

Build/Perform Work in Navigable Waters (DA-1)
Department of the Army (DA) Permit
Army Corps of Engineers
Regulatory Branch

Permit Packet Includes:

1. Process Overview
2. Application for Department of the Army Permit, ENG Form 4345, September 2008
3. USACE Regulatory Jurisdiction Overview
4. USACE Regulatory Jurisdiction Graphics
5. 33 CFR 320, General Regulatory Policies
6. 33 CFR 325, Processing of Department of the Army Permits

Application for DA Permit, ENG Form 4345:

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx>

Approval or Permit Required:

To conduct one of the following: (1) build structures or perform work in or affecting the course, condition, location or capacity of navigable waters, including tidal wetlands; (2) any activity that might result in a discharge of dredged or fill material into water or non-isolated wetlands or excavation in water or non-isolated wetlands; (3) transport dredged material for ocean disposal; (4) Permit to Build/Construct on Navigable Waters

Contact Information: USACE Regulatory Branch, Building 23, Fort Shafter, HI 96858-5440
(808) 835-4303, CEPOH-EC-R@usace.army.mil

Website: http://www.usace.army.mil/cecw/pages/reg_permit.aspx

NOTE:

Under Clean Water act the Army Corps of Engineers (ACOE) requires a Section 404 permit when the development activities place dredge or fill materials into jurisdiction waters, such a filing a wetland areas for project construction or filing in a streambed to build an access road to renewable energy system. To satisfy Section 404, developers must t seek either an individual permit (IP), or if the project meets certain criteria, authorization under an NWP which are programmatic permits designed to expedite approval of proposed project that impacts generally less than one half acre. NWP 51: Authorizes construction, expansion or modification of land-based renewable energy production facilities, including attendant features, involving only ½ acre non-tidal water of U.S. 300 linear feet of stream bed. NWP 52 authorizes the construction, expansion, or modification of water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features. Limited to “pilot projects involving only ½ acre tidal water of U.S. 300 linear feet of stream bed.

More information on Nationwide Permits issued by Army Corps of Engineers:

See: http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/NWP2012_qa_15feb2012.pdf

Summary of 2012 Nationwide Permits: 51 (land based) 52 (water based):

http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2012/NWP2012_sumtable_15feb2012.pdf

2012 Nationwide Permits Information

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>

Questions and Answers

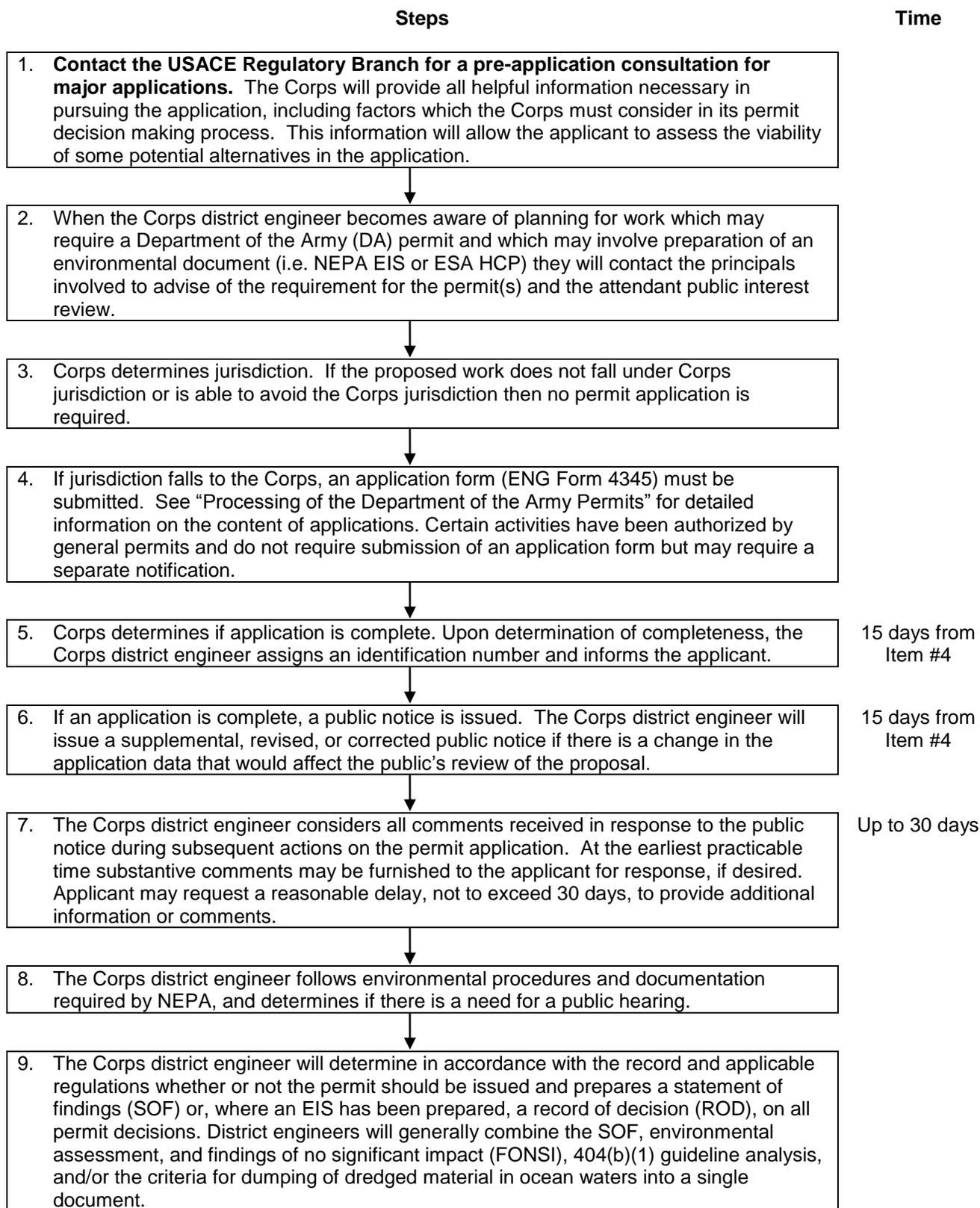
http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/NWP2012_qa_15feb2012.pdf

