

# Oklahoma Department of Transportation

404 Permit Requirements  
Construction Control Directive No. **20070301**

**April 4, 2008**

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Scope: To identify the roles and responsibilities of the United States Army Corps of Engineers and the Oklahoma Department of Transportation and their contractors as related to 404 Permits.

## **Regulatory Requirements**

Section 404 of the Clean Water Act (40 CFR 230-233) requires that a program be established which will regulate the discharge of dredged or fill material into the waters of the United States of America (U.S.). Construction projects which have activities that are governed by this Section require the issuance of a permit before the discharge of dredged or fill material into the waters of the U.S. can occur. This permit is issued by the United States Army Corps of Engineers (USACE). However, in those instances where certain conditions and limits are met, the Oklahoma Department of Transportation (ODOT) can determine the activity can be authorized under one of the USACE's Nationwide Permits. For example, if a project will result in less than 0.10 acres surface area of the fill material discharged into the waters of the U.S. and does not include wetlands or other special aquatic sites, the Oklahoma Department of Transportation (ODOT) can determine that the Nationwide Permit 14 (NWP 14) applies to the activity and no Pre-Construction Notice (PCN) to the USACE is required.

## **USACE Roles and Responsibilities**

The USACE is responsible for administering the day-to-day activities of this program. This includes conducting or verifying jurisdictional determinations, as well as issuing individual, general, and nationwide permit decisions; conducting inspection of projects for compliance with general conditions, special conditions and mitigation requirements, and taking enforcement action when necessary. The USACE has the authority to prohibit, deny, or restrict the discharge of dredged or fill material into any waters of the U.S..

## **ODOT Roles and Responsibilities**

**Engineering/Capital Programs Areas (Environmental Programs, Roadway, Bridge, Project Management, Local Government, etc.)** - will be responsible for obtaining the applicable permit, and including it and all appropriate attachments in the bid proposal. When a project is assigned a USACE issued permit, the bid proposal will include a cover sheet containing project information such as permit authorization number, date of authorization, etc., the USACE letter or postcard permit authorization verification, the Nationwide or Individual Permit, including all Special Conditions or Mitigation Plans, the Section 401 Clean Water Act Water Quality Certification, the Permittee Construction Schedule Worksheet form, the Permittee Compliance Certification form, and the Notification of Administrative Appeal Options and Process and Request for Appeal. When ODOT determines the action falls under a Nationwide Permit and is below the limits required for Pre-Construction Notification to the USACE, the bid proposal will include a cover sheet indicating which NWP applies (generally NWP14) such as "NWP 14-No PCN required" (previously denoted as an "ODOT self-issued permit"), and a copy of the applicable NWP General Conditions. In both instances, the responsible Division will ensure that the information contained in the General Conditions, Special Conditions or the Mitigation Proposal is included in the project plans. They also will obtain an extension or re-issuance of the permit when the expiration date of the permit occurs before the award date for the project, and/ or the NWP(s) are revoked, modified, or re-issued before the award date for the project.

**Office Engineer** - will be responsible for verifying that the appropriate information is included in the bid proposal and the contract.

**Construction Division** - will be responsible for activating the Checklist Scheduled Event Dates in SiteManager if the permit is Corps issued, which will ensure that electronic notification is sent to the Residency. If the permit is "NWP 14 - No PCN Required", the Dates will not be activated.

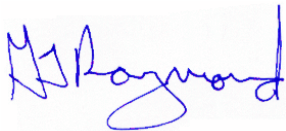
**Residency** - will be responsible for ensuring that the contractor is aware of and complies with the General Conditions, Special Conditions and/or the Mitigation Proposal for the applicable Permit. If the permit is Corps issued, the Residency will submit the Permittee Construction Schedule Worksheet and the Permittee Compliance Certification at the appropriate times, with a copy to the project file. They will also enter the Actual Date of occurrence for these two events in SiteManager. If the permit is "NWP 14 - No PCN Required", no submittal action on the part of the Residency will be necessary. The Residency will also

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be required to obtain an extension of the permit when the expiration date of the permit occurs after the award date and before the completion date for the project and/ or the NWP(s) are revoked, modified, or re-issued.

**Contractor** - will be responsible for complying with all requirements of the 404 Permit, and 401 Water Quality Certification, including general and special conditions, and Mitigation Plan requirements.



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