

TENTATIVE GUIDILINES
for
REVIEW OF SECTION 10 PERMIT APPLICATIONS

**BUREAU OF PLANNING
GOVERNMENT OF GUAM
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Navigation Channels and Access Canals

- Construction or extension of canals primarily to obtain fill for aggregate will be discouraged or opposed as appropriate.
- Designs and alignments should adequately serve the needs of commercial and sport fisheries and other water recreation as well as other demonstrated public needs.
- Designs should not create pockets, interior channels, or other hydraulic conditions which would cause stagnant water problems.
- Designs should not create or aggravate shoreline erosion problems.
- Channel alignments and spoil sites should avoid shellfish grounds, eelgrass beds, or other shallow water and wetland areas of value to fish and wildlife resources and uses.
- Alignments should make maximum use of natural or existing deep water channels.
- Designs should include temporary dams or plugs in the upland ends of canals or waterways and competent confining dikes around spoiling sites to serve until excavation has been completed and all sediment has settled out.
- Construction should be conducted in a manner that minimizes turbidity and dispersal of dredged material into productive areas and on schedules that minimize interference with fish and wildlife migrations, spawning, nesting, or human uses.

In addition, the applicant or permittee will be required to supply the Bureau with a schedule of the dredging anticipated during the life of the permit (frequency, duration, type of dredge, amounts of material, etc.), and give a 2-week notification prior to the commencement of work at each location or phase of construction. Notification also will be required when work is completed. Similar advice and notice will be requested for Federal projects.

Drainage Canals or Ditches

Construction of canals or ditches that would drain or facilitate drainage of any of the wetland types identified in the Fish and Wildlife Service's Circular 39, Wetlands of the United States, will be discouraged, and denial of permit usually will be recommended by

the Bureau. Channels draining such wetlands will be acceptable to the Bureau only where the following situation has been conclusively demonstrated: Insect vector control or some other public health, safety, or welfare measure is required as a public necessity and drainage would be the least damaging or only practicable means of accomplishment.

In the above acceptable instances, the quantity and quality of any discharged waters should be controlled so as not to adversely affect the aquatic ecosystem, insofar as possible (A Section 13 permit covering such discharges may be required.).

Excavation of Materials

- Excavation and dredging in shallow waters and wetlands will be discouraged and any permits issued or Federal work approved will be recommended to be conditioned to prohibit activities in fish and wildlife nursery areas and during periods of migration, spawning, and nesting activity.
- Excavation of materials for fill purposes from submerged or intertidal wetland areas or from wetland types identified in Circular 39 (above cited) is unacceptable and denial of permit for such work will be recommended by the Bureau.
- Uncontrolled stockpiling of dredged material in shallow water or on wetlands to achieve full bucket loads will not be acceptable. Unloading barges should be employed wherever possible to prevent double handling of materials. Where double handling is required, the use of competently diked upland areas will be recommended.
- Excavations should not create stagnant sumps or cul de sacs that trap and kill aquatic life.
- Dredging operations should be designed to prevent petroleum spill, discharge of refuse, and avoidable dispersal of silt, other fines, or harmful materials (A Section 13 permit may be required.).

Deposition of Spoil Materials

- Spoil confinement facilities should be properly designed, constructed, and maintained to avoid discharge of fines, harmful or toxic material to natural waters and be located in nonwetland areas above the line of the mean high water. The location of outlets and other means of control of the effluent from the spoil retention area should yield water quality that will preserve the aquatic ecosystem (A Section 13 permit may be required.).

Cables, Pipelines, and Transmission Lines

- To be acceptable, aerial or submerged cables, pipelines, and transmission lines must be located and designed for maximum compatibility with the environment. In assessing environmental compatibility, Bureau personnel will give particular emphasis to the provisions made to protect water quality, fish and wildlife resources (notably, interference with migration routes), unique natural areas, public access, and scenic beauty and to prevent interference with fishing and other public uses.

Bridges

- Alteration of the natural water flow and circulation regimes through improper design or alignment will be discouraged.
- Enhancement of public access by the installation of fishermen catwalks, boat launching ramps, or other structural features will be encouraged.
- Bridge approaches required to be located in wetland areas will be recommended to be placed on pilings rather than constructed as solid fill causeways.

