U.S. ARMY CORPS OF ENGINEERS REGULATORY PROGRAM

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Regulatory Section
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PERMIT AUTHORITIES

- **Section 10 of the Rivers and Harbors Act of 1899**
  - Grants USACE the authority to regulate work, structures, and dredging below the mean high water mark in navigable waters of the U.S.

- **Section 404 of the Clean Water Act of 1972**
  - Grants USACE the authority to regulate the discharge of dredged or fill material below the high tide line in waters of the U.S.

- **Section 103 of the Marine Protection, Research Sanctuaries Act of 1972**
  - Grants USACE the authority to regulate the transportation and disposal of dredged material
SECTION 408

- A S. 408 review may be required if a project is in, under, or near a federal civil works project.
- These civil works projects can include, but are not limited to, navigation channels, flood control structures/projects, and jetties.
- S. 408 reviews are performed by NAE Planning, Levees, Navigation, or Operations Sections dependent on the type of civil works project.
- A S. 408 review may result in USACE granting permission for an applicant to alter a civil works project if the alteration is not injurious to the public interest and does not impair the usefulness of the civil works project.
- Regulatory cannot issue permit decisions until a S. 408 permission has been issued.
PERMIT TYPES - RGP

- **Regional General Permit (RGP)**
  - Each New England state has its own RGP.
  - Abbreviated permit process (60 days).
  - Reserved for minimal impact projects.
  - Two categories of review; self-verification (SV) and pre-construction notification (PCN).
  - No public notice period, projects are coordinated with cooperating agencies.
  - Depending on project impacts, ESA, EFH, 106 consultations are performed.
  - A permit decision letter is issued for RGP projects, SV form serves as authorization for SV projects.
  - RGPs are valid for a maximum duration of 5-years. RGP authorizations expire when the state RGP expires.
PERMIT TYPES – INDIVIDUAL PERMITS

There are two types of individual permits:

Letter of Permission (LOP)
• S. 10 only, no appreciable opposition is anticipated, and would not have significant individual or cumulative impacts.

Standard Individual Permit (SIP)
• Reserved for more complex or controversial projects.

Both permit types require noticing & full public interest review.

Permits typically processed within 120 days

Both permit types are valid for 5-years from issuance with some exceptions made for longer permit authorization durations if justified.
IP EVALUATION PROCESS

Application Submitted

Complete for Processing

15-30 day Public Notice

Comments by Agencies, interested groups, public

Full Public Interest Review

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Proffered Permit Decision

May be Appealed to Division

Final Decision by District
KEY ELEMENTS OF A PERMIT APPLICATION

• For all applications:
  • USACE application form (ENG 4345)
  • Clear, reproducible, & legible plans (locus map, plan view, & cross sections)
    • No larger than 11x17 with USACE jurisdictional boundaries identified
    • Sensitive resources such as eelgrass should be identified on plans
  • Notifications to Tribal & State Historic Preservation Officers
  • Proposed mitigation (if appropriate)
• For IPs:
  • Clear summary of project purpose & need
  • Clear summary of project impacts
  • Alternatives Analysis
BEST PRACTICES/RECOMMENDATIONS

• Engage early and often to ensure all required information is submitted.
• Pre-application meetings are recommended for complicated projects.
• Be prepared for additional information requests to support consultations.
• While USACE strives for 60/120-day permit application review timelines, reviews may take longer dependent on consultation requirements. Applications should be submitted well in advance of anticipated construction/contract deadlines.
RESOURCES

• NAE Regulatory:
  • https://www.nae.usace.army.mil/Missions/Regulatory/

• NAE Regional General Permits:
  • https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/

• NAE Mitigation Guidance:
  • https://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/

• Documents, Forms, and Guidance:
  • https://www.nae.usace.army.mil/Missions/Regulatory/Useful-Documents-Forms-and-Publications/

• Section 408:
  • https://www.nae.usace.army.mil/Missions/Section408/