



WETLANDS FACT SHEET #8

Clean Water Act §404: Permits

THE §404 INDIVIDUAL PERMIT PROCESS

Permit required for discharges of dredged or fill material
to wetlands and other waters of the United States
Permit application filed with the U.S. Army Corps of Engineers

Corps Issues Public Notice

Within 15 days of receiving all permit information, the Corps will issue a public notice that gives a brief description of the proposed activity, its location, potential environmental impacts, a deadline for receiving written comments, and the address for the agency receiving those comments.

Comment Period

The application is reviewed by the Corps and other interested Federal and State agencies, organizations, and individuals. The comment period can take 15 to 30 days depending upon the nature of the activity. The necessity to gather information and prepare an Environmental Impact Statement (EIS) may further extend the comment period.

Public Hearing

Normally, the Corps does not hold a public hearing on a permit; however, citizens may request that one be held. The Corps will use the testimony presented at the hearing in its permit review.

Corps Evaluation

The Corps evaluates the permit application based on its regulations (the Public Interest Review), and the §404 (b)(1) Guidelines.

Environmental Assessment and Statement of Finding

For every permit decision, the Corps prepares a statement of finding that explains how the permit decision was made. This document is public information and can provide data to assist in monitoring permit compliance or re-evaluating a permit.

Permit Issued

Permit Denied

Modified from Kathleen Rude, "Conservation: You Can Make a Difference," *Ducks Unlimited*, September/October 1990, 26-28.

TYPES OF §404 PERMITS

SECTION 404(a) INDIVIDUAL PERMITS Case-by-case review

■ Public interest review and compliance with the Section 404(b)(1) Guidelines, which are regulations issued by EPA, with the Corps.

Guidelines requirements include:

- Mitigation sequence
 - (1) avoidance of impacts through practicable alternatives,
 - (2) minimization of impacts, and
 - (3) compensation of unavoidable impacts through creation or restoration.
- No significant degradation.
- Compliance with other laws.

SECTION 404(e) GENERAL PERMITS

The Corps of Engineers has the authority to issue general permits for those categories of activities in wetlands and other aquatic areas that will have only minimal adverse environmental effects--individually or cumulatively.

- General permits are widely used and speed up the §404 permitting process because they do not require a detailed, case-specific review.
- General permits are issued on a nationwide, regional, and State basis.

If an activity falls under a nationwide permit, a discharger generally (but not always) can proceed with the activity without first applying for an individual permit. Individuals should contact their local Corps Districts for applicability of general permits.

FOR MORE INFORMATION: call the EPA Wetlands Hotline* at 1-800-832-7828

*contractor operated

Printed on Recycled Paper