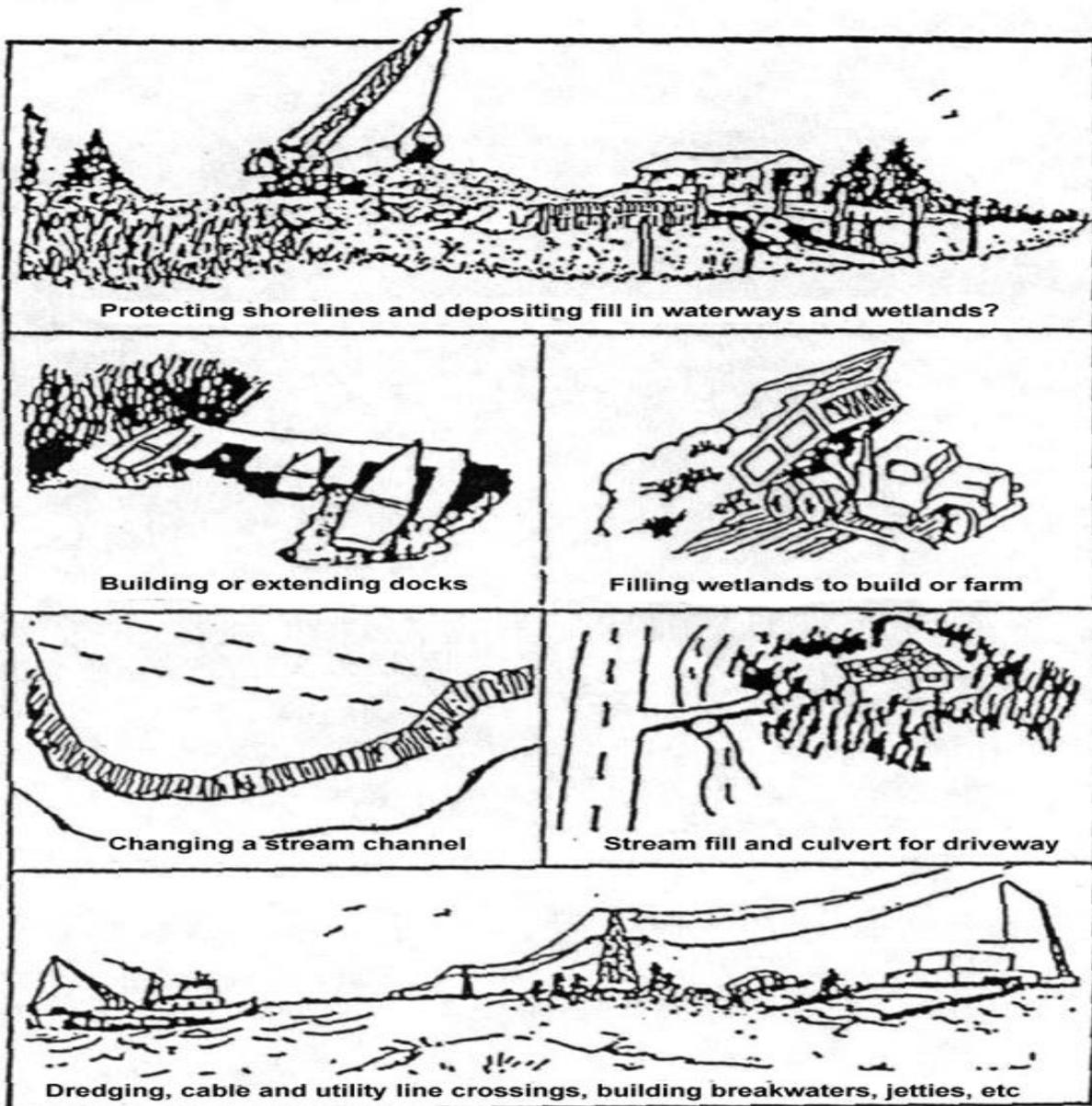




US Army Corps of Engineers

**You**  
may need an Army permit to work on your own land

Which one needs a permit?