Jetties and Groins

- Jetties and groins that do not interfere with or, preferably, that enhance public access, and do not create adverse sand transportation patterns or unduly disturb the aquatic ecosystem will be acceptable. Bureau personnel will place particular emphasis on preventing project-related erosion and other harmful impacts caused by the installation such as destruction of sand dunes and beaches from changes in littoral currents and drift as well as on protection of fish and wildlife resources and uses.

Lagoons or Impoundments

- Lagoons or impoundments for waste treatment, cooling or aquaculture will be unacceptable to the Bureau and denial of permit will be recommended in cases where significant wetlands are involved or the area is below mean high water. (A Section 13 permit is required for these.)

NPDES

In case of judicial action, Bureau personnel must expect to testify with appropriate Departmental clearance as required and to have developed substantial evidence in support of the environmental aspects of the case. In such event, expert opinion is only a feeble substitute for firsthand testimony based on in-depth investigation.

Detailed Procedural Guidelines

With the foregoing policy and general guidelines in mind, Bureau personnel will observe the specified additional guidelines in reporting on permit applications and Federal proposals of the particular types of projects indicated below:

Docks, Moorages, Piers, and Platform Structures

- In crowded areas, individual single-purpose docks will be discouraged and multiple-use facilities common to several property interests and providing common pollution control works will be actively encouraged.
- Joint-use moorage facilities will be encouraged for subdivisions, motels, and multiple dwellings in preference to individual moorage.
- The size of docks and piers and their extension beyond the high water line will be recommended to be restricted to that required for the intended use.
- Anchor buoys will be encouraged in preference to docks.
- Piers or catwalks will be encouraged in preference to fills to provide needed access to navigable water.
- Dry storage for small boats will be encouraged in preference to water moorage in crowded areas.
- Removal of docks, piers, or platform structures in existence without a Federal permit will be recommended where practicable and especially where the particular structure is found to interfere with or preclude preservation, management, or utilization of fish and wildlife resources.
- Removal will also be recommended of all piers and similar structures receiving little use, in a state of disrepair, and/or serving no demonstrated public purpose.
- Overwater structures, such as apartments, restaurants, platforms, boat houses, and fueling stations will be viewed as

destructive intrusions upon the aquatic environment. Denial of permits for such structures will be recommended unless it is clearly shown that the particular structure is necessarily sited as proposed and the overall public benefit exceeds the public costs. Selection of available alternate upland sites for such structures will be urged regardless of the sponsors' difficulties of design or cost.

- Houseboat anchorage or moorage at a given site for more than 30 days will be discouraged.

Marinas and Port Facilities

- Designs that minimize disruption of currents, restriction of the tidal prism, excavation in shallow water, removal of barrier beaches, filling of wetlands, and filling of shallows beyond the mean tide or normal water line will be strongly encouraged.
- Facilities for the proper handling of sewage, litter, wastes, refuse, and petroleum products will be insisted upon with marina and port proposals.
- ✓ -- Regional and Statewide planning for balanced land use and specifically to locate suitable spoil disposal sites, reduce unneeded dredging, and properly locate any new or expanded port facilities will be encouraged. Shipping and support facilities including marine railways and launching ramps will be encouraged to make full utilization of developed areas to forestall disturbing new areas of high environmental value.

Bulkheads or Seawalls

- Bulkheads or seawalls generally will be acceptable in areas having unstable shorelines, but structures should be located no further channelward than the mean high water line and designed so that reflected wave energy does not destroy stable marine bottoms or constitute a safety hazard.
- In extensively developed areas, bulkheads will be acceptable that esthetically and/or ecologically enhance the aquatic environment. Rip-rap will be encouraged in lieu of bulkheads.
- On barrier and sand islands, bulkheads which would affect the natural deposition of sand materials will not be acceptable.

Installation of sewage lagoons by industry is being encouraged by the Environmental Protection Agency to meet interim goals of secondary level pollution control. In some cases, such lagoons are proposed to be sited on valuable wetlands, thus posing a dilemma for the Bureau. Where no feasible upland site for the lagoon is available, the Bureau will urge adoption of tertiary treatment processes which do not require lagoons and consequent destruction of wetlands.

- The Bureau will object to or request denial of Federal permit for any proposed project not properly designed or located to avoid preventable significant damages to fish, wildlife, and/or other environmental values.
- Applicants for permits covering an existing excavation, fill, structure, facility, or building will be considered to be in violation of the law. Where the work encroaches on navigable waters below the mean high tide or normal water line but is environmentally acceptable, the Bureau will urge that any permit issued be properly identified as a variance encroachment on public waters.

