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# Stormwater Regulations and Permitting

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## A. Iowa Drainage Law and Resources

Chapter 468 of the Iowa Code covers a majority of Iowa’s drainage law with respect to landowner rights and responsibilities. This chapter covers the establishment and operation of drainage districts as well as laws governing modifying, diverting, or blocking existing drainage ways.

The Iowa Drainage Law Manual ([http://www.ctre.iastate.edu/pubs/drainage\\_law/](http://www.ctre.iastate.edu/pubs/drainage_law/)), developed by the Center for Transportation Research and Education (now the Institute for Transportation) at Iowa State University, summarizes drainage laws as described in the Iowa Administrative Code and provides practical solutions to common drainage problems.

## B. Regulated Activities

In Iowa, two agencies administer permit programs for protecting the state’s water resources and ensuring their wise use. Some local government agencies have also established permit programs related to land subdivision and land disturbing activities. The primary agencies are:

1. **The Iowa DNR:** Iowa DNR administers permit programs for conserving and protecting Iowa’s water, recreational, and environmental resources, and for the prevention of damage resulting from unwise floodplain development. In addition, Iowa DNR has jurisdiction over sovereign lands and waters, and certain fee title lands of the state, and land below the ordinary high water mark on meandered streams and lakes.
  - a. **General Permit No. 2:** For "stormwater associated with industrial activity for construction activities" (land disturbing 1 acre or more). Construction activities that result in the disturbance of 1 acre or more of ground cover are required to obtain an NPDES general permit normally associated with earthwork, grading, or any other non-agricultural land-disturbing activity. The goal of the permit is to reduce the amount of sediment being transported from construction site by stormwater runoff.
  - b. **Other Iowa DNR Permits:** (relating to protection of water and recreational sources or adjacent lands):
    - 1) **Floodplain Construction Permits:** Iowa DNR has authority to regulate construction on all floodplains and floodways in the state. <http://www.iowadnr.gov/water/floodplain/index.html>. Local governments may have obtained transfer of this jurisdiction from Iowa DNR.
    - 2) **Construction Permits:** Pursuant to the Iowa Code, no person, association, or corporation can build or erect a pier, wharf, sluice, piling, wall, fence, obstruction, building, or erection of any kind, upon or over any state-owned land or water under the jurisdiction of Iowa DNR, without first obtaining a permit from Iowa DNR. <http://www.iowadnr.gov/InsideDNR/RegulatoryAir/ConstructionPermits.aspx>.
    - 3) **Special Permits:** Projects involving a standard recreational boat dock require authorization by Iowa DNR. Permits are also required by commercial operations removing sand or aggregate from meandered streams. <http://www.iowadnr.gov/>

- 2. The US Army Corps of Engineers (USACE):** The USACE has authority over public waterways. This includes intrastate lakes, rivers, streams, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, all impoundments of waters and tributaries of waters identified above.
- a. Clean Water Act Section 404 Permit Program:** Prior to conducting work on or in a regulated water of the U.S., a Section 404 permit must first be obtained from the USACE. Additional information on the 404 program may be found in the Iowa DOT Local Systems [I.M. No. 3.130](#).
- b. Wetlands:** Wetlands are defined as “those areas that are inundated or saturated by surface or groundwater 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.” Wetlands have three essential characteristics, all of which must be present for an area to be identified as a wetland. This includes hydrophytic (water-loving) vegetation, hydric soils, and wetland hydrology
- 1) Wetland Delineation:** Identification of Section 404-regulated wetlands requires wetland delineation by the USACE, the EPA, or by submission of a wetland delineation report to the USACE by a qualified wetland specialist. Wetland delineation is often requested or contracted by a property owner who needs to know restrictions on the development or use of the land. In particular, a property owner may need wetland delineation when seeking an individual or general permit.
  - 2) Wetland Mitigation:** Every effort should be made at the beginning of a project to avoid or minimize impacts. Any project that does not meet the conditions of any one of the Nationwide Permits must be sent to the USACE and probably will require satisfactory mitigation for the loss of wetlands. Mitigation is defined as wetland restoration, creation, enhancement, or preservation for the purpose of compensating for unavoidable wetland losses in advance of development actions, when such compensation cannot be achieved at the development site or would not be as environmentally beneficial.
- 3. Joint Application:** Given the regulatory relationship between the Iowa DNR and the USACE, certain projects require authorization from both agencies before work can commence. Construction, excavation, or filling in streams, lakes, wetlands, or floodplains may require permits from both agencies. Specifically, State Section 401 water quality certification is mandatory for all projects requiring a Federal Section 404 permit. In order to simplify this process, a joint application form has been developed for the permit process for any of the following activities:
- Cutting the bank of a river or stream
  - Any excavation or dredging in a stream or channel
  - Channel changes or relocations (including stream straightening)
  - Construction of any permanent dock, pier, wharf, seawall, boat ramp, beach, intake, or outfall structure on a stream, river, or lake
  - Placement of any fill, rip rap, or similar material in a stream, river channel, or lake
  - Construction of a dam across any waterway
  - Placement of fill, construction of levees, roadways, and bridges; and similar activities on a floodplain
  - Construction of buildings on a floodplain

The joint application form and instructions are available on the Iowa DNR website ([www.iowadnr.gov](http://www.iowadnr.gov)); search for “Sovereign Lands Construction Permit.”