



## **1.0 Purpose & Scope**

Section 404 of the Clean Water Act (CWA) establishes a program that regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

The basic premise of the program is that no discharge of dredged or fill material may be permitted if: (1) a practicable alternative exists that is less damaging to the aquatic environment or (2) the nation's waters would be significantly degraded. In other words, when you apply for a permit, you must show that you have, to the extent practicable:

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

Proposed activities are regulated through a permit review process. An individual permit is required for potentially significant impacts. Individual permits are reviewed by the U.S. Army Corps of Engineers (USACE), which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. However, for most discharges that will have only minimal adverse effects, a general permit may be suitable. General permits are issued on a nationwide, regional, or State basis for particular categories of activities. The general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met. For example, minor road activities, utility line backfill, and bedding are activities that can be considered for a general permit. States also have a role in Section 404 decisions, through State program general permits, water quality certification, or program assumption.

## **2.0 Activities & Departments Affected**

- Need to identify early in the project if there are potential wetlands or waterways on the project site. Project Proponent must consult with R8 NEPA Program Specialist early in the project for due diligence review. R8 NEPA Program Specialist with work with DFC EPG on technical issues and assist the Project Manager in obtaining a Section 404 permit if required.

## **3.0 Exclusions**

- None.



**4.0 Forms Used & Permits Required: (include reporting requirements)**

**In-house GSA Forms:**

- None

**Federal and State Forms and Permits:**

- ENG Form 4345 – Application for Department of the Army Permit

**5.0 Acronyms, Abbreviations, and Definitions**

Acronyms	Meaning
CWA	Clean Water Act
GSA	General Services Administration
JD	Jurisdictional Delineation
IP	Individual Permits
NWP	Nationwide Permits
PBS	Public Building Services
USACE	U.S. Army Corps of Engineers

**6.0 Procedure**

**State Specific Procedures & Requirements**

- The Clean Water Act is a Federal law and there are no State regulations in Region 8 that are applicable. States do regulate water quality certification and may assume program requirements if designated by the USACE.

**Federal Specific Procedures & Requirements**

- See References in Section 8.

**Standardized Procedure:**

6.1 Agency identification of a need for action.

6.2 Project Proponent (most likely the Project Manager) identifies if there is a potential wetland, waterway or standing water (or particularly green area) on the site and contacts the R8 NEPA Program Specialist if there is. R8 NEPA Specialist, with assistance from EPG, reviews the U.S. Fish & Wildlife National Wetland Directory and contacts U.S. Fish & Wildlife if necessary for wetland consultation under NEPA. For the DFC, the EPG may have a pre-consultation meeting with the local USACE to identify if there may be jurisdictional waterways involved in the project.

6.3 If there is a potential that waterways of the United States will be impacted by the project, the R8 NEPA Program Specialist and/or the EPG must apply for a Section



404 permit from the USACE prior to the initiation of the proposed action. First it must be determined whether the project would fall under a nationwide or individual permit. Nationwide permits (NWPS) are a type of general permit issued by the USACE and are designed to regulate with little, if any, delay or paperwork certain activities having minimal impacts. An individual permit is required for potentially significant impacts. Individual permits are reviewed by the USACE which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines.

- 6.4 Both permits require the development of a permit application that is prepared for the local USACE asking for their official determination (jurisdictional determination) of whether any waterways/waterbodies in the project area meet the definition of waters of the U.S. and are therefore subject to regulation under the Clean Water Act (if not already determined). This permit application will also provide information that will be the basis of the permit. The GSA Project Manager in consultation with the R8 NEPA Program Specialist and/or EPG will complete a permit application - may use Form ENG 4345 or a letter including all required documentation to include the appropriate types of illustrations to properly depict the work to be undertaken and include a delineated area/boundary of the proposed jurisdictional waterway. This permit application may be completed by GSA or a GSA contractor. Following are key components of information to be included in the permit application:

A general vicinity map that clearly identifies the area being evaluated for the jurisdictional determination ("evaluation area") and shows pertinent geographic features such as county and township boundary lines, major roads, streams, and other relevant landscape features. (Note that the "evaluation area" may be larger than the "project area". This will occur when it is necessary to examine water-bodies outside the project area to determine the jurisdictional status of certain waterbodies within the project area or when water-bodies in the project area extend outside project acre boundaries.)

- A detailed drawing or map of the evaluation area that shows pertinent geographic and landscape features, including all waterbodies.
- Other maps that provide information pertinent to the jurisdictional determination, such as a soil survey map, National Wetland Inventory (NWI) map, or USGS topographic map.
- An appropriately detailed written description of each water-body found in the evaluation area, including a wetland delineation when there is a possibility that wetlands occur in the project area. All wetland delineations shall be conducted in accordance with the 1987 Manual and include accurate, fully completed data sheets.



