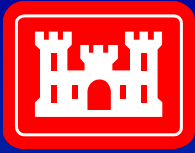


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of Engineers

# **U.S. ARMY CORPS OF ENGINEERS REGULATORY DIVISION WILMINGTON DISTRICT**

**September 25, 2025**

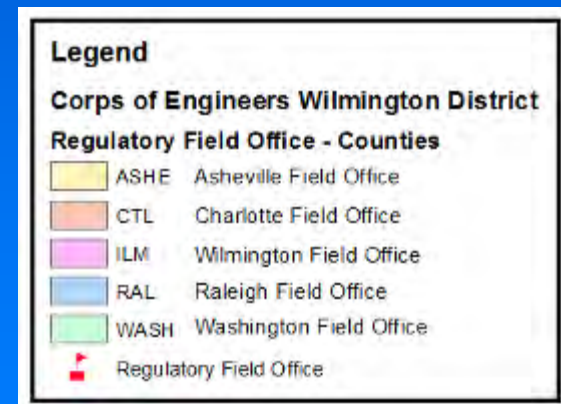
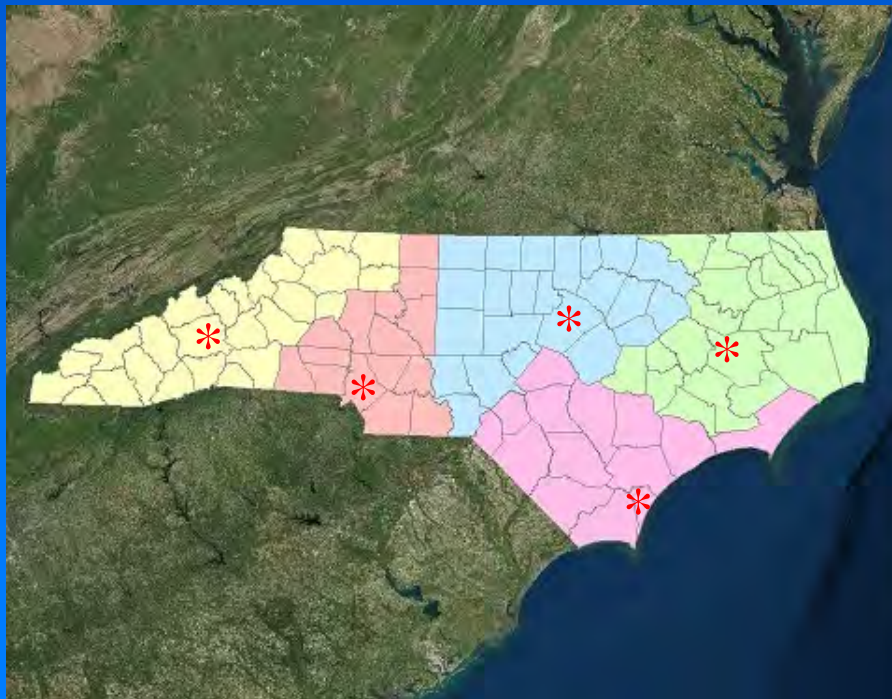
**Brad Shaver, Project Manager  
Wilmington Regulatory Field Office**

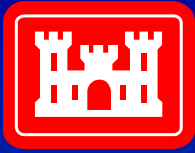


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# Organization

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





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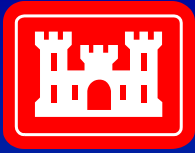
# Authorities

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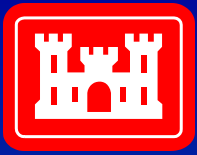
# Authorities – Section 10 (33 U.S.C. 401, et seq.)

## Section 10 Rivers and Harbors Act of 1899

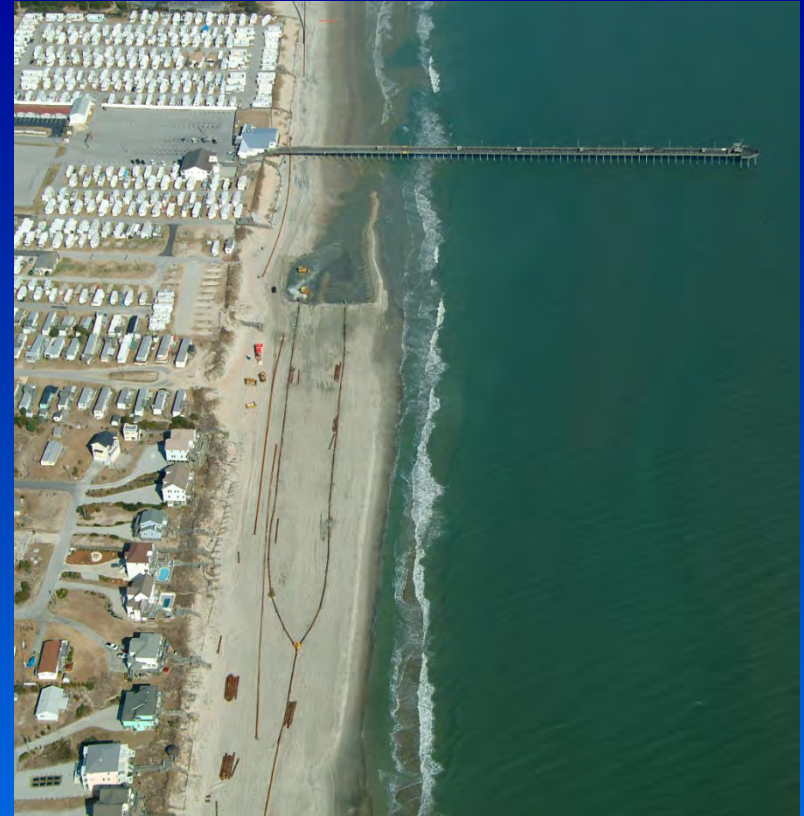
- Regulates activities that affect course, location, and navigable capacity
- Prohibits unauthorized obstruction or alteration of any navigable water of U.S.
- All work (dredging, docks, pilings, marinas, fill, etc)
- Authorizes the Secretary of the Army to issue permits in navigable waters

