

Regulatory Program Primer

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US Army Corps of Engineers
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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/waterways in the US
 - Sacramento River
 - Colorado River
 - Lake Powell
 - Lake Mead



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”



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.



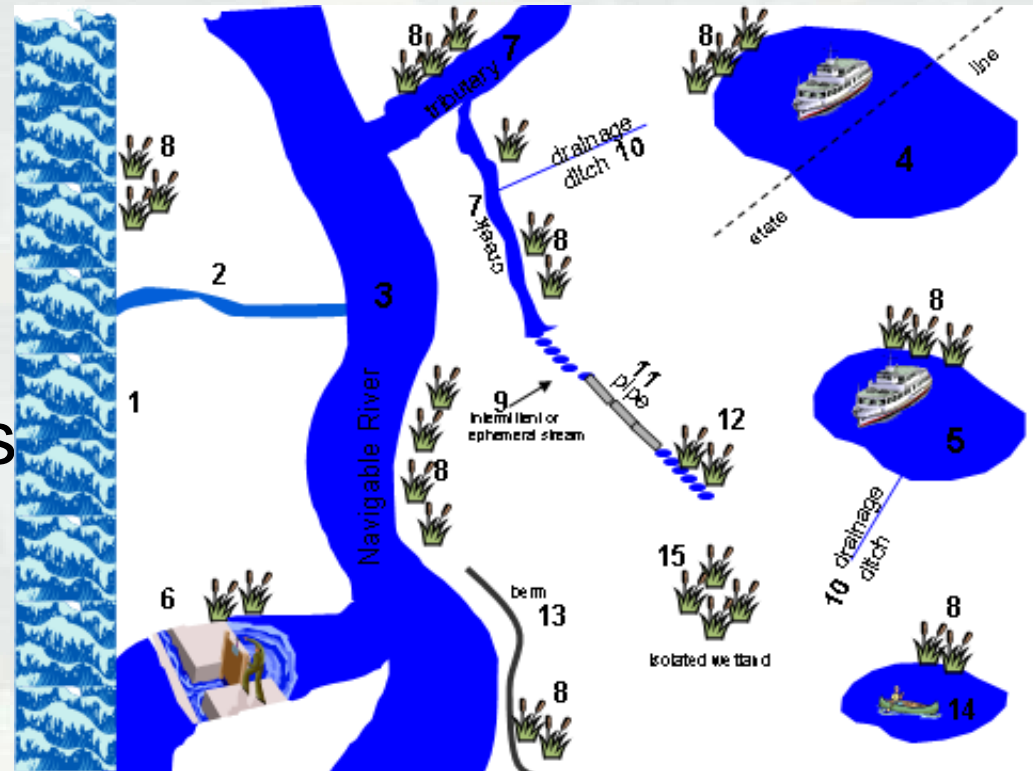
Typical Activities Requiring Section 404 Permits

- 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



Waters of the United States

- Waters of the United States consist of:
 - ▶ All Traditional Navigable Waters and their tributaries
 - ▶ All Interstate waters and their tributaries
 - ▶ Adjacent wetlands to those waters