All of them

## Who needs a permit?

You may need a permit from the Corps of Engineers to work on your land. If your work is in a water area or where water lays or runs just part of the year, your activity may be regulated by federal law.

While it is easy to recognize lakes and rivers, and most people can identify a dry streambed, wetlands are not always as obvious. Some wetlands have trees and appear to be dry most of the year. Most people don't understand or recognize the limits of a wetland.

## Why should I get a permit?

If you intend to work in one of the areas described, you need a permit. If you work without a permit, you may be in violation of federal law.

## But we're a public agency.

You need a permit too.

## Does this apply to farms?

Yes it does.

## Everyone?

You and your family, all individuals, commercial enterprises, port authorities, marinas and local, state and federal agencies: everyone needs a permit to work in the waters of the United States.

## Why does the Corps care?

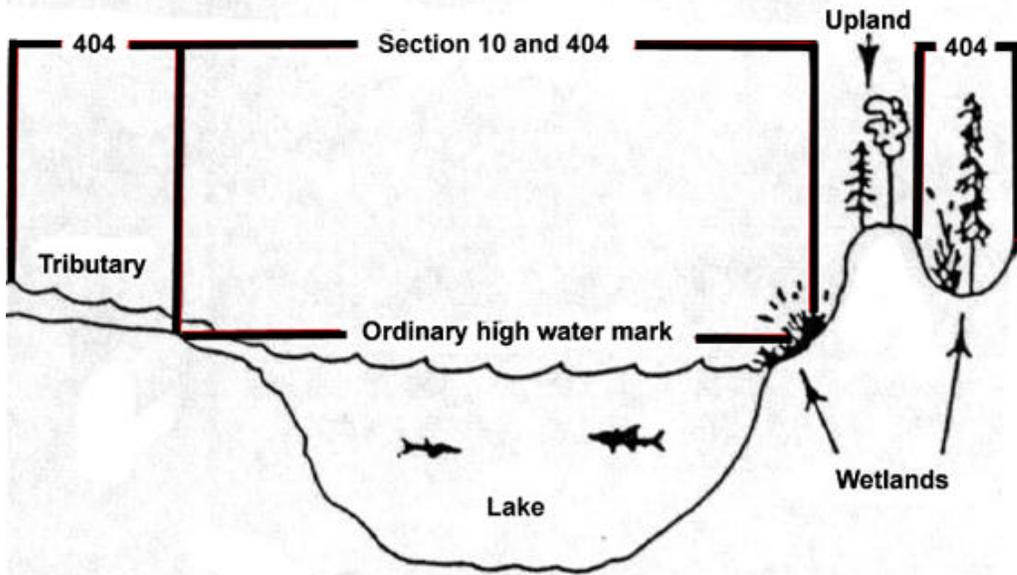
Congress enacted laws to regulate water resource development. They are enforced by the Corps of Engineers. These laws ensure that water resource development is consistent with the needs and welfare of the people.