- Photographs necessary to adequately document the condition of the project area and jurisdictional status of the waterbodies in the evaluation area. Photographs should portray pertinent structures and landscape features, such as waterbodies and buffer zones, and document the results of any wetland delineation conducted.
- A clear and concise discussion of the jurisdictional determination made for each waterbody, including a rationale for each determination.
- A summary drawing, or map, that clearly documents the boundary of the area evaluated for the jurisdictional determination and the location and extent of waters of the United States that occur within the evaluated area. The summary drawing should be limited to a single 8½" x 11" sheet whenever practicable and include the following elements:
  - a. A clear drawing of the area evaluated for the jurisdictional determination, including all pertinent waterbodies and landscape features. A wetland or other waterbody that extends across the project area boundary should be included in its entirety whenever practicable. (Note: The boundaries of the "project area" and the "evaluated area" of the jurisdictional determination are not necessarily the same.)
  - b. A title that includes the wording "Preliminary Jurisdictional Determination." The Corps reference number, if known, should also be included somewhere in the drawing.
  - c. A clear and accurate delineation of all waters of the United States that occur in the evaluation area, even if these waterbodies would not be impacted by the proposed activity.
  - d. A clear and accurate delineation of those waterbodies outside the project area that are relevant to determining whether a particular waterbody in the project area is "adjacent to" or "isolated from" the surface water tributary system.
  - e. Any other pertinent structures and landscape features, such as non-jurisdictional waterbodies, levees, dams, roads, culverts, outfall structures, buildings, forested areas, and buffer zones.
  - f. A legend that includes the following elements:
    - North arrow
    - Graphical scale, such as a bar scale, that changes (and remains accurate) as the size of the drawing is changed. Do not use a non-graphic scale such as "1 inch = 200 feet."



- The symbol (e.g., dashed line) that identifies the boundary of the area evaluated for the jurisdictional determination. (Another symbol may be used to identify the boundary of the project area, if it is different than the evaluation area.)
- The symbol (e.g., cross-hatching) that identifies the location and extent of "Waters of the United States" in the evaluation area. (Alternatively, the legend includes that set of symbols that identifies each basic category of waters of the United States present in the evaluation area. These symbols might have titles such as "Waters of the United States: Stream" or "Waters of the United States: Forested Wetland").
- The symbol that indicates the location where photographs were taken and the direction that the photographer faced (if not included in other drawings/maps).
- The symbol that identifies the wetland delineation data sheet locations (if not included elsewhere in the jurisdictional determination).
- Symbols needed to identify other pertinent structures and landscape features included in the summary drawing.

6.5 If an Individual Permit is required, it is prepared by the Regional NEPA Program Specialist and Project Manager and/or their contractor. The following are the components of this process:

1. Pre-application consultation (optional)
2. Applicant submits ENG Form 4345 with documentation (similar to information identified above) to district USACE office.
3. Application received and assigned identification number.
4. Public notice issued (within 15 days of receiving all information).
5. 15 to 30 day comment period depending upon nature of activity.
6. Proposal is reviewed by USACE and:
  - Public
  - Special interest groups
  - Local agencies
  - State agencies
  - Federal agencies
7. USACE 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 in consultation with USACE Headquarters.



12. Permit issued or permit denied and applicant advised of reason.

6.6 USACE provides results of determination and any mitigation requirements, such as long term monitoring, required as part of the permit.

6.7 Project Manager implements the project and includes the requirements of the permit in the Project Management Plan.

## 7.0 Records Management

Section 404 Permits are included in project files and NEPA project files.

## 8.0 References

- Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. §§ 1251–263 *et seq.*
- GSA Order ADM 1095.5 (Wetland Compliance Guide)
- EO 11990, Protection of Wetlands, May 24, 1977
- USACE Video Webinar ENG 4345 Form - <http://w3.saj.usace.army.mil/permits/RDAvatarPRV201203/index.html>

## 9.0 Appendices

Attachment A: Wetlands/Waterbody Flowchart

Attachment B: ENG 4345 Form - Application For Department of the Army Permit (33 CFR 325) [Source: <http://publications.usace.army.mil/publications/forms/>]

