USACE REGULATORY PROGRAM
IN MISSOURI

David Meyer
Jennifer Skiles

Regulatory Branch
St. Louis District Office
Corps Districts in Missouri

U.S. Army Corps of Engineers Districts in the State of Missouri

Kansas City District
Kansas City Regulatory Office
221 Bolivar Street, Suite #103
Jefferson City, MO 65101
Telephone: 573-634-2248
FAX: 573-634-7860

Rock Island District
Clock Tower Building
Post Office Box 2004
Rock Island, IL 61204-2004
Telephone: 309-784-0351
FAX: 309-784-5191

St. Louis District
1222 Spruce Street
St. Louis, MO 63103-2833
Telephone: 314-331-4976
FAX: 314-331-6741

Little Rock District
Post Office Box 867
Little Rock, AR 72203-0867
Telephone: 501-324-5295
FAX: 501-324-6613

Memphis District
167 North Main, B202
Memphis, TN 38103-1984
Telephone: 901-544-3473
FAX: 901-544-6211

Missouri Counties Map

[Map showing the districts and counties in Missouri]
Regulatory Program Authorities

Section 10
Rivers and Harbors Act of 1899
Construction and Dredging on Larger Rivers

Section 404
Clean Water Act 1972
Discharge of Dredged and/or Fill Material into Waters of the United States
Corps’ Regulatory Mission
To protect the Nation’s aquatic resources and navigation while allowing reasonable development through fair and balanced decisions.

Clean Water Act
To restore and maintain the chemical, physical and biological integrity of our nation's waterways
Clean Water Act

EPA Programs – Delegated to:

- **Section 401** – MDNR - Water Quality Certifications associated with any Section 404 Permit issued by USACE

- **Section 402** – MDNR – NPDES Point & Non-point Discharges of Pollutants (Land Disturbance & MS4s)

- **Section 403** – USACE – Ocean Discharges

- **Section 404** – USACE -- Permit for Discharge of Fill or Dredged Material
Corps Regulatory Program
Branch Functions

Permit Evaluation

- Evaluate permit applications for the placement of fill in wetlands and waters of the United States.
- Nationwide Permits (NWPs) for smaller minor activities (no fee)
- Larger impact, Standard Permit/(IP)s have $100 fee.

Water Quality Certification (MDNR)

- Section 401 requires that any applicant for a 404 permit must first obtain water quality certification from the State.
- If the State finds that the activity will violate state water quality standards, it may deny certification.
- Most NWP fit General WQC
- IP and some NWP need Individual WQC
- Individual WQC have fee
Corps Regulatory Program Branch Functions Continued…

- **Enforcement**
  - Ensure permit compliance and resolve unauthorized activities.

- **Compliance and Mitigation**
  -Protects resource and ensures successful mitigation of impacts
How does the Corps determine what waterbodies we regulate?

DEFINED BED & BANK

OHWM

- COE assesses physical and biological features to determine if drainage way has defined bed and bank.
- Ordinary High Water Mark features
- Connectivity to navigable waterway

### Evidence of OHWM

<table>
<thead>
<tr>
<th>Feature</th>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Shelving</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil Change</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clear Shoreline</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Natural Bank Line</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vegetation loss</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presence of Debris</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Online Resources
What Types of Waterbodies We Regulate:

- Perennial Streams
- Ephemeral Streams
- Intermittent Stream
Wetlands

- Wetland Types: Forested, Scrub-Shrub, Emergent, Open Water
- Three parameters – Plants, Soils, & Hydrology
- Connectivity to Waters
- Online resources: Web Soils Survey, National Wetland Inventory Maps, and USGS Topography Maps
Who Needs a Corps Permit?
- Anyone that is planning to work in wetlands and/or waters of the United States.
- Includes: Federal, state, local governments, county highway departments, developers, contractors, farmers, utility companies, levee districts, private individuals, etc.

Common Activities Requiring A Permit
- **Section 10/404**
  - River Fleeting
  - Loading And Unloading Facilities
  - Marinas
  - Commercial Dredging
  - Boat Docks/Ramps
  - Utility Line Crossing
  - Bridges

- **Section 404**
  - Residential & Commercial Development
  - Transportation Projects
  - Utilities
  - Mining – *Mine Expansion*
  - Agricultural *exemptions apply*
  - Stream Crossings
  - Lakes and Ponds
  - Stabilization Structures
3 Types of Section 404 Permits

• **Nationwide Permits - NWP**  
  - Reissued every 5 years by HQ  
  - Minimal Net Adverse Impacts, Can be Conditioned  
  - Regional Conditions Specific to Missouri

• **General/Regional Permits - GP**  
  - Issued by Districts for Regional or General Use (5 year term)  
  - Minor individual or cumulative impacts.

