

# USE OF CORPS NEPA DOCUMENTS IN SUPPORT OF PERMITS FOR NON- FEDERAL SPONSORS

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## REGULATORY PROGRAM MISSION

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions.



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# CORPS REGULATORY AUTHORITIES

**Construction and dredging:  
Rivers and Harbors Act  
Section 10**



**Discharge of dredged and fill material:  
Clean Water Act Section 404**



**Transport of dredged material  
to the ocean for disposal:  
Ocean Dumping Act Section 103**



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# CIVIL WORKS PROJECTS DO NOT APPLY FOR PERMITS

When Corps Civil Works plans a project, no permit is required from the Regulatory Division.

Once approved by the Chief of Engineers, Civil Works projects move to construction with no permit.

It is important to note that all Civil Works projects must comply with the same laws and regulations that apply to permit applicants.



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# COMPLIANCE WITH OTHER LAWS AND POLICIES

- National Environmental Policy Act (NEPA)
- Endangered Species Act
- Magnuson-Stevens Fishery Conservation and Management Act (EFH: Essential Fish Habitat)
- Clean Water Act (Sections 401, 402, 404)
- National Historic Preservation Act (Section 106)
- Coastal Zone Management Act
- Tribal Trust Responsibilities  
(not an exhaustive list)

For Civil Works projects, compliance is accomplished by the Office of Planning



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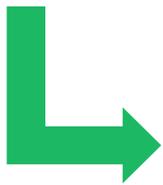


# Non-Federal Sponsor Construction

Reference: Regulatory Guidance Letter 88-09

Non-Federal sponsors (local sponsors) can construct a project previously developed by the Corps Planning Office.

Note: the non-Federal sponsor must first receive a permit from the Corps of Engineers district where the work will occur.



No permit application is required.

# Applicable Requirements...

- Civil Works general design memorandum completed
- Design complies with applicable environmental laws
- District Engineer determined the project is economically justified and environmentally acceptable

Bottom line: Corps Regulatory Division can issue a permit to the non-Federal sponsor for the project planned and designed as a Civil Works effort.

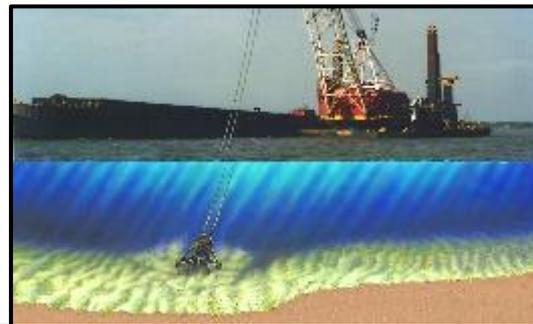


# Permit Compliance

Compliance with applicable permit conditions will be monitored to document the environmental success of the project.

For example, post-construction monitoring of restoration or other efforts to offset project effects to waters of the U.S. is usually required.

Corrective measures or enforcement for non-compliance or violations are the same as for any issued permit.



RGL 88-09, referencing ER 1165-2-120



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# Changes in Project Design

If the non-Federal sponsor introduces a change to (i.e., enlarges) the project design, such that a permit must address area or resources not previously addressed...

...the additional area will be subject to normal permit application evaluation procedures. This would include the requirement for submittal of a permit application.



# Performing Ancillary Work

If a local sponsor performs work ancillary to (but not part of) a Corps-constructed project, including work covered by a local cooperation agreement, the local sponsor must apply for and receive a permit...

...unless the ancillary work was previously addressed in the Corps design memorandum.



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The bottom line message from RGL 88-09\* to the Corps is:

When Corps Civil Works projects are thoroughly evaluated, there will be no need for further regulatory processing even if a non-Federal sponsor builds the project.

\*While RGL 88-09 had a 31 Dec 1990 expiration,  
RGL 05-06 identifies continuing applicability for RGL 88-09



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The bottom line message from RGL 88-09\* to the Corps is:

When Corps Civil Works projects are thoroughly evaluated, there will be no need for further regulatory processing even if a non-Federal sponsor builds the project.

**Interested non-Federal sponsors should discuss covered projects with Corps district Planning and Regulatory offices to move these projects forward.**

\*While RGL 88-09 had a 31 Dec 1990 expiration,  
RGL 05-06 identifies RGL 88-09 continuing applicability



# QUESTIONS OR DISCUSSION?



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