## What are these laws?

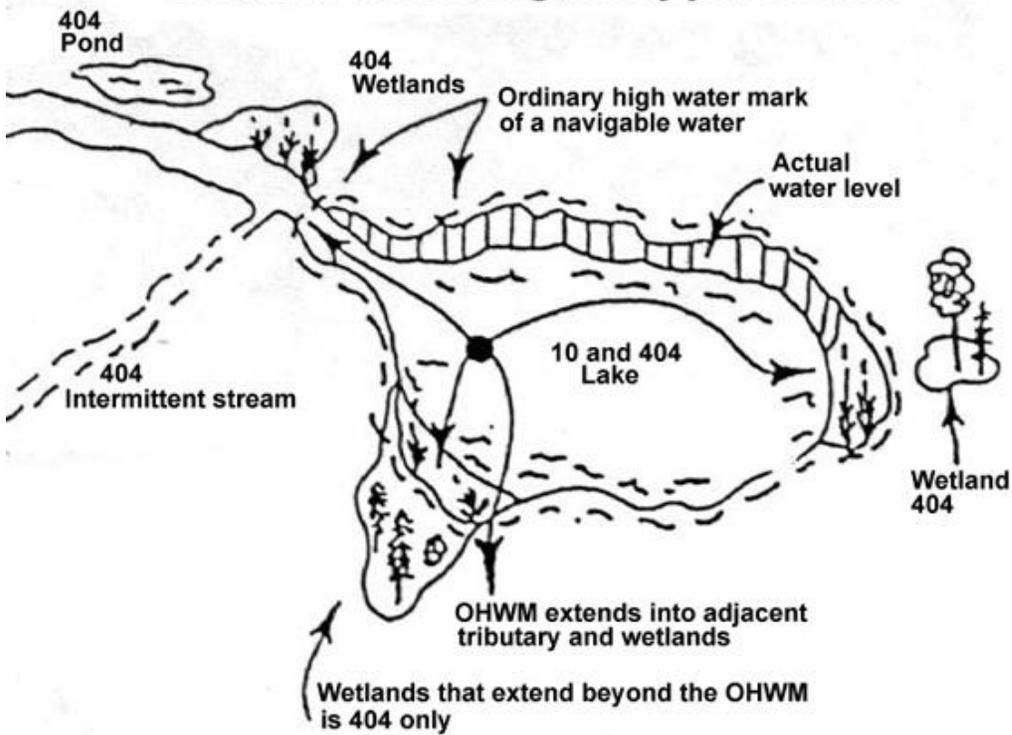
**Section 10 of the Rivers and Harbors Act of 1889 (33 U.S.C. 403):** Under this law you will need a permit from the Corps of Engineers for any structure or work that takes place in, under or over a navigable water or wetland adjacent to navigable waters of the United States.

**Section 404 of the Clean Water Act (U.S.C. 1344):** Under this law, you need a permit to excavate in or discharge dredge or fill material into a water of the United States. Remember, this includes wetlands.

### Crosscut view of regulatory jurisdiction



### Overhead view of regulatory jurisdiction



**A Shoreline is obvious.  
How do I know it's a wetland if there is no water?**

Wetlands are defined by soil, plants and water. Indications that a wetland exists in a seemingly dry area are:

- standing water early in the year for a week or more
- black, stained leaves on the ground
- trees with swollen trunks at ground level
- area contains water loving plants

The shoreline of a body of water is generally defined by the ordinary high water mark. This mark on the shore or streambank is established by water level fluctuation. The corps of Engineers has regulatory jurisdiction below this mark. (See definition of "ordinary high water mark" on the last page.)

**I'm not sure. Maybe I need a permit.**

It's always a good idea to come in and talk to us. We'd like to advise you before you make plans. Please call us. (Phone numbers are listed below.)

**What if I work without a permit?**

If your project requires a permit and you work without it, you will be violating federal law. You and any contractor you hire may be subject to civil or criminal penalties and could be required to restore the area.

**But I already did the work!**

Call us right away. If you don't, we'll probably find out about it anyway. We'll discuss the options with you.

**The possibilities are:**

- a permit after-the-fact
- removal and restoration
- litigation, fines can be as high as \$50,000 a day per offense.

**Our decisions are based on:**

- environmental harm
- type of work
- project size
- project location
- cooperation of the individual

## Regulatory Jurisdiction

<b>Waters of the United States</b>	<b>Authority</b>	<b>Activities covered</b>
Navigable waters	10 and 404	All structures in, over or under water, plus dredging & fills
All waters, including wetlands	404	Discharge of dredged or fill material and excavation

### How do I apply for a permit?

Call for guidance and applicable forms. We can meet with you before you apply. Talking to us beforehand may identify potential problems that could be reduced or eliminated. This can lead to a more efficient processing of your permit application.

