PUBLIC NOTICE

US Army Corps of Engineers

US Environmental Protection Agency

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Construction-Operations Division
333 Market Street
San Francisco CA 94105-2197

Water Division, WTR-2
75 Hawthorne Street
San Francisco CA 94105

AVAILABILITY OF THE INLAND TESTING MANUAL

The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency announce the availability of their joint national sediment testing guidance manual, titled *Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. - Testing Manual*, commonly referred to as the "Inland Testing Manual" (ITM). The February 1998 ITM will ultimately replace the interim sediment testing guidelines for the San Francisco Bay area that were published as Public Notice 93-2

Attached is the Implementation Memorandum signed jointly by the Acting Assistant Secretary of the Army (Civil Works) and the Assistant Administrator for Water, U.S. Environmental Protection Agency. The Implementation Memorandum describes how the ITM will be phased-in for dredging projects over the next several months.

The 1998 ITM is available on the Worldwide Web at:

http://www.wes.army.mil/el/dots/ or

http://www.epa.gov/OST/pubs/ITM.html.

Paper copies of the ITM can be obtained via the address listed in the implementation memo, which is attached.

The San Francisco District of the U.S. Army Corps of Engineers and Region 9 of the U.S. Environmental Protection Agency, in conjunction with the other agencies participating in the Long Term Management Strategy (LTMS) for San Francisco Bay area dredging, will be conducting two workshops to develop specific local guidance on the implementation of the ITM. The first workshop will provide an overview of the ITM. It will be held on Thursday, May 14, 1998 from 10:00am to 2:00pm at the San Francisco Bay Conservation & Development Commission located in San Francisco at 30 Van Ness (corner of Van Ness and Market) in room 2011. The second workshop will address development of local guidance for aspects of the ITM that allow regional flexibility. The second workshop will be held on Friday, May 29, 1998 from 10:00am to 2:00pm at the U.S. Environmental Protection Agency's Region 9 office in San Francisco at 75 Hawthorne Street in the Nevada/Hawaii conference room on the first floor. These workshops are also being coordinated with public scoping meetings for the LTMS Management Plan, which are being announced via separate Public Notices.

For further information about the ITM workshops contact:

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San Francisco District
Construction-Operations, DMMO
333 Market Street
San Francisco CA 94105-2197
(415) 977-8471

OR

Brian Ross
U.S. Environmental Protection Agency
Region IX, WTR-2
75 Hawthorne Street
San Francisco CA 94105
(415) 744-1979

For information about the LTMS Management Plan scoping meetings, contact:

Steve Goldbeck or Jaime Michaels
SF Bay Conservation & Development Commission
415-557-3686

OR

Ron Gervason or Ardrea Gaut
SF Bay Regional Water Quality Control Board
510-286-1325 or 510-286-0926

United States
Army Corps of Engineers

FEB 12 1998

Implementation Memorandum for
"Evaluation of Dredged Material Proposed for Discharge
in Waters of the U.S. - Testing Manual"
Inland Testing Manual

Summary

Attached is a copy of the U.S. Army Corps of Engineers (Corps) and Environmental Protection Agency (EPA) document "Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. - Testing Manual." This document is commonly referred to as the "Inland Testing Manual" (ITM). The purpose of the ITM is to provide guidance regarding technical protocols under Section 404 of the Clean Water Act (CWA) for evaluating proposed discharges of dredged material associated with navigational dredging projects into waters of the United States. This memorandum provides background information on the ITM, describes its scope and applicability, and outlines a schedule for its implementation. In accordance with that schedule, the ITM will be phased in over the next 18 months.

Background

In 1992, a workgroup of Corps and EPA researchers, technical specialists, and policymakers convened to develop an updated technical document to evaluate proposed discharges of dredged material (associated with navigational dredging projects) into waters of the United States. The workgroup effort was designed to develop a manual that would replace existing national guidance for CWA Section 404 waters ("Ecological Evaluation of Proposed Discharge of Dredged or Fill Material into Navigable Waters," 1976; commonly referred to as the "Gold Book") and serve as the counterpart to the recently revised guidance for ocean disposal of dredged material regulated under the Marine, Protection, Research, and Sanctuaries Act, or MPRSA ("Evaluation of Dredged Material Proposed for Ocean Disposal--Testing Manual," 1991; commonly referred to as the "Green Book" or "Ocean Testing Manual").