• **Standard Individual Permits - IP**  
  - More than minimal adverse effects on waters  
  - Fact Finding Analysis requiring compliance with Section 404(b)(1) Guidelines, NEPA, Public Interest Review Factors. (Valid for 5 Years)
Water Quality Certification

- Section 401 requires that any applicant for a 404 permit must first obtain water quality certification from the state.
- If the state finds that the activity will violate state water quality standards, it may deny certification.
  - Most NWP fit General WQC
  - IP and some NWP need Individual WQC.
NEPA Review & Advisory Agencies

U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service-Endangered Species
Missouri Department of Natural Resources –CWA Section 401 & 402
State Historic Preservation Officer-Cultural Issues
Missouri Department of Conservation - Fish/Wildlife
Natural Resources Conservation Service – Agriculture
County Soil & Water Conservation Districts – Land Mgmt Programs
Federal Emergency Management Agency - Floodplain
State Emergency Management Agency – Floodplain
U.S. Coast Guard-Navigation
Typical Projects that we deal with:

- Maintenance activities
- Bank stabilization
- Crossing construction
- Gravel harvesting
- Lake/pond creation
- Residential & Commercial Development
- Utility Lines
NWP 3 - Maintenance

- Authorizes the repair, rehabilitation, or replacement of any serviceable structure or fill. Must meet the following criteria.

  - Removal of sediment/gravel is limited to the minimum necessary, and cannot exceed 200 feet upstream or downstream.

  - 401 General WQC limited to 100 feet upstream and downstream
Common Maintenance Activities

- Culvert Replacement &/or Addition of Riprap
- Tree & Debris Removal
- Pipeline Maintenance
Compliance Issues

- Grouted Riprap
- Channelization to redirect flow
- Extending Life of Poor Structure
NWP 13 - Bank Stabilization

- Authorizes stabilization activities necessary for erosion prevention. Must meet the following criteria.
  - No more material placed, than the minimum amount necessary

Bendway Weirs

Longitudinal Stone Toe
Compliance Issues

- Appropriate materials & quantity of material
  - Unsuitable material: Asphalt, earthen material, concrete with rebar, tire, railroad ties
- Proper placement
NWP 14 - Linear Transportation Projects

Authorizes activities required for the construction, expansion, modification, or improvement of linear transportation projects.
Missouri Regional Condition 1

- Quantifies adequate flow passage of structure
  - 85% open channel – perennial stream
  - 65% open channel – intermittent stream
  - Bankfull Discharge – ephermal stream

- Culverts should be embedded or placed at streambed grade.
- Perched above the grade of the stream are not allowed.
Large amounts of stabilization along banks indicates crossing undersized
NWP 29 & 39
Residential & Commercial Developments

- All activities under this NWP require pre-construction notification to COE
- Covers various activities that might include road crossings, permanent fills, stormwater outfalls, etc.
GP 34
Gravel Harvesting Activities

- **Gravel Bar Harvest** -
  - Private Landowners & Municipalities regulated by the Corps
  - Commercial Harvesting regulated by MDNR Land Reclamation

- **Floodplain Gravel Harvest** – Corps permit dependent upon resources within the mining area.
Sand and Gravel Excavation Requirements

- Woody vegetation must not measure greater than 1-1/2-inch.
- Buffer of 10 feet between the removal area and the water line.
- Maintain a 25 foot buffer between the removal area and the bank line.
- Must not excavate below the elevation of the water level.
- Must not relocate, straighten, or modify water conveyance of the channel.
Dams/Lakes/Impoundments

- Large quantity of impacts usually requiring Individual Permit & mitigation
- Land Disturbance Permit – Should have Section 404 permit and be able to provide documentation of Corps decision.
- Greater than 35 feet dam height requires MDNR Dam Safety Permit
- May have additional county requirements or may require an engineer

Main compliance issue is construction without receiving permit
Unauthorized Activities

- **Channel Reaming** is the practice of placing equipment in the creek for the purpose of clearing gravel/sediment from the channel.

- **Gravel Pushing and Packing** of gravel along the banks is not an acceptable option for bank stabilization.

- **Channel Relocation or Realignment** of the stream can have detrimental effects to your land and other landowners upstream and downstream.
Limits of Corps Authority

- Limited Jurisdiction
  - OHWM / “Small Federal Handle”
- Section 404(f)(1): Exemptions
  - Normal Farming Practices, Farm Crossings, Irrigation & Stock Ponds, etc.
- Uplands
  - Land disturbance, off channel ponds
Floodplain

- Corps does not regulate floodplain activities, but Corps’ Civil Works Branch is involved in levee construction & hydrologic studies.
- The Regulatory Branch may have authority if there are wetlands within the floodplain.
- Floodplain development and management is handled by each county (SEMA) if they participate in FEMA Flood Insurance Program. FEMA/SEMA contacts: http://sema.dps.mo.gov/county/
Navigable Waters Protection Rule

- On January 23, 2020, the U.S. Environmental Protection Agency and the Department of the Army finalized the Navigable Waters Protection Rule to establish a new definition of “waters of the United States” under the Clean Water Act.

- Expected to be published in the federal register early March 2020.

- The rule will become effective 60 days following publication.

- [https://www.epa.gov/nwpr](https://www.epa.gov/nwpr)
Questions?

- St. Louis District Phone Number: (314) 331-8575


- Phone Numbers and Links to Other Missouri Districts and Field Offices can be found on the above web sites.