



US Army Corps
of Engineers
New England District

U.S. Army Corps of Engineers Regulatory Jurisdictions

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The Corps of Engineers regulates activities in waterways and wetlands under the authority of several laws. The permit program is designed to insure that our nation's water resources are safeguarded, that our nation's water resources are used in the best interest of the public, and that environmental, social, and economic concerns of the public are considered. Some of the many laws governing the permit program are explained below.

Section 404 of the Clean Water Act authorizes the Corps to regulate the discharge of dredged or fill material into all waters of the United States, including wetlands. Discharge of fill material includes, without limitation, the following activities:

- placement of fill that is necessary to the construction of any structure 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 and 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; and
- artificial reefs.

Section 10 of the Rivers and Harbors Act of 1899 authorizes the Corps to regulate structures and work in navigable waters of the United States. Structures and work include, without limitation, the following:

- any wharf, dolphin, weir, boom, breakwater, jetty, or groin;
- bank protection or stabilization activity (e.g., riprap, revetment, or bulkhead);
- permanent mooring structures, such as pilings;
- aerial or subaqueous power transmission lines;
- intake or outfall pipes;
- permanently moored floating vessels;
- tunnels and artificial canals;
- boat ramps;
- aids to navigation;
- any permanent or semi-permanent obstacle or obstruction;
- dredging or disposal of dredged material, excavation, and filling;
- other modifications affecting the course, location, condition or capacity of navigable waters of the United States.

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, authorizes the Corps to regulate the transportation of dredged material for the purpose of disposal in the ocean. Discharges of dredged or fill materials into territorial seas also require authorization under Section 404 of the Clean Water Act.

Section 9 of the Rivers and Harbors Act of 1899 authorizes the Corps to regulate the construction of any dam or dike across any navigable water of the United States. The Corps also issued permits for the construction of bridges and causeways until 1966 when this authority was transferred to the U.S. Coast Guard. Discharges of dredged or fill materials into any navigable water also require authorization under Section 404 of the Clean Water Act.

Individual permit applications are evaluated during a **Public Interest Review** to determine the probable and cumulative impacts of the proposed activity and its intended use on the public interest. All factors relevant to the proposal are considered, including conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, wetland values, energy needs, safety, food production, and the needs and the welfare of the people. The historic values part of this evaluation is regulated by Section 106 of the National Historic Preservation Act which requires coordination with the State Historic Preservation Officer or the Advisory Council on Historic Preservation with regard to adverse effects on any historic or prehistoric properties.

For those proposals subject to Section 404 of the Clean Water Act, a set of guidelines has been prepared by the Environmental Protection Agency in consultation with the Corps. The guidelines restrict discharges of dredged or fill material where less environmentally damaging, practicable alternatives exist.

In addition, **Section 401 of the Clean Water Act** requires applicants to obtain certification or waiver from the state water pollution control agency for discharges of dredged or fill materials. This agency reviews the activity's effect on water quality standards. **Section 307 of the Coastal Zone Management Act** of 1972, as amended, requires applicants to obtain a certification or waiver that the activity complies with the state's coastal zone management program for activities within a state's coastal zone.

In New England, most projects (98%) are authorized under one of the six Programmatic General Permits (PGPs) in place in each state. The PGPs can authorize projects with minimal impact on the aquatic environment, as described in the PGP categories. Very minor work qualifying for category 1 is automatically authorized when the requisite state permits are issued. Work exceeding category 1 is subjected to the category 2 state-federal screening process, and may proceed upon written approval by the Corps of Engineers. PGP projects are generally processed in less than 60 days.

For additional information or questions regarding specific projects, please call the Regulatory Branch at 1-800-343-4789 (in Massachusetts 1-800-362-4367).