

Norfolk District Regulatory Office

Stream Bank Stabilization/ Stream Restoration

Regena Bronson

Norfolk District , Fredericksburg Field Office

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Rivers and Harbors Act of 1899, Section 10

Requires a permit for dredging or the placement of structures or fill material in navigable waterways

“Navigable” under Section 10: ~“those waters that are subject to the ebb and flow of the tide and/or presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign “commerce””.



Clean Water Act of 1972

Section 404

Requires a permit for the placement of fill material in waters of the United States, including wetlands

**Waters and Wetlands under Section 404: ~
“encompasses Section 10 navigable waters plus their tributaries and adjacent wetlands and isolated waters where use, degradation, or destruction of such waters could effect interstate or foreign “commerce”.**



Examples of Activities Within The Corps Jurisdiction

Under Section 10 (RHA only):

**Private/commercial/industrial piers,
dredging, jetties, bridges that involve
placement of fill, etc.**

Under Section 10 RHA & 404 CWA:

Rip Rap Revetment, Bulkheads, etc.

Under Section 404 CWA only:

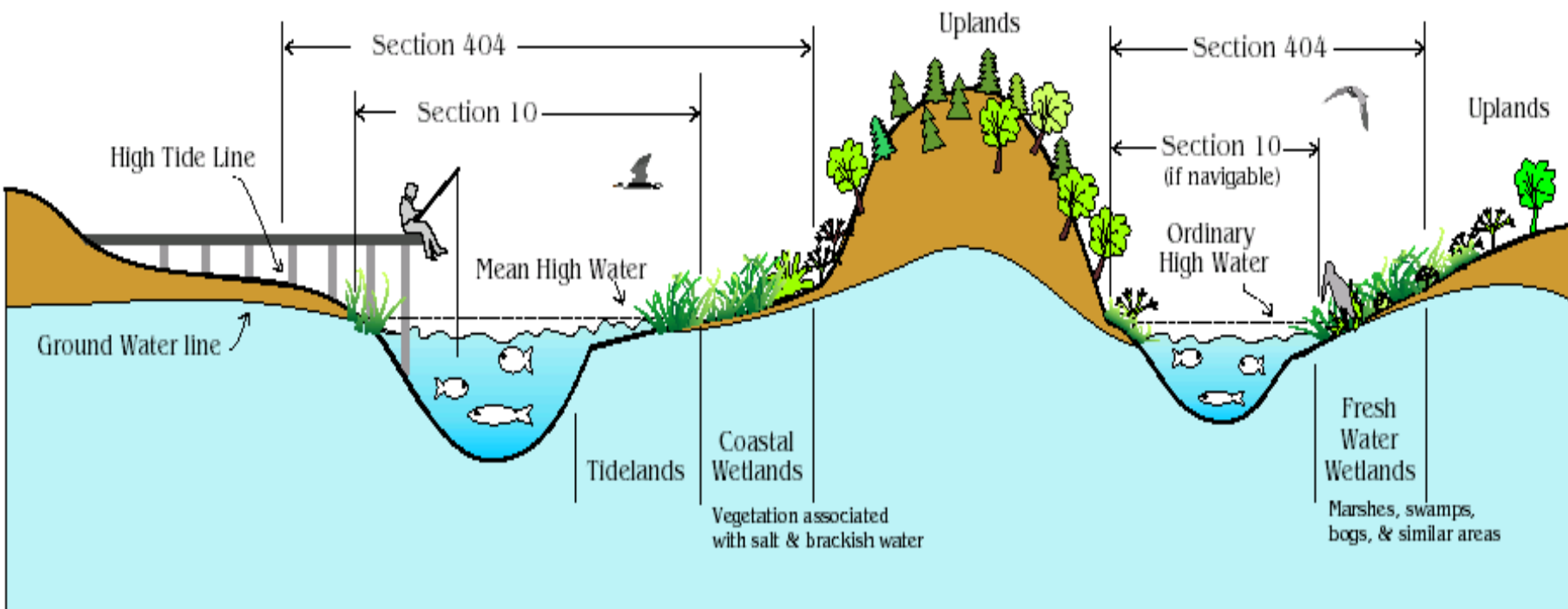
**Road Crossings, Dams, Land Clearing, and
Residential and Commercial Development in
non-tidal wetlands and streams.**



CORPS OF ENGINEERS REGULATORY JURISDICTION

Tidal Waters

Fresh Waters



Section 103
Ocean Discharge
of Dredged Material

Typical examples
of regulated activities

Ocean discharges of
dredged material

Section 404

Disposal 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.



Ordinary High Watermark in Non-Tidal Waters



Stream Restoration above OHW without Rip-Rap



Bank Stabilization that may require a permit.



Structures successfully performing in a stream



When are **YOU** required to get a Permit?

You may require a permit if you meet one or more of these conditions –

- Project will be constructed below OHW.
- Project will be constructed in Wetlands.
- Repair projects that will go outside of existing/original footprint (i.e. dams, road crossings, ponds & bulkheads).
- Projects with a tidal influence.



Starting the Permit Process

- Contact local Corps representative for a Pre-Application form and/or meeting for clarification and details
- Corps Representative for Orange County – Hal Wiggins (540) 548-2517 or email harold.j.wiggins@usace.army.mil
- Have a proposed plan, available mapping, and project description or design available to discuss at the site visit.



Types of Permits

- **Nationwide Permit 13 (Bank Stabilization)**
- **Nationwide 18 (Minor Discharges)**
- **Nationwide Permit (27) Aquatic Habitat Restoration, Establishment, and Enhancement Activities**



Nationwide Permit (13) Bank Stabilization

- (a) No material is placed in excess of the minimum needed for erosion protection;
- (b) The activity is no more than 500 feet in length along the bank, unless this criterion is waived in writing by the district engineer;
- (c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless this criterion is waived in writing by the district engineer;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless this criterion is waived in writing by the district engineer;
- (e) No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any water of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,
- (g) The activity is not a stream channelization activity.



Nationwide Permit (18) Minor Discharges

- (a) The quantity of discharged material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line;
- (b) The discharge will not cause the loss of more than 1/10 acre of waters of the United States; and
- (c) The discharge is not placed for the purpose of a stream diversion.
- Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The discharge or the volume of area excavated exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line, or (2) the discharge is in a special aquatic site, including wetlands. (See general condition 27.) (Sections 10 and 404)



Nationwide Permit (27) Aquatic Habitat Restoration, Establishment, and Enhancement Activities

- **Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters, provided those activities result in net increases in aquatic resource functions and services.**
- **Activities could include the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms, current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders**
- **Additional activities listed in the NWP27**



Additional Resources

- Virginia Department of Environmental Quality

<http://www.deq.virginia.gov>

- Virginia Marine Resources Commission (VMRC) Habitat Management Division <http://www.mrc.virginia.gov/index.htm>

- Corps Representative for Orange County – Hal Wiggins (540) 548-2517 or email harold.j.wiggins@usace.army.mil

- Norfolk District USACE website

http://www.nao.usace.army.mil/Regulatory_Branch/Common_Request_ed.asp .



Questions????