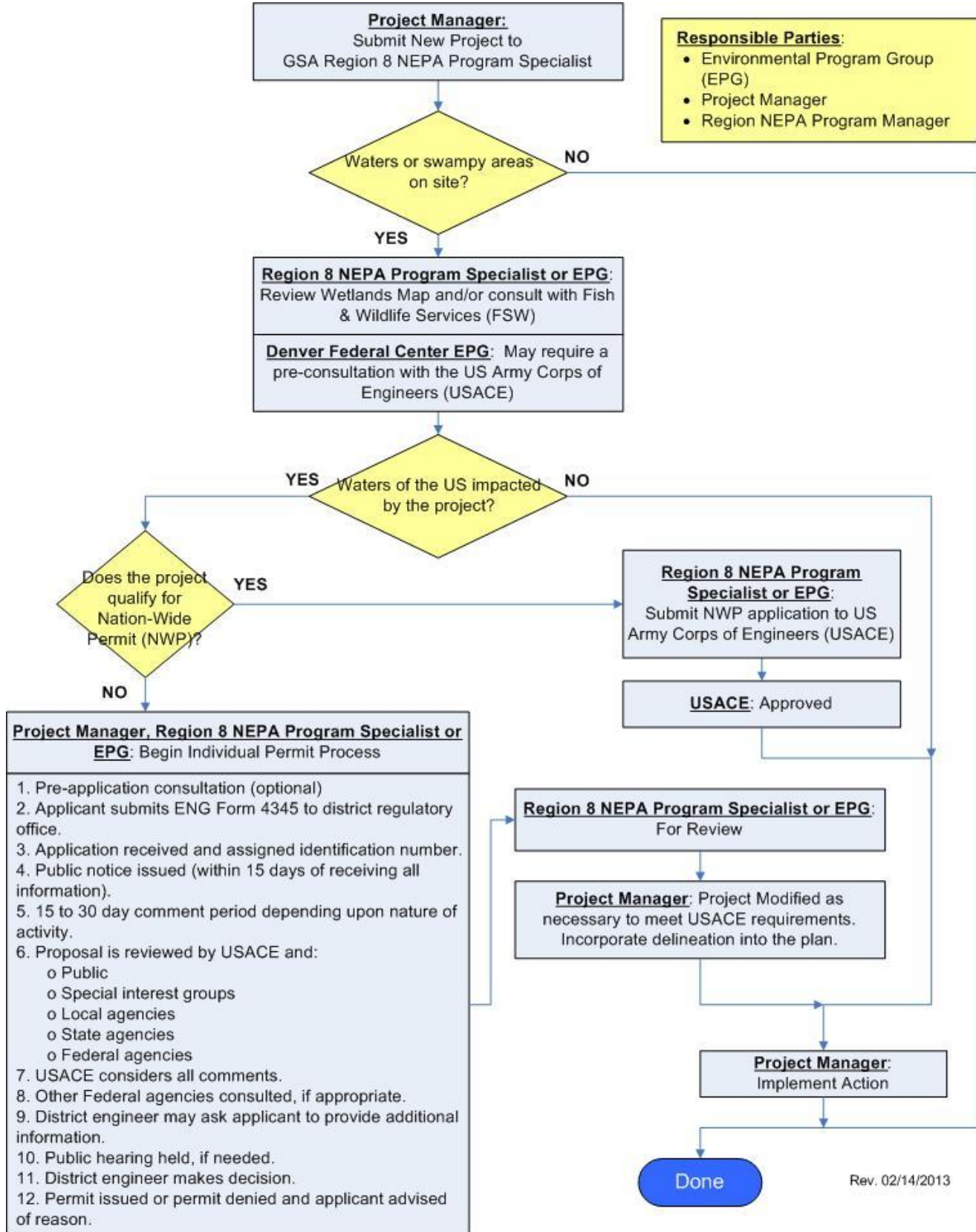
Document Control Information:	Approved & Dated:
Wetlands and Streams "Month-Date-Year".doc	RJM Feb. 15, 2013

Document Revision and Update:		
Revision Date	Nature of Revision	Revision made by:
04/20/2012	Working Draft	Lisa Haskins, Mike Gasser
02/14/2013	Revised, updated, and completed	Lisa Haskins, Mike Gasser



**WETLAND AND WATERWAYS REGULATION AND PERMITS**  
*Region 8 Sustainability & Environmental Management System*

ATTACHMENT A: Wetlands/Waterbody Flowchart





ATTACHMENT B: ENG 4345 Form - Application For Department of the Army Permit (33 CFR 325)

**Regulatory Program of the US Army Corps of Engineers**  
**Instructions for Preparing a Department of the Army Permit Application**

*Attachment to ENG FORM 4345, Feb 94 (Proponent: CECW-OR) (US GPO: 1994-520-478/82018)*

Blocks 1 through 4. To be completed by Corps of Engineers.

Block 5. Applicant's Name. Enter the name of the responsible party or parties. If the responsible party is-an agency, company, corporation or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

Block 6. Address of Applicant. Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

Block 7. Applicant Telephone Number(s). Please provide the number where you can usually be reached during normal business hours.

Blocks 8 through 11. To be completed if you choose to have an agent.

Block 8. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer or any other person or organization. Note: An agent is not required.

Block 9 and 10. Agent's Address and Telephone number. Please provide the complete mailing address of the agent, along with the telephone number where he/she can be reached during normal business hours.

Block 11. Statement of Authorization. To be completed by applicant if an agent is to be employed.

