

# WWC News



## 404 Permits *A Basic Overview*

### 404 Permits

- ◆ Federal Water Pollution Act
- ◆ Section 404
- ◆ Types of 404 Permits
- ◆ Permit Process

### *Federal Water Pollution Act*

Have you ever wondered if it is ok to dump materials into state waters? For some the thought has never crossed their mind. Others might think absolutely not, some just don't care, and others know it is regulated. In 1948 the Federal Water Pollution Act, most commonly known as the Clean Water Act, was enacted, expanded in 1972 and continues to expand today. The purpose of the act is "to restore and maintain the chemical, physical and biological integrity of the nation's waters".

### *Section 404*

Section 404 of the Clean Water Act is the requirement that people who want to dispose of dredge or fill material into navigable waters must obtain a permit from the U.S. Army Corps of Engineers. The Environmental Protection Agency (EPA) adopts guidelines for disposal sites and the U.S. Army of Corps of Engineers follows those guidelines to make decisions on whether or not to issue the permit. Both the U.S. Army Corps of Engineers and the EPA enforce Section 404 provisions.

### *Types of 404 Permits*

Two types of 404 Permits are issued by the U.S. Army Corps of Engineers, individual and general. General permits (also called Nationwide Permits) are issued when minimal impacts are made to the nation's waters. Indi-

vidual permits are for when more than minimal impacts are made to the nation's waters. Before filling out a permit application it is recommended to contact the local EPA and U.S. Army Corps of Engineers to verify the type of permit that may be required.

### *Permit Process*

The process for a General Permit is much shorter and less complicated than an individual permit. A general or nationwide permit can be authorized in as little as one week if the project meets the general permit criteria. An individual permit can take about two to three months to make it through the following process.

1. Pre-application consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office.
3. Application received and assigned identification number.
4. Public notice issued (within 15 days of receiving all information).
5. 15 to 30 day comment period depending upon nature of activity.
6. Proposal is reviewed by Corps and:
  - \* Public
  - \* Special interest groups
  - \* Local agencies
  - \* State agencies
  - \* Federal agencies
7. Corps considers all comments.
8. Other Federal agencies consulted, if appropriate.

*(Continued on page 2)*

WWC Engineering  
1275 Maple Street, Suite F  
Helena, MT 59601

Phone: 406-443-3962  
Fax: 406-449-0056

**Quality Services**  
**Dependable Value**

*WWC Engineering (WWC) is a full service corporation that has been serving the Rocky Mountain region since 1980. WWC's range of consulting services is broad and our corporate experience is extensive. With over 70 employees and offices in Sheridan, Laramie, and Casper, Wyoming and Helena, Montana, we have an exceptional staff of professionally licensed engineers, hydrologists, surveyors and geologists with a full complement of highly skilled field technicians, CADD specialists and clerical staff. WWC prides itself on producing the highest quality of work for our clients in a time-and-cost-efficient manner.*

**We're on the Web!**  
**wwwengineering.com**

*(Continued from page 1)*

9. District engineer may ask applicant to provide additional information.
10. Public hearing held, if needed.
11. District engineer makes decision.
12. Permit issued or permit denied and applicant advised of reason.

When submitting a permit application you must show the following:

- Taken steps to avoid wetland impacts
- Minimized impacts on wetlands: and
- Provided compensation for any remaining unavoidable impacts.

The above criteria must be shown in order for the U. S. Army Corps of Engineers to render a decision. If the above items aren't addressed, the permit process may be prolonged and/or the permit denied.

Once a permit is approved it is important to follow all the conditions of the permit and not deviate from what the permit was intended for.

It is important to realize that Corps jurisdiction extends to not only live, perennial streams and rivers, but also to intermittent and ephemeral streams as well. This is a common misconception that leads to the highest number of violations. One of the first

steps in any 404 permit process is to request a determination of jurisdiction. This step is critical in determining whether your project impacts a jurisdictional channel, and whether or not a permit is required.

The above discussion about 404 permits is only a brief overview. You should always contact the U.S. Army Corps of Engineers, EPA and/or a consultant before you begin any work. Putting a plan together right the first time can save you time and money and possibly regulatory compliance problems.



**Park Creek COE Jurisdictional Channel**

Information provided in this document was obtained from [www.epa.gov/5water](http://www.epa.gov/5water) and [www.cicacenter.org/wetpermits.html](http://www.cicacenter.org/wetpermits.html)