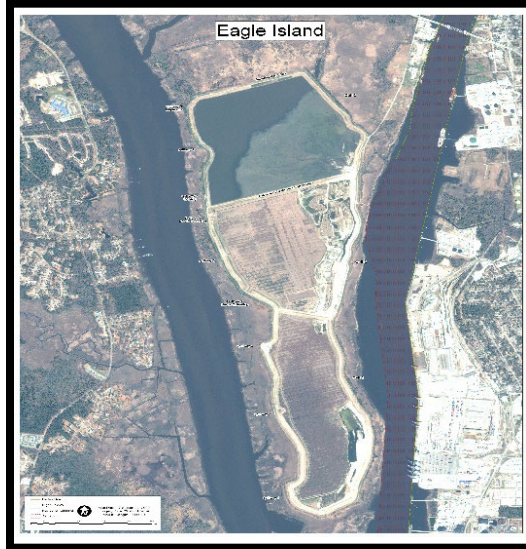




US Army Corps
of Engineers
Wilmington District

Placement of Dredged Material in Federal Dredged Material Placement Facilities by Non- Federal Interests

- Section 217 (b) of Water Resources and Development Act of 1996, as amended (33 U.S.C. § 2326a(b)). Applies to Government Entities.
- Section 401(c) of the Federal Water Pollution Control Act (the "Clean Water Act"), Public Law 92-500, as amended (33 U.S.C. § 1341(c)). Applies to Commercial Entities.
- Policy for use of Federal Dredge Material Placement Facilities by non-Federal Interests has been revised.



CONGRESSIONAL DISTRICT: NC 3, 7

DATE: 01 APRIL 2022

1. **AUTHORIZATION:** Implementation Guidance for Placement of Dredged or Excavated Material in Federal Navigation Project Dredged Material Placement Facilities (DMPFs) by Non-Federal Interests and Others Pursuant to Section 217(b) of the Water Resource Development Act of 1996, Public Law 104-303, as amended (33 U.S.C. § 2326a(b)), and Section 401(c) of the Federal Water Pollution Control Act (the "Clean Water Act"), Public Law 92-500, as amended (33 U.S.C. § 1341(c)).

2. **BACKGROUND:** This guidance addresses the authorities, required findings, and procedures for authorizing placement of dredged or excavated material in federal navigation project Dredged Material Placement Facilities (DMPFs) by non-federal interests and other eligible entities. For purposes of this guidance, the term "DMPF" shall mean a federal dredged material placement facility and any improvements on lands or submerged lands that enable the placement of dredged or excavated material as a result of non-federal work associated with the construction, operation, or maintenance of federal navigation projects for harbors, inland harbors, or inland waterways.

Applies only to DMPFs that are constructed and maintained by USACE and are located on:

- (1) Lands owned in fee by either the United States or the non-federal sponsor of a federal navigation project;
- (2) Lands over which the United States or the non-federal sponsor of a federal

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navigation project holds an easement, lease or right-of-way; or

- (3) Submerged lands within the navigation servitude of the United States.

Non-Federal requests are evaluated upon the following factors:

- (1) The DMPF must have excess capacity available to accommodate the proposed non-federal dredged material without reducing the availability of the facility for project purposes over the life of the project.
- (2) The proposed placement of non-federal dredged material must be for navigation purposes directly linked to use of the federal navigation project associated with the DMPF.
- (3) The proposed placement of non-federal dredged material must be environmentally acceptable.
- (4) The requesting entity must obtain a right of access from all parties that hold a real property interest in the DMPF, and permission from the project sponsor to utilize the site.
- (5) Must have an active permit for the dredging project.

Wilmington District has determined DMPFs within North Carolina do not contain excess capacity to accommodate proposed non-Federal dredged material due to the following factors:

- (1) Navigation projects and associated easements are perpetual.
- (2) Excess capacity does not exist, because non-Federal material would reduce the availability of the facility for federal project purposes over the life the project.
- (3) DMPFs are finite resources, with limited dike construction heights and scare available land for future project expansion or acquisition.

3. **OTHER INFORMATION:** USACE approved requests from Indigo Plantation Marina and Southport Marina to use an AIWW DMPF for their non-Federal dredging projects, because these requests were under development at the time of the policy change. No other requests have been approved since 2017. The District does allow non-federal entities to remove material from a DMPF to create capacity prior to a dredging event, but the material must be permanently hauled offsite. Town of Ocean Isle Beach is the only entity thus far to conduct a removal effort.

4. **LAND EXCHANGES:** Land exchange proposals will only be considered when it is clearly in the best interest of the Government. All exchanges must be desirable with respect to engineering, economic, environmental, real estate, and legal considerations. No land exchange will be considered solely for the benefit of a private party. A proposed land trade must meet several site requirements to be considered (*close proximity, no wetlands, soil characteristics, waterfront access, greater net storage capacity, and provide all environmental clearances*).