

U.S. Army Corps of Engineers Regulatory Division



**US Army Corps
of Engineers** ®
Jacksonville District

U.S. Army Corps of Engineers



Regulatory Program Overview

Most Commonly Utilized Authority

- Section 10 of the Rivers & Harbors Act of 1899
 - prohibits the obstruction or alteration of navigable waters without a DA permit
 - Most common permits issued include marinas, dock, seawalls and dredging
- Section 404 of the Clean Water Act
 - prohibits the discharge of dredged or fill material into “waters of the U.S.” without a DA permit
 - Most common permits issued include fill for commercial, residential, roadways, shoreline stabilization*

* Most seawalls and riprap fall under both authorities

Types of Permit

- General Permits

- Joint FDEP/Corps = State Programmatic General Permit (SPGP)
- Other General Permits (SAJ 17, 20, 46)
 - SAJ 17 Minor structures in waters (boat lifts, mooring pilings)
 - SAJ 20 Single Family Docks
 - SAJ 46 Shoreline Stabilization (seawalls, riprap)
- Nationwide Permits (NW 3, 14,29,39)
 - NW3 Repair of currently serviceable structures
 - NW14 Linear transportation crossing
 - NW29 Residential development
 - NW 39 Commercial development

Standard Permits

- **Letter of Permission** (work that doesn't qualify for General Permit) – Requires agency coordination, notification of adjacent property owners, requires Environmental Assessment
 - Fill exceeding 0.5 acres in freshwater wetlands or 0 to 0.5 in tidal waters
 - Less than 20 residential multi-family boat slips
 - Dredging less than 50,000 cy, more than qualifies for NW/SPGP
 - **Individual Permit**-Substantial impacts, important resources
 - Requires public notice, federal & state agency notification/coordination and notification of adjacent property owners.
 - Environmental Assessment/Statement of Findings
- Both LOP and Individual Permits issued for 5+ years

How do I know I need a permit?

- A permit is required for work in navigable waters of the United States
 - Anything that affects the course, condition or location of a navigable water of the U.S.
- A permit is required to discharge fill into or dredge material from special aquatic sites, including wetlands
 - Wetlands are also waters of the U.S.

What are navigable waters?

- Navigable waters include territorial seas, waters subject to the ebb and flow of the tide, waters that have been used in the past, are used now or could be in the future for interstate or foreign commerce. The term navigable waters includes rivers, creeks, streams and waters that are connected to them (i.e. canals, even if the canals are created from uplands). Some lakes can be considered navigable

What type of Aquatic Resources exist in Charlotte County?

- Charlotte County – rich in aquatic resources-
 - Tidal Wetlands
 - Estuaries
 - Mangroves
 - Seagrass beds
 - Coastal marshes
 - Freshwater Wetlands
 - Riverine wetlands
 - Cypress and other forested wetlands
 - Freshwater marshes



Photos courtesy of NMFS, Southeast Regional Office

Permit Application Process

- Joint Application Process
 - Joint Application (ERP Form)
 - Apply first to FDEP/SWFLWMD
 - State forwards the application to Corps (short time lag)
 - Request for additional information
 - Separate process for each agency: respond separately
 - State does not forward applicant's response to Corps
 - Applicant non-response will result in withdrawn application
 - State permit not always provided to Corps, required for issuance of Corps permit in most cases

Applying Directly to Corps

- If an activity is exempt by state statute
 - Seawall or dock in upland cut canal
 - If submitting directly to Corps (i.e. seawall in canal) send FDEP self-certification with application to save time if project is in Outstanding Florida Waters
 - Print electronic self certification or provide exemption to Corps project manager
- Always protect yourself, be certain you don't need a permit from the state!
- If applying directly, pages 2-6 plus plans!

Endangered Species Act

- Section 7 of the Endangered Species Act of 1972
 - Consultation with Federal Agencies
 - U.S. Fish & Wildlife Svc
 - Manatee, Florida panther, wood stork, RCW, scrub jay
 - National Marine Fisheries Service (PRD)
 - Smalltooth sawfish, sea turtles

Photos Courtesy of USFWS & NMFS, Southeast Regional Office



Consultation Process

- Separate process from public notice
- Requires additional information in some cases (site surveys, construction methods)
- Initial determination made by Corps, agency may concur or request addition info
- Two Types of consultation: Formal and informal
- Formal consultation may result in a biological opinion
- Biological Opinion may contain “reasonable & prudent measures” therefore the BO is made a part of DA permit
- No DA permit issued until ESA issues resolved!!!
- Recent Programmatic concurrence for some species (stork, indigo snake)

Essential Fisheries Habitat (EFH)



- Magnuson Stevens Act
 - Consultation with NMFS(HCD)
 - Affects Determination:
 - Adverse
 - Minimal
 - May result in EFH
- Recommendations:
 - Project redesign
 - Minimization of impacts
- So, What is EFH???

TYPES of EFH



Photos courtesy of NMFS,
Southeast Regional Office

Permit Process cont.

Agency Re-coordination resolves concerns?

Yes



Decision Document:



Permit issued (most often with conditions)

No



Corps works to resolve

