

# U.S. Army Corps of Engineers (USACE)

## Agency Address / Web sites

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Web sites:

- [U.S. Army Corps of Engineers, St. Paul District](#)
- [List of Section 10 \(Navigable\) Waters in Minnesota](#)
- [Minnesota Counties – Corps Permit Staff](#)

## Mn/DOT Contact

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## Authority

The United States Army Corp of Engineers (USACE) plays an influential role in the decision making process for the many aspects of water and environmental issues, specifically when waters of the United States are involved or impacted. (For a definition of “Waters of the United States,” see [33 CFR 328](#)). It is responsible for issuing permits for any impacts to these waters, and its authority comes under the following laws and regulations:

- **Section 404 of the Federal Water Pollution Control Act of 1972** as amended by the Clean Water Act of 1977 (33 USC 1344). (See 33 CFR 320, 232, 235, 328, and 330 for implementing regulations).
- **Section 10 for the Rivers and Harbors Act of 1889** (33 USC 403). (See 33 CFR 114 to 115 for implementing regulations).
- **NEPA** and related laws.
- Definition of “Waters of the United States” – [33 CFR 328](#)

## Agency Role(s)

The USACE receives environmental documents (EA and EIS) for review and comment and may receive certain Categorical Exclusions when the project affects waters of the US.

The USACE issues permits for the following:

### **Section 404 Permit**

Work in waters of the U.S.

### **Section 10 Permit**

Work in, over, or under navigable waters of the U.S. Water bodies have been designated as Navigable Waters of the U.S. based on their past, present, or potential use for transportation for interstate commerce.

These waters include many of the larger rivers and lakes, such as the Minnesota, St. Croix, and Mississippi rivers; and Lake Superior and the Mississippi headwaters lakes. (See [Navigable Waters of the US in Minnesota](#)).

For these projects, a U.S. Coast Guard Bridge Permit may also apply.

## Agency Areas of Concern

In addition to “waters of the United States,” the USACE may also have concerns regarding the following topics:

- Threatened and Endangered Species, Federal
- Threatened and Endangered Species, State
- Erosion Control
- Excess Materials
- Floodplains
- Stream and Water Body Modification
- Water Quality
- Wetlands
- Wild and Scenic Rivers.

Contact the Mn/DOT Office of Environmental Services staff designated at the beginning of this guidance for aid in assessing needs for permits.

## Procedures / Requirements

**Early Coordination** is important: For major federal actions (EIS), if USACE permit(s) is required or if USACE's special expertise is needed, request USACE to become a cooperating agency.

**Permits:** A USACE Section 10 permit and/or a Section 404 permit. There are Applications for Section 404 permits and Section 10 permits are included in the combined Minnesota Local/State/Federal Application Form for Water/Wetland Projects.

### Section 404 Permits

For projects requiring Section 404 permits, the permits are implemented under one of the following:

- General Permit GP-01-MN
- Regional General Permit / Letter of Permission RGP-003-MN
- Letter of Permission Procedures LOP-05-MN
- General Permit / Letter of Permission GP/LOP-05-R (Indian Reservations)
- USACE Section 404 Individual Permit

(NOTE: GP/LOP-98-MN has been superseded by RGP-003-MN and LOP-05-MN, which are described below).

#### GP-01-MN

A project may be covered by this permit if it does all of the following:

- Impacts less than three acres of waters of the U.S.,
- Alters less than 500 linear feet of natural watercourse, and
- A DNR Public Waters Work Permit will be issued.

GP-01-MN has been extended so that it is effective through May 15, 2012.

#### RGP-003-MN

(Replaces the general permit portion of GP/LOP-98-MN)

RGP-003-MN may apply to:

- Certain maintenance activities;
- Bridge projects approved under a U.S. Coast Guard Bridge Permit under Section 10 of the Rivers and Harbors Act;
- Linear transportation crossings with impacts less than 1/2 acre;
- Maintenance of existing roads with impacts less than 1/3 acre (such as culvert replacements);
- Impacts less than 400 square feet; and
- Certain other activities as described in RGP-003-MN.

MPCA has waived Section 401 water quality certification for RGP-003-MN.

For any projects along Lake Superior, the RGP-03-MN authorization includes a determination the project is consistent with the Minnesota Coastal Zone Management Program.

### **LOP-05-MN**

(Replaces the letter of permission portion of GP/LOP-98-MN)

Letter of Permission Procedures LOP-05-MN may be applicable to public road projects that impact less than 5 acres of waters of the U.S.

A Letter of Permission (LOP) is an abbreviated individual permit for which an evaluation process is established. Activities authorized by the LOP require application to, and response from, the Corps of Engineers. Projects authorized under LOP-05-MN must have been determined to be consistent with the Minnesota Coastal Zone Management Program (Lake Superior area only). MPCA has waived Section 401 water quality certification for projects authorized under LOP-05-MN. The impact area is determined by calculating the area of waters of the U.S. filled, plus the impacts to waters of the U.S. that are excavated, inundated, or drained as a result of the regulated discharge.

### **GP/LOP-05-R**

(Supersedes GP/LOP-98-R)

GP/LOP-05-R applies within the external boundaries of all Indian Reservations in Minnesota, to activities covered under Section 404 of the Clean Water Act. The project may be covered by the non-reporting general permit conditions of USACE GP/LOP-05-R if it is a maintenance activity, affects less than 1/3 acre of waters of the US, and is not within 300 feet of established wild rice plants. Activities that impact less than two acres of wetland/water area may be authorized under the LOP procedures. Certain activities require a Section 401 water quality certification or waiver from the U.S. EPA. (Note there are additional conditions that may apply, and coordination between Mn/DOT and the appropriate Tribal government is recommended.)

**Section 404 Standard Individual Permit**

The project may require a US Army Corps of Engineers individual permit if it does any of the following:

- Exceeds the acreage thresholds indicated above,
- Is within 300 feet of a calcareous fen,
- Involves a high-value resource,
- Or other applicable considerations.

Obtaining an individual permit includes public notice and a public hearing.

**For all Section 404 permits:**

Mitigation sequencing (avoidance, minimization and compensation) is required for projects authorized by an individual permit or LOP under Section 404 of the Clean Water Act.

An application for an individual permit or LOP should clearly show that the proposed work is the least environmentally-damaging way that is practicable to accomplish the basic purpose of the project.