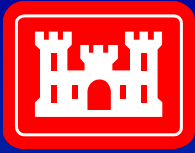






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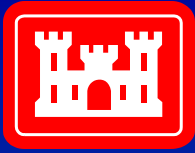


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Wilmington District

# Authorities- Section 10

- Geographic jurisdiction includes all navigable waters of the U.S. defined (33 CFR Part 329) as “those waters that are subject to the ebb and flow of the tide **and/or** are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce.”



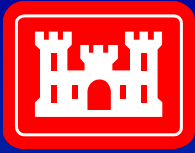


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## Geographical definition cont...

Jurisdiction extends shoreward to the high tide line in tidal waters or the ordinary high-water mark in non-tidal waters and waterward to 3 nautical miles.





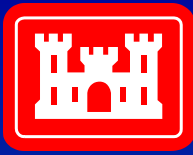
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# Section 404, Clean Water Act

- **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.**



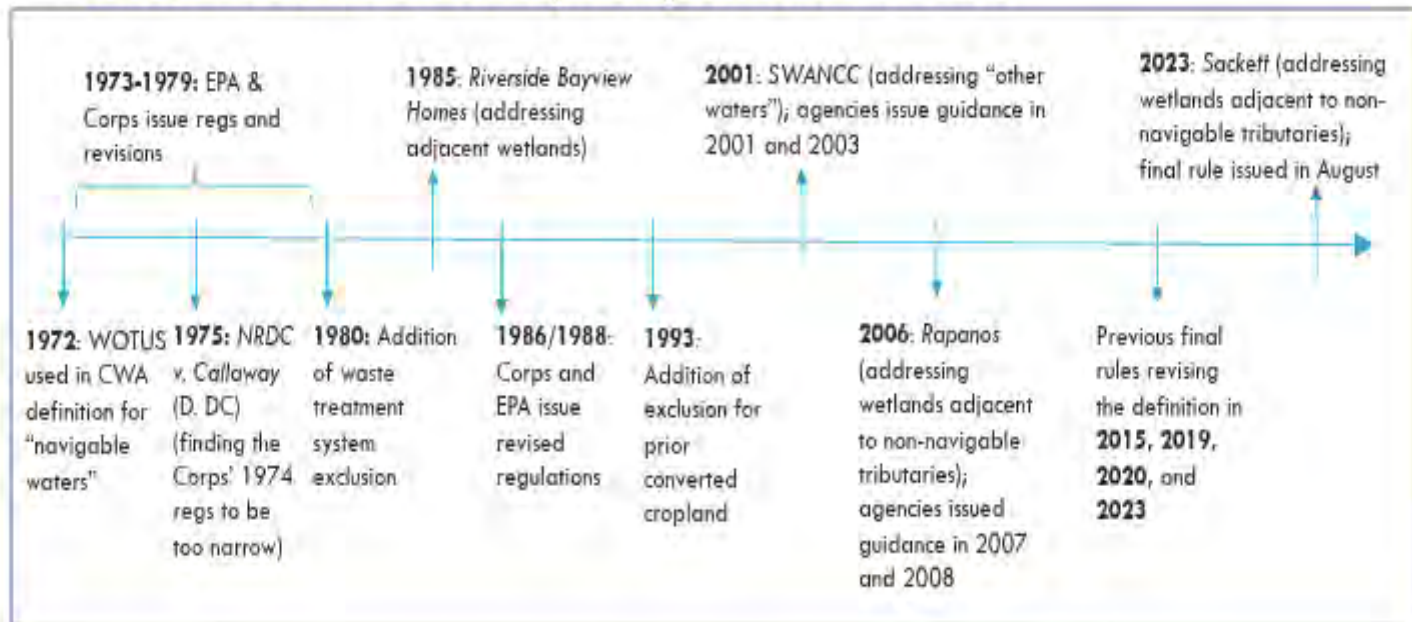


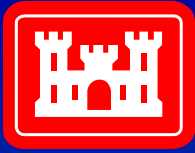


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# Background: “Waters of the United States” Over Time

The definition of “waters of the United States” has been a subject of dispute and addressed in several major Supreme Court cases.





