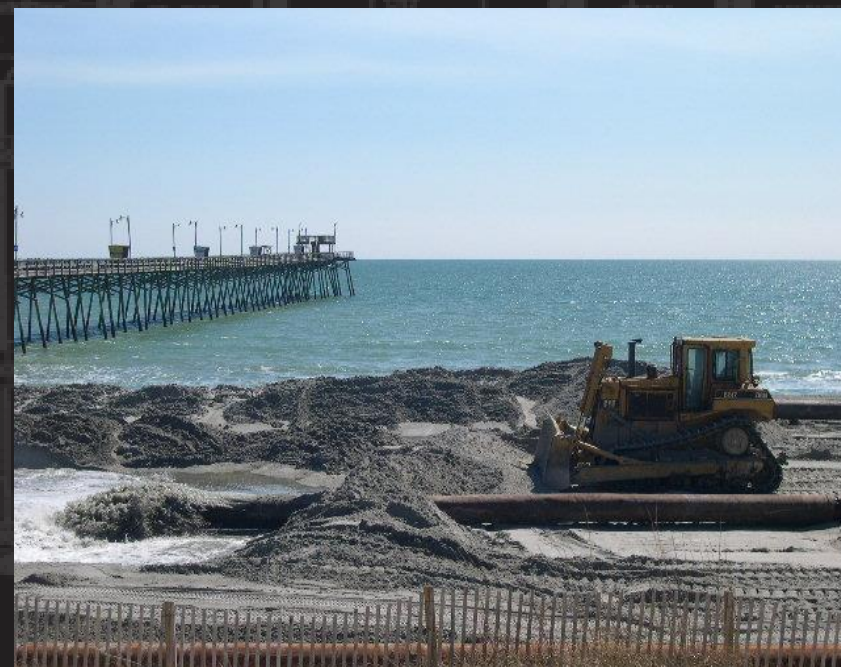


NC BEACH, INLET & WATERWAY ASSOCIATION

Regulatory Update

Tommy Fennel
Chief-Regulatory Division

Date: 9 MAY 2024



US Army Corps
of Engineers®



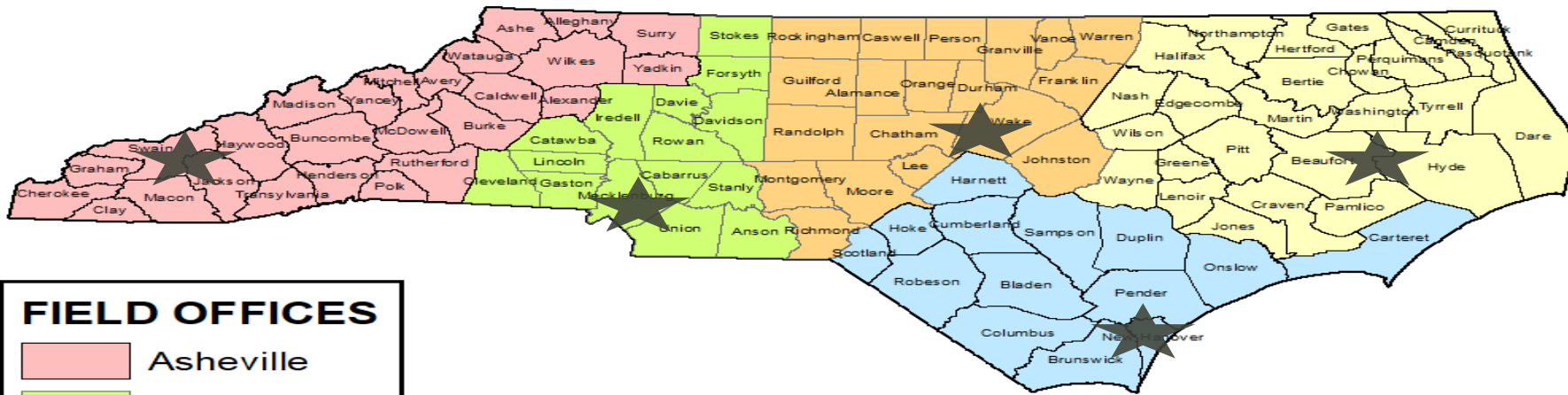


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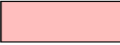


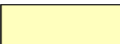

REGULATORY FIELD OFFICE LOCATIONS



Wilmington District, Corps of Engineers, Regulatory Areas of Responsibility



FIELD OFFICES

-  Asheville
-  Charlotte
-  Raleigh
-  Washington
-  Wilmington



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AUTHORITIES- RIVERS AND HARBORS ACT

3



Section 10 of the Rivers and Harbors Act of 1899:

Authorization required for the construction of any structure in or over a navigable water of the United States.

Examples: Dredging, excavation, docks, piers, jetties, groins, bank stabilization, etc.

Key Point: Work that changes the course, capacity, condition, or location of a waterbody.





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AUTHORITIES-CLEAN WATER ACT

4



Section 404 of the Clean Water Act:

Authorization required for the discharge of dredged or fill material into all waters of the United States, including adjacent wetlands.

Examples: Site Development (commercial/residential), roadway fill, beach nourishment, impoundments, etc.

Key Point: Placement of material that changes the bottom elevation or converts a wetland to an upland.





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WETLAND DELINEATION V/S JURISDICTIONAL DETERMINATION

5



Wetland Delineation: Delineation of the geographic limits of waters/wetlands on a tract. (Preliminary Jurisdictional Determination/Delineation Concurrence- All resources assumed to be jurisdictional)

Wetland Determination: Determination of Federal jurisdiction of delineated waters/wetlands under the Clean Water Act. (Approved Jurisdictional Determination-AJD)

Which one do I need? Depends on the project- contact our office to determine which is more appropriate for your specific need.



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IMPACTS OF SACKETT ON JURISDICTION

6



- 1) Waters which are currently used or may be susceptible to future use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide, the territorial seas, and intrastate waters.
- 2) Tributaries of the waters described above that are relatively permanent, continuously flowing, or standing bodies of water.
- 3) Wetlands adjacent to the waters describe above.

Adjacent means having a continuous surface connection.



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REGULATORY PERMITTING PROGRAM

TYPES OF PERMITS



Standard Permit (SP/IP): More than minimal impacts to WOTUS

- 30-day Public Notice/Comment Period
- Goal is 120 Days from complete to issue (Corps Processing Time ONLY)
- Coordination with Agencies (ex: USFWS, NMFS, SHPO, THPO) and Coordination

Nationwide General Permits (NWP) & Regional General Permits: Streamlined – minimal impacts to WOTUS

- Threshold for wetland impacts is generally ½ acre or less
- 45 – 60 days from complete application to final verification
- Coordination with Agencies (ex: USFWS, NMFS, SHPO, THPO) and Coordination
- Currently 57 NWPs & 15 RGPs

*Contingent in most cases on a 401 and/or CZM Certification from the State (DEQ)

*Final authorization is dependent upon resolving/addressing impacts to T&E Species, Cultural Resources, Historic Resources



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REGULATORY PRIORITIES



- 1) Process and Issue Department of the Army Permits & Authorize Mitigation Banks.**
- 2) Compliance with Existing Permits.**
- 3) Delineations/Determinations not Associated with a Permit.**
- 4) Unauthorized Activities.**

DISCUSSION / QUESTIONS?

