

# Permitting Overview

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# Permitting Authority

- Section 10 Rivers and Harbors Act 1899
- Section 404 Clean Water Act 1972



# Section 10 RHA

- ▶ Permits for all work affecting territorial seas, navigable rivers or interstate lakes or rivers.
- ▶ Purpose: to maintain safe/passable navigable waterways
- ▶ Work in, over or under the waterway



# Section 10 Navigable Waters

- Subject to tidal action and/or;
- Historically or currently used for transportation of Interstate or Foreign Commerce
- Most major rivers in the US
  - Colorado River
  - Green River
  - Flaming Gorge Reservoir
  - Bear Lake
  - Lake Powell



# Typical Work Requiring Section 10 Permits

- Dredging & Excavation
- Boat Docks/Piers
- Marinas/Ramps/Floats
- Bank Protection/Levee Work
- Utility lines/Power lines
- Intake/Outfall Structures



# Clean Water Act

- Section 404 Clean Water Act
  - ▶ Requires that a permit be obtained from the Corps prior to discharging dredged or fill material into “waters of the United States, including wetlands”



# Typical Activities Requiring Section 404 Permits

- Any placement of dredged or fill material into waters of the United States or adjacent wetlands.
  - ▶ Site development fills for residential, commercial, or recreational developments
  - ▶ Roads
  - ▶ Stream/wetland restoration activities



# Regulatory Program

- CWA goal:
  - To protect the physical, chemical and biological functions of our Nation's waters.
- Corps' Regulatory Mission:
  - To protect the Nation's aquatic resources, while allowing for reasonable development through fair, flexible and balanced permit decision making.





# Corps' Permitting Program



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# Types of Permits

## General Permits (GP): 45-60 days

- ▶ For minimal adverse effects to aquatic environment
- Nationwide Permit (NWP):
  - ▶ Up to ½ acre impact or 300 linear feet of stream
  - ▶ Activity specific
    - NWP 13 (Bank Stabilization), NWP 14 (Road Crossings),
    - NWP 12 (Utility Lines), NWP 29 (Residential Development)

## Standard Permits (SP): 120 days

- Individual Permits (IP)
- Letters of Permission (LOP)
  - ▶ Activities with more than minimal impacts



# NWPs Cont'n

- Apply via SPD PCN Checklist or Eng 4345
  - ▶ Must supplement Eng 4345
- 32 General Conditions
  - ▶ Addressed through PCN Checklist
- 24 Utah Regional Conditions
  - ▶ Addendum to PCN Checklist
  - ▶ Not all applicable to each NWP
- Note on 2017 NWPs



# SPs Cont'n

- Apply via Eng Form 4345
  - ▶ 2-page form
  - ▶ 7 items needed for Public Notice
  - ▶ Much more information needed from applicant to complete the decision
    - Alternatives, ESA and Cultural Properties reports, public/agency comment responses, etc.
  - ▶ Can only authorize the LEDPA
  - ▶ Requires individual 401 cert



# Utah GPs of Note



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# General Permit 8

- GP 8- Emergency Actions
  - ▶ Repair/protection of structures
  - ▶ Requires 48-hour notice
- Work may not require permit



# General Permit 10

- GP 10- Joint Permit with Utah SA
  - ▶ Newly authorized in February 2016
  - ▶ Old GP 40
  - ▶ Authorized impacts to streams in Utah
    - No impacts to special aquatic sites



# Changes from GP 40

- ▶ No LF limit on restoration projects
- ▶ Riffle/pool complex prohibition lifted for restoration
- ▶ Projects requiring mitigation processed under other permits
- ▶ Minor verbage changes to conditions and application
- ▶ NLAA for ESA does not require NWP
  - Applicants incorporate changes and re-submit





# Utah LOP

- August 1, 2011
- Authorizes up to 1 acre or 500 lf of impacts
- Requires:
  - ▶ Pre-Application Meeting
  - ▶ Front load the application
- Processed in 60 days



# Questions?

Visit our website for more information:

<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>



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# Thank You

## **Contact Information:**

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## **Web Page:**

<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

