis takes into consideration the following parameters:

- Property size/ability to fulfill project purpose
- Availability for purchase, or which could reasonably be obtained, utilized, expanded or managed
- Quantity of wetland vs. upland acreage
- Quality of on-site wetlands

- Zoning issues

15. What is considered fill?

The term *fill material* means material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of a water of the United States. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States.

16. What is considered a multi-phase project?

The total plan of development for the entire project area is needed for the Corps to complete the evaluation of the cumulative impact review and alternatives analysis. Multi-phase projects should include all development activities the applicant plans to undertake within 5-10 years that are reasonably related to the same project. Examples of a multi-phase project include residential subdivisions, commercial developments, marinas, or mines.

17. How do I know if there are wetlands on my property?

Completing a wetland delineation requires expertise and is typically done by a professional wetland scientist. You may hire a professional wetland scientist to delineate wetlands on your property. The Corps will verify the accuracy of a wetland delineation performed by the applicant or consultant. In some cases, the Corps may delineate wetlands belonging to non-commercial entities. If you have further questions about wetland delineation, contact your local Regulatory office ([link](#)) and discuss your project with a regulatory project manager.

18. I am looking at buying some property, how do I know if I will need to get a Corps permit?

The Corps regulates activities in navigable waters (Section 10 of the Rivers and Harbors Act) and the discharge of dredged or fill material into waters of the United States (Section 404 of the Clean Water Act of 1972).

- Section 10 activities include but are not limited to the following:
 - new or maintenance dredging
 - construction, replacement or repair of piers, docks, boat ramps, wharves, dolphins, weir booms, breakwaters, bulkheads, revetments, riprap, jetties, artificial islands, artificial reefs, permanent mooring structures, power transmission lines, permanently moored floating vessels, pilings, and/or navigation aids.
- Section 404 activities include but are limited to the following:
 - the building of any structure, infrastructure or impoundment requiring rock, sand, dirt, or other material for its construction
 - site-development fills for recreational, industrial, commercial, residential or other uses/causeways or road fills
 - dams or dikes
 - artificial islands
 - property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters and revetments
 - beach nourishment
 - levees
 - fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines
 - placement of fill material for construction or maintenance of any liner, berm or other infrastructure associated with solid waste landfills
 - placement of overburden, slurry or tailings or similar mining-related materials
 - artificial reefs

Contact your local Corps Regulatory office ([link](#)) if you are not sure if the property has navigable waters and/or waters of the United States

19. What application form do I use?

You can use the Corps' Federal Permit Application Form (ENG 4345) or you can use the Joint Permit Application form from your local Corps office which you can fill out and send to both the Corps and the state. Each agency will review the application form and make its own permit decision. Corps offices within the Northwest Division that use Joint Permit Application forms include: the Portland District in Oregon, the Seattle District in Washington, and the Walla Walla District in Idaho. The Omaha District covers six states and has only one Joint Permit Application form; with the state of Montana. Forms can be found on the home page of this module, following District selection, by clicking on the "Print application" button.

20. What will happen if I do work without getting a permit from the Corps?

Performing unauthorized work in waters of the United States or failure to comply with the terms of a valid permit can have serious consequences. You would be in violation of Federal law and could face stiff penalties, including fines, legal action or imprisonment and/or requirements to restore the area and mitigate for the impacts. Enforcement is an important part of the Corps regulatory program. Corps surveillance and monitoring activities are often aided by various agencies, groups, and individuals, who report suspected violations. When in doubt as to whether a planned activity needs a permit, contact us. It will save a lot of unnecessary trouble (and cost) later.

21. I have obtained permits from local and states governments. Why do I have to get a permit from the Corps?

Local and state governments issue permits to ensure compliance with local and state laws and regulations. The Corps permit program is in place to ensure you comply with Federal laws and regulations.

22. How much does it cost for a permit?

Most permits issued by the Corps of Engineers, such as Letters of Permission, Nationwide and General Permits do not have a permit fee. Standard Individual Permits have fees of \$10 for individuals and \$100 for businesses, once the permit has been issued and accepted by the applicant. There are no fees charged to other governmental agencies.

23. How can I design my project to eliminate the need for a Corps permit?

If your activity is located in an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoid adjacent wetlands. In the vicinity of fresh water, stay landward of the ordinary high water mark and avoid wetlands adjacent to streams, rivers, or lakes. Before you work in or near water or wetlands, contact us for specific information about permitting requirements.

Contact Us

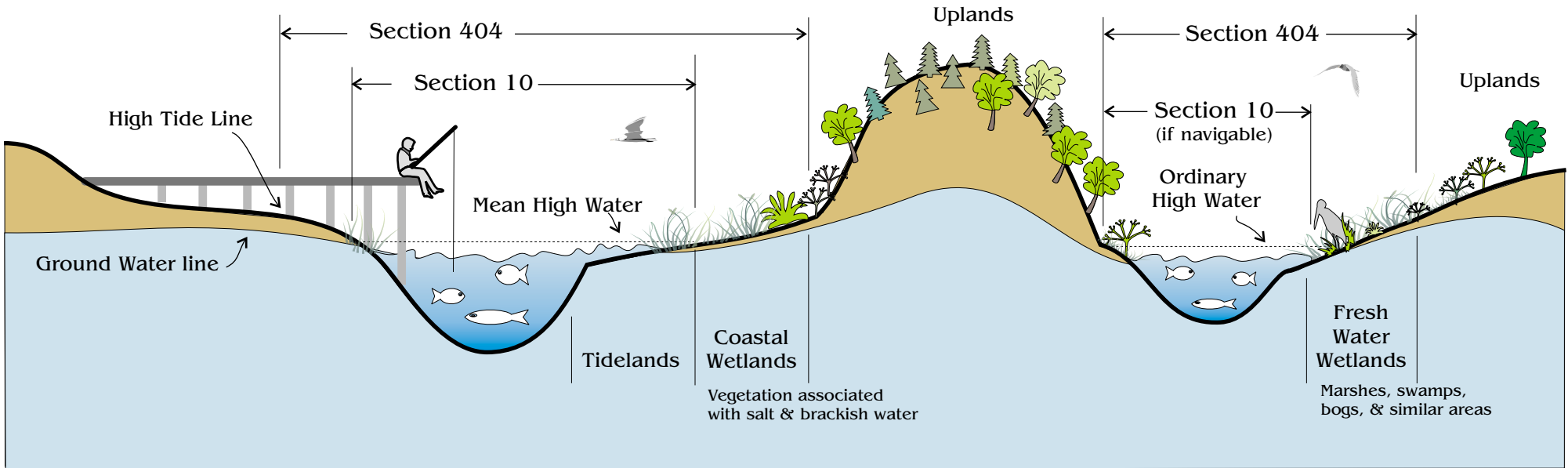
To talk to a regulatory project manager or schedule a pre-application consultation before you submit an application.

[Contact Us](#)

CORPS OF ENGINEERS REGULATORY JURISDICTION

Tidal Waters

Fresh Waters



Typical examples
of regulated activities

Section 103
Ocean Discharge
of Dredged Material

Ocean discharges of
dredged material

Section 404
Disposal of Dredged or Fill Material
(all waters of the U.S.)

All filling activities, utility lines, outfall structures,
road crossings, beach nourishment, riprap,
jetties, some excavation activities, etc.

Section 10
All Structures and Work
(navigable waters)

Dredging, marinas, piers, wharves,
floats, intake / outtake pipes,
pilings, bulkheads, ramps, fills,
overhead transmission lines, etc.