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Notes:

- Refer to http://www.usace.army.mil/CECW/Pages/reg_materials.aspx for current Corps regulations, administrative, and policy materials.
- A general permit is defined per 33 CFR 322.2(f) and 323.2(h). Nationwide permit (NWP) refers to a type of general permit which authorizes activities on a nationwide basis unless specifically limited per 33 CFR 330. Regional permits are another type of general permit and are issued by division or district engineers on a regional basis in accordance with 33 CFR 325.
- USACE District Engineers (DEs) review all incoming applications for individual permits for possible eligibility under regional general permits or NWPs. If the activity does not comply with the terms and conditions of one or more NWP, or if the applicant does not accept reasonable project modifications and/or activity-specific conditions to allow the project to comply, the DE will proceed with processing the application as an individual permit.
- Division and district engineers are authorized to use the following alternative procedures: Letter of permission (LOP), Regional Permit, joint procedures, or emergency procedures. LOPs are a type of permit issued through an abbreviated processing procedure which includes coordination with federal and state fish and wildlife agencies, as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without the publishing of an individual public notice. Further information is provided in 33 CFR 325.
- The term “navigable water” is defined differently between Section 10 and Section 404.

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10. If the final decision is to deny the permit, the applicant will be advised in writing of the reason(s) for denial. If the final decision is to issue the permit and a standard individual permit form will be used, the issuing official will forward the permit to the applicant for signature accepting the conditions of the permit. The permit is not valid until signed by the issuing official. Letters of permission require only the signature of the issuing official. Final action on the permit application is the signature on the letter notifying the applicant of the denial of the permit or signature of the issuing official on the authorizing document.

Total Time Period: 60 days* from Item #6

Average Time for an Individual Permit: 2 – 3 months
Average Time for an Individual Permit requiring an EIS: 3 years

* Unless (i) precluded as a matter of law or procedures required by law (see below), (ii) the case must be referred to higher authority, (iii) the comment period is extended, (iv) a timely submittal of information or comments is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 60-day period. Once the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended. For example, if the comment period is extended by 30 days, the district engineer will, absent other restraints, decide on the application within 90 days of receipt of a complete application. Certain laws (e.g., the Clean Water Act, the CZM Act, the National Environmental Policy Act, the National Historic Preservation Act, the Preservation of Historical and Archeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the Marine Protection, Research and Sanctuaries Act) require procedures such as state or other federal agency certifications, public hearings, environmental impact statements, consultation, special studies, and testing which may prevent district engineers from being able to decide certain applications within 60 days.

Fees	Amount	Maximum
Application fee if planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services	\$100	\$100
Application fee if proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise	\$10	\$10

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Total Fees:	\$10 (minimum)	\$100 (maximum)
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