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# Section 404, Clean Water Act

## Geographic definition (33CFR 328.3 (a))

### Amended 2023 Rule: Framework

#### Categories of Jurisdictional Waters

(a)(1)

- (i) Traditional Navigable Waters
- (ii) Territorial Seas
- (iii) Interstate Waters

(a)(2) Impoundments of Jurisdictional Waters

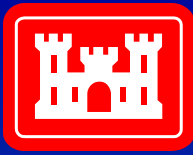
(a)(3) Tributaries

(a)(4) Adjacent Wetlands

(a)(5) Intrastate lakes and ponds that do not fall within (a)(1) – (a)(4)



**\*NOTE:** For efficiency, this slide's list of the categories of jurisdictional waters are shorthand for the jurisdictional categories in the regulations. See 33 CFR 328.3(a) and 40 CFR 120.2(a).



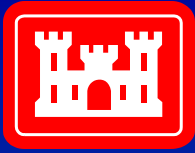
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## Amended 2023 Rule: (a)(4) Adjacent Wetlands

- **Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
- **Adjacent** has been revised by the conforming rule to mean having a continuous surface connection.
- **Jurisdictional adjacent wetlands** include:
  - Wetlands that are adjacent to an (a)(1) water, relatively permanent jurisdictional impoundment, or relatively permanent tributary.



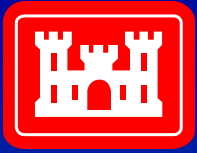




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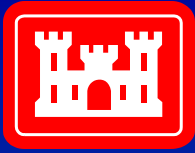




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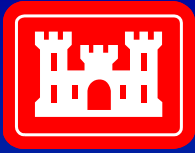
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# DEFINITION OF WETLANDS

## 33 CFR 328.3(b)

“The term ‘wetlands’ means those areas that are **inundated or saturated by surface or ground water** at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of **vegetation** typically adapted for life in **saturated soil** conditions. Wetlands generally include swamps, marshes, bogs and similar areas.”





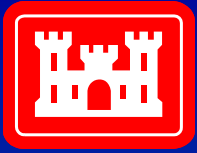
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# Section 404 of the Clean Water Act

## WETLANDS

- Regional Supplements & 1987 COE Wetland Delineation Manual outlines three parameters for identifying wetlands.
- wetland vegetation
- wetland soils
- wetland hydrology



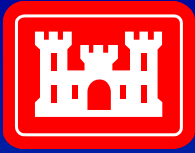


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# Permitting

The Corps, in making permit decisions, must consider a range of factors including environmental impacts, socioeconomic impacts and property ownership rights, and **balance public benefits against public detriments.**





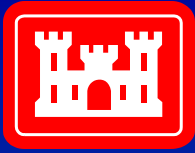
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# Permitting

## 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.



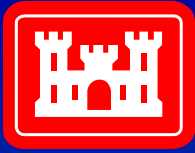


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# PERMIT EVALUATION

## Section 404(b)(1) Guideline Sequencing

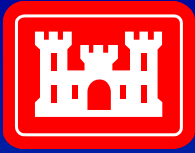
- Avoidance of wetlands
- Minimizing impacts on wetlands
- Compensatory mitigation for unavoidable impacts



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# Related Laws Affecting Permit Procedures and Policy

- National Environmental Policy Act (1969)
- Endangered Species Act (USFWS and/or NMFS)
- Magnuson-Stevens Fisheries Act (NMFS)
- **Section 401, Clean Water Act (NC Division of Water resources)**
- **Section 307, Coastal Zone Management Act (NC Division of Coastal Management)**
- Fish and Wildlife Coordination Act (USFWS, NMFS, and NC Wildlife Resource Commission)
- National Historic Preservation Act (State Historic Preservation Office)



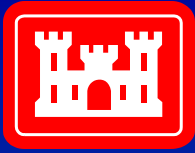
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# Enforcement

**When an individual discharges dredged or fill material in waters of the US (or does any work in navigable waters) without a permit, the Corps has authority to require remedial action, including restoration.**



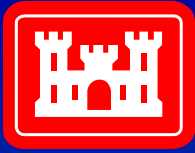




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# Program Updates

- 2023 Amended Waters of the US rule
- [rrs.usace.army.mil](https://rrs.usace.army.mil)
- RRS now allows for self certification for “no permit required” actions
- Priorities handed down from our headquarters places Permits over Jurisdictional Determinations (JD), JDs associated with permits still emphasized
- For expedience you should consider having consultants complete all uplands JDs, hold paperwork of determination if needed in the future



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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/)

### County POC List

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

Middle of the page is staff emails and phone #s

[https://www.saw.usace.army.mil/Missions/  
Regulatory-Permit-Program/Contact/  
1-910-251-....](https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Contact/1-910-251-....)

- Onslow: Katharine Elks - 4567
- New Hanover: Brad Shaver - 4611
- Brunswick: David Moose - 4810
- Pender: Gary Beecher - 4694
- Carteret: Emily Hughes - 4635