In 1994, a draft of the document was distributed for public comment. A Notice was published in the Federal Register announcing the availability of the draft document for review and copies were sent to Federal and State agencies, port authorities, environmental organizations, and other interested parties. Public meetings were also held in 1994 to discuss the document in Boston, MA, Arlington, VA, Atlanta, GA, San Jose, CA, Seattle, WA, Chicago, IL, St. Louis, MO, and Houston, TX. Altogether, about 2,000 copies of the draft testing manual were distributed. Comments received through the public review process, including those from EPA's Science Advisory Board, were used to shape the final document. Many individuals and groups provided useful and insightful recommendations throughout the ITM development process and

their time and effort is greatly appreciated. Modifications were made in the final ITM, where appropriate, based on these comments. A copy of the comments, and EPA's response, is available for review at EPA's Water Docket (202-260-3027).

The attached ITM incorporates a number of scientific advances since issuance of the 1976 manual, including new laboratory techniques, test species, procedures, detection limits, and evaluation protocols that represent the current state of knowledge for dredged material testing and evaluation. The document's tiered approach to testing is designed to provide the information needed to determine the potential for contaminant-related impacts of proposed discharges without necessitating unnecessary testing and evaluation. The ITM is also structured to allow the incorporation of improved methods and techniques as the state of the science advances.

Applicability

The ITM applies to the evaluation of proposed discharges of dredged material associated with navigational dredging projects into waters of the United States, where disposal is proposed for open water. The technical methods described are not generally suitable for, and are not intended to apply to, dredged material resulting from activities such as landclearing and ditching, even though these discharges may require authorization under CWA Section 404. Where non-navigational dredging and subsequent discharge activities are of essentially the same character as navigational dredging and disposal in open water, the ITM may be applied (e.g., open water discharges of dredged material excavated from a soft-bottom flood control channel or reservoir). The technical methods described are not generally suitable for, and are not intended to apply to, the evaluation of dredged material discharges to uplands or to waters of the U.S. that are not typically inundated, i.e., discharge locations in uplands or waters of the U.S. that do not reflect conditions similar to open water disposal, such as discharges to levees or seasonal wetlands[1]. In addition, technical methods described are not generally suitable for, and are not intended to apply to, the evaluation of fill material. Where the ITM methods are not applicable, or there is any question about applicability, potential applicants are advised to contact their local Corps or EPA offices for further information.

The ITM is also intended to be applied in a manner that effectively considers the potential for the proposed discharge of dredged material to cause adverse impacts on the aquatic ecosystem. The level of review required under the Section 404(b)(1) Guidelines will vary with the nature of potential impacts associated with a particular project. In particular, smaller dredged material disposal projects with minor potential impacts will typically demand less characterization of the material in question, and as a result less comprehensive evaluation, as long as sufficient information is collected and documented to reach a determination regarding compliance with the Section 404(b)(1) Guidelines. The Guidelines recognize that "Although all requirements...must be met, the compliance evaluation procedures will vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities" [40 CFR 230.10] and that "it generally is not intended or expected that extensive testing, evaluation or analysis will be needed to make

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[1]Note, however, that an appendix in the ITM does address those circumstances in which dredged material is proposed for discharge in contained upland disposal sites where there will be return flows into waters of the U.S.

findings of compliance" in cases with little "potential for significant degradation of the aquatic environment" [40 CFR 230.6]. The Guidelines also provide regional flexibility for the preparation of implementation guidance, including testing provisions, as long as this guidance does not modify the basic application, meaning, or intent of the Guidelines [40 CFR 230.2 and 230.61]. The manual provides the best available guidance regarding how dredged material should be tested. It is intended solely as guidance and therefore does not impose any legally binding requirements on Federal agencies, States, or the regulated community.

Implementation Schedule

This February 1998 Inland Testing Manual replaces the 1976 "Ecological Evaluation of Proposed Discharge of Dredged or Fill Material into Navigable Waters," manual in its entirety for implementation of the testing requirements of the December 24, 1980 CWA Section 404 (b)(1) guidelines. The process outlined below will ensure orderly implementation of the ITM and provide adequate opportunity for CWA Section 404 permit applicants to consult with the agencies regarding their specific circumstances.

- Testing or evaluations conducted to support permits or Corps approvals issued prior to the date of this memo remain valid until permit/approval expiration. Where such permits/approvals are renewable on a periodic basis (e.g., every five years), evaluations remain valid until the end of the existing period (e.g., the end of the current five year period).