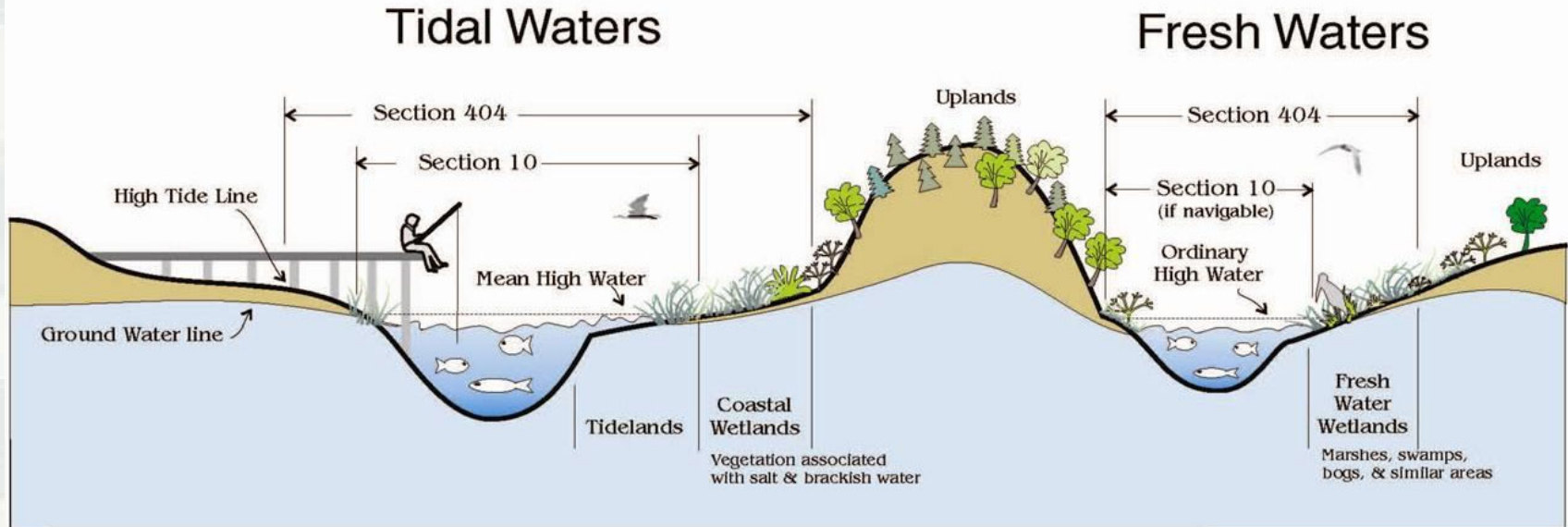
Traditional Navigable Waters (TNW)

- Section 10 RHA Waterways
- Waters determined in Federal Court
- Navigable-in-Fact Waters
 - ▶ Navigable
 - ▶ Interstate commerce



Corps Jurisdiction

CORPS OF ENGINEERS REGULATORY JURISDICTION



Section 103 Ocean Disposal of Dredged Material

Typical examples
of regulated activities

Ocean discharges of
dredged material

Section 404 Discharge 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.



Corps Permitting Program



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Why Does the 404 Program Exist?



Benefits of waters of U.S.

SOCIOECONOMIC

Flood Control
Wave Protection
Erosion Control
Groundwater Discharge
Aesthetics
Recreation Opportunities
 Hunting
 Fishing
 Sight Seeing
Education/Research

ENVIRONMENTAL

Water Quality
 Pollution Filter
 Sediment Removal
 Chemical Absorption
 Oxygen Production
 Nutrient Recycling
Aquatic Productivity
Fish Habitat
Waterfowl Habitat
Wildlife Habitat



Types of Permits

General Permits (GP) – 45-60 days

- ▶ Most common are the Nationwide Permits and GP 10
- Nationwide Permit (NWP) – 45-60 days
 - ▶ For minimal adverse effects to aquatic environment
 - ▶ Up to ½ acre impact or 300 linear feet of stream
 - ▶ Activity specific

Standard Individual Permits (SIP) – 120 days

- ▶ Activities with more than minimal impacts
- ▶ Letters of Permission 60-120 days



Other Requirements

- Threatened/Endangered Species Assessment
- Historic Properties Assessment



Mitigation Sequence

- AVOIDANCE
- MINIMIZATION
- COMPENSATION



Types of Compensation

- Creation of new wetlands in dry land
- Restoration of old wetlands
- Enhancement (plantings, adding water)
- Preservation (must be high quality and under threat of development)
- Stream restoration
- In-stream flows (senior water rights deeded to appropriate entity)



Questions?



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Thank You

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