

# US Corps of Engineers Wetlands Determination

## **Governing Authority:**

US Corps of Engineers administers the day-to-day program including permit decisions. EPA develops and interprets policy, guidance and environmental criteria used in evaluation permit applications and determines scope of geographic jurisdiction and applicability of exemptions.

## **Wetland Determination**

Contact US Army Corps of Engineers and complete “Wetland Determination Request Form”. The Corp requests photographs, accurate map, legal description. Identify proposed activity. The “Team New Orleans” website is:

[http://www.mvn.usace.army.mil/ops/regulatory/reg\\_wetland\\_request\\_deter.asp](http://www.mvn.usace.army.mil/ops/regulatory/reg_wetland_request_deter.asp)

Per Corp. – 2-3 months is normally required to process a routing application involving public notice.

Corp. may allow individual to hire private consultant to provide field data to expedite the determination process.

## **Manual for Defining Wetlands**

The EPA and the Corps use the Corps of Engineers Wetlands Delineation Manual to define wetlands for the Clean Water Act Section 404 permit program. Section 404 requires a permit from the Corps or authorized State for the discharge of dredged or fill material into the waters of the United States, including wetlands. The manual organizes environmental characteristics of a potential wetland into three categories: soils, vegetation, and hydrology. The manual contains criteria for each category. With this approach, an area that meets all three criteria is considered a wetland.

## **404 Permit**

Section 404 permit from the U.S. Corps of Engineers is required by the Clean Water Act.

Application: Must show that you have:

- Taken steps to avoid wetland impacts
- Minimized potential impacts on wetlands
- Provided compensation for any remaining unavoidable impacts

## **Types of Permits:**

Individual Permit – required for potentially significant impacts. These applications are reviewed by the US Corp of Engineers, which evaluates each permit under public interest review, as well as CWA compliance.

General Permit –These permits are obtained when impact is minor in scope. Such permits do not undergo individual review and allows activities to proceed with little or no delay subject to specific conditions. Such permits are used for road activities, boat launches, utility backfill, etc.

## **Typical Processing Procedure for a Standard Individual Permit**

1. Pre-application consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office\*
3. Application received and assigned identification number
4. Public notice issued (within 15 days of receiving all information)
5. 30 day comment period depending upon nature of activity
6. Proposal is reviewed\*\* by Corps and:
  - o Public
  - o Federally Recognized Tribes
  - o Special interest groups
  - o Local agencies
  - o State agencies
  - o Federal agencies
7. Corps considers all comments
8. Other Federal agencies consulted, if appropriate
9. District engineer may ask applicant to provide additional information
10. Public hearing held, if needed
11. District engineer makes decision
12. Permit issued or Permit denied and applicant advised of reason

Interesting question/answers from the Corp of Engineers website:

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

**A.** 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 and/or requirements to restore the area.

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 the nearest district regulatory office. It could save a lot of unnecessary trouble later.

**Q. Why should I waste my time and yours by applying for a permit when you probably won't let me do the work anyway?**

**A.** Nationwide, only three percent of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application. To avoid unnecessary delays pre-application conferences, particularly for applications for major activities, are recommended. The Corps will endeavor to give you helpful information, including factors which will be considered during the public interest review, and alternatives to consider that may prove to be useful in designing a project.

Wetland Mitigation - Mitigation is all actions taken to avoid, minimize, restore, and compensate for loss of ecological values due to an activity. The Rules and Regulations for Permits and Mitigation promulgated as part of the Louisiana Coastal Resources Program require compensatory mitigation for impacts to vegetated wetlands in the Louisiana Coastal Zone. These requirements state that the secretary shall not grant a Coastal Use Permit for an individual activity unless authorization is conditioned to include a requirement for compensatory mitigation to offset any net loss of wetland ecological value that is anticipated to occur.

**Mitigation Priorities**

- Mitigation must have a positive impact on ecological value of the Louisiana Coastal Zone
- Should be on-site if possible
- Located on affected landowner's property\*
- Located within the same hydrologic basin

Wetland mitigation banks are permanently protected lands that contain natural resource values (wetlands and associated uplands). These lands have been restored and managed for wildlife habitat, water quality, flood amelioration, and ecological diversity.

Wetland mitigation banks are used to compensate for adverse impacts generally occurring within a specified service area, or designated watershed. The US Army Corps of Engineers (USACE), along with other state and federal agencies, approves a specified number of wetland/stream credits available to be sold by the bank sponsor.

The permits require detailed project description.