§ 335.2 Authority.

Under authority delegated from the Secretary of the Army and in accordance with section 404 of the Clean Water Act of 1977 (CWA) and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, hereinafter referred to as the Ocean Dumping Act (ODA), the Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States and the transportation of dredged material for the purpose of disposal into ocean waters. Section 404 of the CWA requires public notice with opportunity for public hearing for discharges of dredged or fill material into waters of the U.S. and that discharge sites can be specified through the application of guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army. Section 103 of the ODA requires public notice with opportunity for public hearing for the transportation for disposal of dredged material for disposal in ocean waters. Ocean disposal of dredged material must be evaluated using the criteria developed by the Administrator of EPA in consultation with the Secretary of the Army. Section 103(e) of the ODA provides that the Secretary of the Army may, in lieu of permit procedures, issue regulations for Federal projects involving the transportation of dredged material for ocean disposal which require the application of the same criteria, procedures, and requirements which apply to the issuance of permits. Similarly, the Corps does not issue itself a CWA permit to authorize Corps discharges of dredged material or fill material into U.S. waters, but does apply the 404(b)(1) guidelines and other substantive requirements of the CWA and other environmental laws.

§ 335.3 Applicability.

This regulation (33 CFR parts 335 through 338) is applicable to the Corps of Engineers when undertaking operation and maintenance activities at Army Civil Works projects.

§ 335.4 Policy.

The Corps of Engineers undertakes operations and maintenance activities where appropriate and environmentally acceptable. All practicable and reasonable alternatives are fully considered on an equal basis. This includes the discharge of dredged or fill material into waters of the U.S. or ocean waters in the least costly manner, at the least costly and most practicable location, and consistent with engineering and environmental requirements.

§ 335.5 Applicable laws.


(b) The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) (commonly referred to as the Ocean Dumping Act (ODA)).

§ 335.6 Related laws and Executive Orders.


(c) The Endangered Species Act (16 U.S.C. 1531 et seq.), as amended.


(g) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) as amended.

(h) Section 307(c) of the Coastal Zone Management Act of 1976 (16 U.S.C. 1456 (c)), as amended.