**Counties between Cedar and Richardson and Lancaster (in Nebraska) should contact:**

**US Army Corps of Engineers  
Wehrspann Office  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138-3621  
(402) 896-0723**

**All other areas of Nebraska should contact:**

**US Army Corps of Engineers  
Kearney Regional Office  
1430 Central Avenue, Suite 4  
Kearney, NE 68847  
(308) 234-1403**

### What do you evaluate in a permit application?

First: Activities involving excavation or discharge of dredged or fill material into waters of the United States must comply with the United States Environmental Protection Agency guidelines. Activities that fail to comply with the guidelines normally cannot be permitted.

Second: In the public interest review, the project benefits are weighed against the negative aspects of the proposal. Permits are issued when the work proposed complies with the USEPA guidelines, as well as other related laws, where applicable and does not contravene the public interest.

The review includes:

Conservation, flood hazard, water supply and conservation, economics, mineral needs, general environmental concerns, aesthetics, water quality, fish and wildlife values, wetlands, energy

needs, shore erosion and accretion, navigation, floodplains, historic properties, land use, recreation, food and fiber production, safety, public welfare and property ownership consideration.

## Why all the fuss about wetlands?

Wetlands are valuable because they:

- hold floodwaters
- serve as groundwater recharge areas
- filter contaminants from surface waters
- furnish habitat for fish and wildlife
- maintain water quality
- protect shoreline from erosion
- trap sediment
- provide for education, research and recreation

## If I get your permit, do I need more?

If you get a permit from us and then change your plans you must let us know. You may have to come back to us for more permits or a permit modification.

We're not the only ones who require permits. Check with your state and local agencies before you start working.

## What are permits usually for?

People generally request a permit to:

- excavate and/or place fill in a wetland to build on, farm, or for other purposes
- place fill to protect or reclaim a shoreline that has eroded
- extend a shoreline into the water
- deepen a channel, the area around a dock or other dredging
- dump dredged material into a water of the United States
- place, temporarily or permanently, fill material into a wetland
- build levees, dams, dikes and weirs
- channel a stream
- improve drainage
- build breakwaters, groins and revetments to protect the shore
- place aerial or submerged utility crossings
- install docks, piers, bulkheads, marinas, ramps or mooring buoys

## I think I need to talk to you.

Any person, firm or agency including federal, state and local government that is planning to work in waters of the United States must first obtain a permit from the Corps of Engineers. Permits, licenses, variances or similar authorizations may also be required by other federal, state and local statutes.

Talk to us.

## What do the terms mean?

**Waters of the United States** – Under the Clean Water Act (404) these are:

all waters that are, may be or have been used in interstate or foreign commerce  
their tributaries

wetlands adjacent to these waterways and tributaries

isolated wetlands, water bodies, such as small lakes and ponds, intermittent streams, wet meadows and mudflats.

**Wetlands** – Areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support and, under normal circumstances, support a prevalence of vegetation adapted for life in saturated soil conditions. Size is not a limitation. Areas smaller than an acre are regulated.

**Navigable waters** – Under the Rivers and Harbors Act, these are waters that were used in the past, are now used or could be used to transport interstate or foreign commerce. In this area many streams and waterways are considered navigable under this definition.

**Jurisdiction** – The landward limit of our district's regulatory jurisdiction in waters of the United States is the ordinary high water mark, which may extend into tributaries and adjacent wetlands.

**Ordinary high water mark** – This is the line of the shore established by the fluctuation of the water surface. It is shown by such things as a clear line impressed on the bank, shelving, changes in soil character, destruction of terrestrial vegetation, the presence of litter and debris or other features influenced by the surrounding area. In a wetland, the shoreline is shown by changes in soil, vegetation and water, and may be difficult for anyone but an expert biologist to discern.

Source: US Army Corps of Engineers  
St. Louis District  
DP 1123-2-1  
Jan 1996