

PERMIT PROCEDURES FOR DREDGING PROJECTS

OVERVIEW

Probably the most difficult aspect of a dredging project is the permitting. Under the Federal Clean Water Act and Amendments, the Corps of Engineers is required to regulate dredging in accordance with certain environmental criteria. Specific criteria are stated in Sections 404(b) and 401(a) of the act. The purpose is to protect water quality and wildlife habitat. Historically, the Corps also exercised regulatory control over dredging under Section 10 of the River and Harbor Act of 1899. Before any dredging can be done in a significant water body, a permit must be obtained.

CORPS OF ENGINEERS

In many states, the Corps has given jurisdiction over the Section 404 permits to a state agency. The usual result is that the Corps and the State use a "Joint Permit Application" form. Such forms can be obtained from the Corps of Engineers General Regulatory Branch at the appropriate District Office. In nearly all cases, they can also be obtained "On Line" from the District's web site or from the involved state agency.

PERMIT APPLICATION FORMS

The forms require information such as the quantity of materials to be dredged, the location and condition of the proposed disposal site, names and addresses of nearby landowners, and likely environmental impacts. In some cases, typically where there is historic reason to suspect that the sediments to be dredged have been contaminated by pollutants, the state or Corps of Engineers will require testing of the sediment and water to determine the likely impacts on water quality.

Details required as part of the permit application include sketches of the work to be done, such as cross sections showing before and after water depths and the proposed disposal site conditions, including any proposed levees and water control structures. Typically, a survey is needed to show the depths on the area to be dredged, which illustrates the reason the dredging is needed. The project owner can typically complete most of the information on the permit application, but an experienced engineering company normally undertakes the more complicated projects.

GENERAL PERMIT VS. INDIVIDUAL PERMITS

For smaller projects, there is what is known as a "General Permit." These can be obtained in as little as a couple of weeks after the completed application is submitted. In some states, certain maintenance activities, such as re-dredging a previously dredged private canal, fit an exemption and do not require permitting. For larger projects and new work dredging, individual permits are normally required. Obtaining an individual permit typically requires approximately 6 months due to the extensive review process.

HOW TO START THE PERMIT PROCESS

The way to start is to pick up the telephone and call the nearest Corps of Engineers office. Check their website for the office that handles your area (<http://www.usace.army.mil/>). They will give you the information you need to reach the person who handles permit applications in your area. That person will help you determine what you need.

If you need further assistance, please call Mr. Nick Nicholson of Collins Engineers. Mr. Nicholson is a senior professional engineer who has extensive experience in obtaining these types of permits. He can advise you on various options available to you and can caution you on what to expect and how to minimize your costs. Should you desire it, he can handle obtaining the permit for you. Mr. Nicholson was a member of the committee that wrote the permit regulations (40CFR230), recommended approval or denial for thousands of permit applications when he was an environmental branch chief with the Corps of Engineers, and has been continuously involved in the environmental permitting of dredging projects since 1973. He understands well the intricacies of the permitting process and the laws and regulations involved. He has been involved in one permitting lawsuit that went the US Supreme Court where his opinion prevailed. If required, he can also provide expert witness services concerning permits. Phone 912-790-0123; Cell: 912-665-1321; Fax 912-790-0125.