Block 12. Proposed Project Name or Title. Please provide name identifying the proposed project (i.e., Landmark Plaza, Burned Hills Subdivision or Edsall Commercial Center).

Block 13. Name of Waterbody. Please provide the name of any stream, lake, marsh or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 14. Proposed Project Street Address. If the proposed project is located at a site having a street address (not a box number), please enter here.

Block 15. Location of Proposed Project. Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

Block 16. Other Location Descriptions. If available, provide the Section, Township and Range of the site and/or the latitude and longitude. You may also provide description of the proposed project location, such as lot numbers, tract numbers or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile down from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

Block 17. Directions to the Site. Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site.

Block 18. Nature of Activity. Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be





constructed on a fill, piles or float supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

**Block 19. Proposed project Purpose.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20. Reason(s) for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 22. Surface Areas of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

**Block 23. Is Any Portion of the Work Already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization if possible.

**Block 24. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24. Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.

**Block 25. Information about Approvals or Denials by Other Agencies.** You may need the approval of other Federal, state or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 26. Signature of Applicant or Agent.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

## DRAWINGS AND ILLUSTRATIONS

### General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8 1/2 x 11 inch plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate and contain all necessary information.



**WETLAND AND WATERWAYS REGULATION AND PERMITS**  
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<b>U.S. ARMY CORPS OF ENGINEERS</b> <b>APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT</b> <b>(33 CFR 325)</b>		OMB APPROVAL NO. 0710-0003 EXPIRES: 28 FEBRUARY 2013	
<p>Public reporting for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please <b>DO NOT RETURN</b> your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.</p>			
<b>PRIVACY ACT STATEMENT</b>			
<p>Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.</p>			
<b>(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)</b>			
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
<b>(ITEMS BELOW TO BE FILLED BY APPLICANT)</b>			
5. APPLICANT'S NAME First - _____ Middle- _____ Last- _____ Company- _____ E-mail Address- _____		8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) First - _____ Middle- _____ Last- _____ Company- _____ E-mail Address- _____	
6. APPLICANT'S ADDRESS: Address- _____ City - _____ State - _____ Zip - _____ Country - _____		9. AGENT'S ADDRESS: Address- _____ City - _____ State - _____ Zip - _____ Country - _____	
7. APPLICANT'S PHONE NOs. w/AREA CODE a. Residence      b. Business      c. Fax _____		10. AGENTS PHONE NOs. w/AREA CODE a. Residence      b. Business      c. Fax _____	
<b>STATEMENT OF AUTHORIZATION</b>			
11. I hereby authorize, to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.			
_____ SIGNATURE OF APPLICANT		_____ DATE	
<b>NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY</b>			
12. PROJECT NAME OR TITLE (see instructions)			
13. NAME OF WATERBODY, IF KNOWN (if applicable)		4. PROJECT STREET ADDRESS (if applicable) Address _____ City - _____ State- _____ Zip- _____	
15. LOCATION OF PROJECT Latitude: °N _____ Longitude: °W _____			
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID _____ Municipality _____ Section - _____ Township - _____ Range - _____			
17. DIRECTIONS TO THE SITE			
18. Nature of Activity (Description of project, include all features)			



**WETLAND AND WATERWAYS REGULATION AND PERMITS**  
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19. Project Purpose (Describe the reason or purpose of the project, see instructions)

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type \_\_\_\_\_ Type \_\_\_\_\_ Type \_\_\_\_\_  
 Amount in Cubic Yards \_\_\_\_\_ Amount in Cubic Yards \_\_\_\_\_ Amount in Cubic Yards \_\_\_\_\_

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres \_\_\_\_\_  
 or  
 Linear Feet \_\_\_\_\_

23. Description of Avoidance, Minimization, and Compensation (see instructions)

24. Is Any Portion of the Work Already Complete?  Yes  No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental.

a. Address- \_\_\_\_\_  
 City - \_\_\_\_\_ State - \_\_\_\_\_ Zip - \_\_\_\_\_  
 b. Address- \_\_\_\_\_  
 City - \_\_\_\_\_ State - \_\_\_\_\_ Zip - \_\_\_\_\_  
 c. Address- \_\_\_\_\_  
 City - \_\_\_\_\_ State - \_\_\_\_\_ Zip - \_\_\_\_\_  
 d. Address- \_\_\_\_\_  
 City - \_\_\_\_\_ State - \_\_\_\_\_ Zip - \_\_\_\_\_  
 e. Address- \_\_\_\_\_  
 City - \_\_\_\_\_ State - \_\_\_\_\_ Zip - \_\_\_\_\_

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

\* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

\_\_\_\_\_  
 SIGNATURE OF APPLICANT

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 SIGNATURE OF AGENT

\_\_\_\_\_  
 DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.