- Permits or Corps approvals issued or renewed on or after the date of this memo should be supported by testing/evaluation under the procedures of the ITM, unless all of the following three conditions are met:

    - Sampling and analysis plans are submitted to the Corps and EPA on or before August 1, 1998; AND

    - Sampling and analysis plans are approved by the Corps and EPA on or before October 1, 1998; AND

    - Completed test results are submitted to the Corps and EPA for review on or before March 1, 1999.[2]
      Permits or Corps approvals "grandfathered" in accordance with the above three conditions should thereafter be subject to testing and evaluation under the ITM at the time of their next issuance/renewal.

- In order to enable applicants to develop sampling and analysis plans beginning August 1, 1998, EPA Regions and Corps Districts should issue by June 1, 1998, at a minimum, those general regional provisions necessary for the submittal of those plans, e.g., regional

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[2]Where tests have been conducted according to the approved sampling and analysis plan, any additional testing or analysis required of the applicant should be consistent with the protocols used to formulate the original sampling and analysis plan.

contaminants of concern, regional test species. Corps Districts and EPA Regions should complete additional local agreements and regional manuals, as deemed necessary to supplement the ITM to reflect regional circumstances, as quickly as possible but no later than July 1, 1999. These documents will be published for public review and comment (and furnished to Corps and EPA headquarters) prior to final issuance.

- Corps Districts will begin immediately to utilize public notification mechanisms under the CWA, MPRSA, and Rivers and Harbors Act (RHA) to inform the public and potential applicants about the ITM and the above schedule. Those Corps Districts and EPA Regions which have been utilizing procedures or protocols in the draft ITM, or regional manuals developed in accordance with those procedures and protocols, should review those procedures for consistency with the final ITM in accordance with the above implementation schedule. In addition, applicants that choose to proceed under the final ITM prior to the phase-in times are encouraged to work with the appropriate Corps District and EPA Region to do so.

Reference Sediment Rule

As of the publication date of this manual, testing requirements in the Section 404(b)(1) Guidelines regarding the point of comparison for evaluating proposed discharges of dredged material are being updated to provide for comparison to a "reference sediment" as opposed to sediment from the disposal site. Because discharges at a disposal site could impact the point of comparison for future discharges at that site, adoption of a reference sediment that is unimpacted by previous discharges of dredged material will result in a more scientifically sound evaluation of potential individual and cumulative contaminant-related impacts. This change to the Guidelines was proposed in the Federal Register in January 1995, public comments have been received, and a final rule Notice is being prepared. Our agencies expect that the final rule will be published prior to the first phase-in date for ITM implementation, August 1, 1998, and as a result the reference sediment approach will be implemented in the ITM. Revised text for the ITM will be added as necessary to reflect the final rule. Any questions regarding the reference sediment rule and its applicability to the ITM should be directed to the EPA or Corps offices below.

Inland Testing Manual Format and Future Revisions

As technical advances in dredged material testing and assessment are made, the ITM may be revised. When the Corps and EPA agree, at the national level, with new procedures for testing dredged material, older sections to this loose leaf format will be replaced. Interested parties will be notified in advance of dredged material testing changes, as appropriate, through the Corps public notification process. Comments from interested parties will be considered and appropriate phase-in of new testing protocols will give applicants ample opportunity to become familiar with the revised procedures. All changes will be sequentially numbered and posted on the Internet web addresses for the ITM.

The ITM is available on Worldwide Web at the Corps Dredging Operations Technical Support home page at: http://www.wes.army.mil/el/dots/, or at EPA web site

http://www.epa.gov/OST/pubs/ITM.html. Paper copies of the ITM can be obtained by contacting:

Inland Testing Manual Mailing List
c/o Mr. Thomas Patin
U.S. Army Corps of Engineers
Waterways Experiment Station
3909 Halls Ferry Road
Vicksburg, MS 39180-6199

Questions regarding the technical procedures and implementation of the ITM should be directed to your local Corps and EPA offices. Policy and programmatic matters may be raised to the Operations, Construction, and Readiness Division of Corps Headquarters (202-761-0199), or to the Wetlands Division of EPA Headquarters (202-260-7791).

JOHN H. ZIRSCHKY
Acting Assistant Secretary of the
Army (Civil Works)

ROBERT PERCIASEPE
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U.S. Environmental Protection Agency