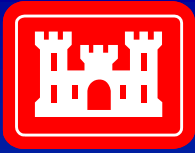


U.S. Army Corps
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U.S. ARMY CORPS OF ENGINEERS REGULATORY DIVISION WILMINGTON DISTRICT

July 22, 2025

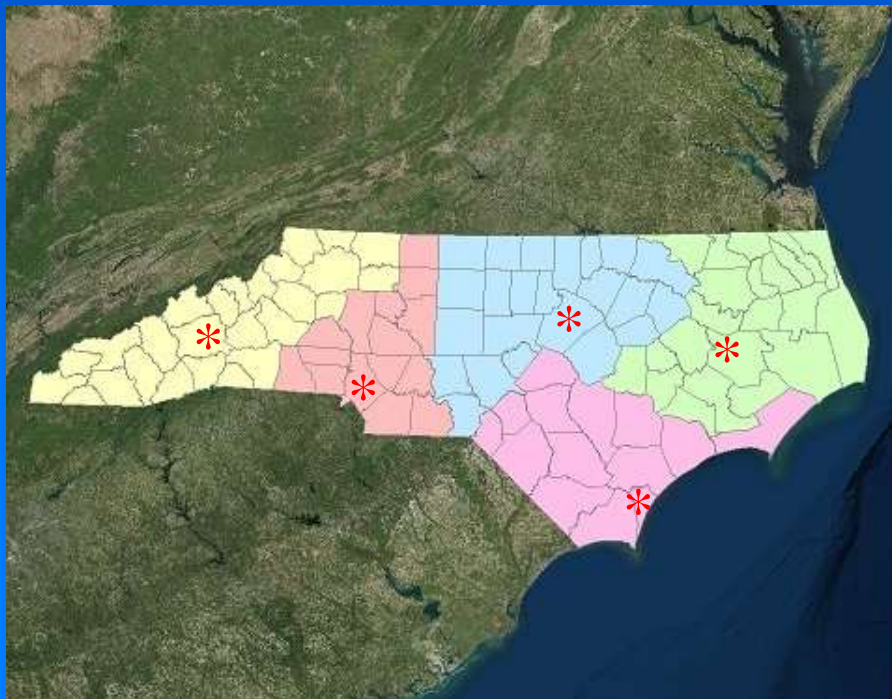
**Brad Shaver, Project Manager,
Wilmington Regulatory Field Office**



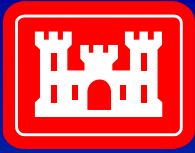
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Organization

SAW Regulatory Division's has a main office located in Wilmington and field offices located Wilmington, Washington, Raleigh, Charlotte, and Asheville.



Legend	
Corps of Engineers Wilmington District	
Regulatory Field Office - Counties	
ASHE	Asheville Field Office
CTL	Charlotte Field Office
ILM	Wilmington Field Office
RAL	Raleigh Field Office
WASH	Washington Field Office
	Regulatory Field Office



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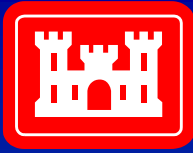
Authorities

Section 10 of the Rivers and Harbors Act (1899)

Protection of the Nations navigable waters

Section 404 of the Clean Water Act (1972)

To restore and maintain the chemical,
physical, and biological integrity of the
Nations waters.



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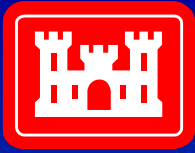
Authorities – Section 10 (33 U.S.C. 401, et seq.)

Section 10 Rivers and Harbors Act of 1899

- Regulates activities that affect course, location, and navigable capacity
- Prohibits unauthorized obstruction or alteration of any navigable water of U.S.
- All work (dredging, docks, pilings, marinas, fill, etc)
- Authorizes the Secretary of the Army to issue permits in navigable waters



These actions are typically done in concert with the Division of Coastal Management(DCM). DCM is lead.