Where the existing work resulted in significant environmental damage, the Bureau will explore with the applicant in cooperation with other concerned agencies, the possibilities for rectification or will insist on denial of permit and removal of unauthorized works and restoration as appropriate to the particular situation. Where satisfactory means and measures for rectification and/or compensation have been negotiated with the applicant, Bureau personnel will insist that the permit be conditioned to assure their implementation. The Bureau may also ask that the applicant be required to furnish a performance bond when there is substantial risk of non-performance.

Where necessary to achieve removal of unauthorized harmful works and/or obtain other appropriate remedy, the Bureau will request the Corps of Engineers to institute enforcement action, including judicial procedures through the Justice Department if required. Should the Corps fail to act with diligence, the Bureau may, where conditions warrant, request the Solicitor, Department of the Interior, to institute legal action through the Department of Justice, but such situations will be rare.

- Sites and design must be in compliance with any applicable comprehensive regional or Statewide plan for land use and/or shoreline development considered by the Bureau to properly balance public needs (or as may be approved by the Secretary of the Interior, or Natural Resources, under any National Land Use Policy Act that may be enacted).
- For proposals which are determined to be acceptable, the Bureau will urge that the applicant be required to provide assurances, through acceptance of license conditions, that the works will be built and operated in such a way as to minimize the impact on fish and wildlife and the detriments to the public interest in the lands and waters affected. In cases where compensation measures are developed with the applicant to protect the resources and the natural functioning ecosystem Bureau personnel may recommend that a performance bond be required of the applicant to guarantee implementation of compensation measures. Similar assurances for Federal projects will be obtained by the Bureau through clear and specific inclusion of means and measures in project authorizing documents and diligent follow-up during construction and operation.
- The following structures, facilities, or activities generally will be considered non-water dependent, unacceptable uses of public waters and wetland areas:
 - Restaurants and other personal service businesses.
 - Residences, apartments, motels, hotels, and trailer parks.
 - Parking lots and offices.
 - Spoil and dump sites.
 - Sewage, waste, or industrial lagoons.
 - Public and private roads, highways and airports.
 - Small boat storage sites.
 - Factories, commercial and industrial developments.

Although certain restaurants, motels, etc. may be more attractive to their customers if they have water frontage, this does not require encroachment beyond high water lines; set-back locations that preserve public access to the water while still providing water views can serve fully as well.

- Toxic, highly organic, and other harmful materials should be disposed on dry upland areas behind impervious dikes.
- Dikes should be vegetated immediately to prevent erosion.
- In-bay, open-water, and deep-water disposal will be considered acceptable by the Bureau only as a last resort after all upland and other alternative disposal sites have been explored and rejected for good cause. Deep-water disposal will be acceptable only at sites designated under State or Federal regulations or at sites specifically selected and agreed to by all concerned agencies.
- Sediment and/or effluent analysis will be required in cases where there is suspected contamination, and in cases where contaminant levels are high, the Bureau will require fully confined upland disposal sites or recommend denial of permit application. Turbidity and dispersal of dredged material will be controlled in relation to open water dredging and disposal by means of fine-meshed curtains or other effective means.

The foregoing guidelines on spoil deposition are also particularly applicable to Federal channel excavation and maintenance.

General Procedural Guidelines

The primary objective of Bureau participation in the Federal permit and Federal construction programs in navigable waters is to prevent loss and damage to fish and wildlife or to esthetic and environmental values, including basic habitat, and to preclude or minimize interference with related recreational uses.

The intent of Bureau personnel in all cases will be to preserve and protect fish and wildlife, the biological productive capacity of the affected navigable waters and related wetlands, the natural scenic beauty, and historic and archeologic sites of these waters and related lands, and to protect the rights of the public to use and enjoy these waters and lands and the resources they contain and support.

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Encroachments waterward of the mean high tide, 100-year flood line, or other normal high water line will be discouraged and applicants will be otherwise discouraged from infringing on public rights of access, use and enjoyment.

Bureau personnel will be guided by the policy and guidelines above and the following interpretations where applicable, in deciding whether private or public works requiring a Federal permit or a Federal proposal are acceptable and can be implemented without significant damages to fish, wildlife, and other environmental resources under purview of the Department: