



US Army Corps
of Engineers ®
Seattle District

Clean Water Act

Extracts and Definitions

EXTRACTS from the Clean Water Act:

1. SECTION 301 (33 U.S.C. 1311)

The discharge of any pollutant by any person shall be unlawful except as in compliance with various sections of the Clean Water Act, including Section 404.

2. SECTION 309 (33 U.S.C 1319)

This section provides that any person who negligently violates the provisions of the Clean Water Act may be punished by a criminal penalty of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. Any person who knowingly violates this Act may be punished by a criminal penalty of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. This section also provides that any person who violates the provision of this Act may be subject to a civil penalty up to \$64,619 per day for each violation.

3. SECTION 404 (33 U.S.C. 1344)

(a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator of the Environmental Protection Agency (Administrator), in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impacts of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary of the Army. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

DEFINITIONS from the U.S. Army Corps of Engineers Regulatory Program:

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. (33 C.F.R. 328.3)

The term “**adjacent**” means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by manmade dikes or barriers, natural river berms, beach dunes, and the like are "adjacent wetlands." (33 C.F.R. 328.3)

The term “**ordinary high water mark**” means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area. (33 C.F.R. 328.3)

The term “**high tide line**” means the line of intersection of the land with the water’s surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. (33 C.F.R. 328.3)

The term “**navigable waters of the United States**” means 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 for use to transport interstate or foreign commerce. (33 C.F.R. 329.4)

The term “**discharge of dredged material**” means any addition of dredged material into, including redeposit or dredged material other than incidental fallback within, the waters of the United States. The term includes, runoff from a contained land or water disposal area, and any addition, including redeposit, of dredged or excavated material. The term dredged material means material that is excavated or dredged from waters of the United States. (33 C.F.R. 323.2)

The term “**discharge of fill material**” means the addition of fill material into waters of the United States. The term generally includes placement of fill necessary for the construction of any structure or infrastructure requiring rock, sand, dirt, or other materials for its construction. Fill material is material placed in waters of the United States where the material has the effect of replacing any portion of the waters with dry land or changing the bottom elevation of any portion of the waters. (33 C.F.R. 323.2)