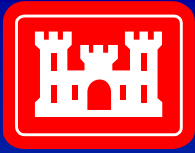
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Section 404, Clean Water Act

- **Regulates all waters of the United States, including wetlands, for the discharge of dredged and/or fill material; including mechanized land clearing**
- **Authorizes the Secretary of the Army to issue permits for the discharge of dredged or fill material.**

The State of NC has a
Section 401 Water Quality
Certification Program.





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Section 404, Clean Water Act

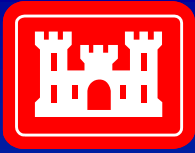
Geographic definition (33CFR 328.3 (a))

In Carolina Beach the Corps regulates wetland waters of the US and non-wetland waters of the US, ie **wetlands, streams, jurisdictional ditches**, and **open water areas** with downstream connections.

Wetlands must have three characteristics:

- Hydric soils
- Hydrology
- Hydrophytic vegetation

Non wetlands waters must have an ordinary high waters mark and downstream connection.

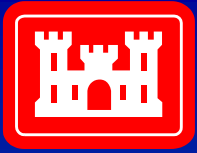


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Section 404 of the Clean Water Act

WETLANDS

- Wetlands are jurisdictional provided they are adjacent to relatively permanent waters (RPWs).
- Previous rules allowed for a broader definition of adjacent but in general now wetlands must be abutting RPWs. (result of the Sackett Supreme Court decision) *Culverts do not sever jurisdiction through a RPW flow path.*
- EPA and the Corps are working on a new rule as we speak.



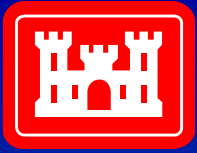
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Wetland Functions

Both jurisdictional and non-jurisdictional

- Storm storage (flood abatement)
- Nutrient reduction to receiving waters
 - Aquifer recharge
 - Erosion control
 - Wildlife habitat

One acre of wetlands holds between 330,000 and 1.5 million gallons of waters depending on depth above confining layer.

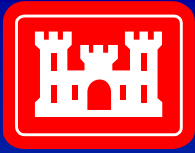


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Permitting

Types of Department of the Army Permits

1. Regional General: restricted to activities authorized within a specific state; generally did not have a notification requirement.
2. Nationwide General: for commonly recurring activities across the entire United States; activities with minimal adverse impacts, most have notification requirements.
3. Individual (Standard): for activities not eligible for Regional or Nationwide General Permits.

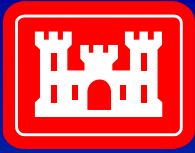


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PERMIT EVALUATION

Section 404(b)(1) Guideline Sequencing

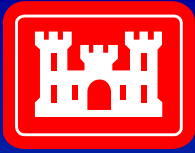
- Avoidance of wetlands
 - Minimizing impacts on wetlands
 - Compensatory mitigation for unavoidable impacts
- The Corps must balance property rights with the environmental impacts.



Questions from the Council

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- **How long has the program been around and have the rules recently changed?** The program started in 1972 handed down by the EPA to USACE. The most recent rule changes came in August 2023 in the form of the amended 2023 waters of the US Rule. Most recent guidance handed down after the Sackett decision concerning adjacency.
- **How does the program protect wetlands on different size properties?** The Corps program is a permit program not a protection program. Our mission is to regulate not protect. This again comes in the form of balancing property owner rights with environmental considerations. We are neither project opponents or proponents.
- **Does the program do anything to mitigate potential issues with adjacent properties?** When the project rises to a standard permit, we seek the input from adjacent properties and allow the applicant to rebut the concerns, but the Corps must make the final determination. Nationwide permits cover actions considered minimal impacts and does not have the same public notice procedures.
- **Why can someone pay to fill in wetlands if the money is used to buy wetlands in other areas outside the Town?** The Corps must follow the 2008 mitigation rule developed by the EPA addressing the hierarchy of mitigation options.



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Wilmington Regulatory Homepage

[https://www.saw.usace.army.mil/Missions/
Regulatory-Permit-Program/](https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/)

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