

## **Section 300.9**

### **Dredging and Dredged Materials Disposal**

#### **A. Definitions**

1. Dredging: the excavation of sediments from beneath tidal and coastal pond waters by mechanical or hydraulic means.

Dredging for navigational purposes is divided into two categories: (a) improvement dredging includes new projects in previously un-dredged areas; and, (b) maintenance dredging includes projects whose purpose is to restore channels and basins to dimensions that support and maintain existing levels of use.

2. Dredged materials disposal: the process of discharging, depositing, dumping, or utilizing the sediments produced by a dredging operation.

#### **B. Policies**

1. The Council shall support necessary maintenance dredging activities in Type 2, 3, 4, 5, and 6 waters, provided environmentally sound disposal locations and procedures are identified.

2. Where beneficial re-use options as set forth in RIGL 46-6.1-3 are not practical, the Council favors offshore open-water disposal for large volumes of dredged materials, providing that environmental impacts are minimized.

3. The Council encourages the use of innovative nearshore methods of dredged materials disposal, particularly when small volumes of material must be disposed. These options include but are not limited to the creation of wetlands, shellfish habitat, and beach nourishment in suitable areas.

4. For upland disposal of dredged material resulting from maintenance dredging operations, a Category A Review may be permitted provided the Executive Director determines that the disposal is conducted consistent with the RIDEM's dredging regulations and that the disposal is at an approved upland disposal facility, or at an approved federal disposal facility. Category A reviews may also be permitted when (1) the upland disposal volume is not greater than 10,000 cubic yards (see §300.2); (2) the proposal complies with all applicable local zoning ordinances; (3) applicable soil erosion and sediment controls are employed (see §300.2); and (4) the proposal meets the standards of §110.1.

5. For beach replenishment, a Category A review may be permitted for the placement of clean sands provided the Executive Director determines that the placement of the materials shall be for beach replenishment only, and the proposal meets the standards of Section 110.1 and 300.9 as applicable.

6. The Council utilizes and follows the prescribed processes outlined in the army corps regulations and manuals for both upland and in-water dredged material disposal.

7. The Council may require performance assurance bonds for projects that utilize in-water disposal or transit federal channels with loaded scows.

#### **C. Prerequisites**

RIGL 46-6.1-7 specifies that approvals for dredging and dredged material disposal require Council and DEM approval. Further, the Council, as the lead agency for dredging, shall be the initial point of contact for application submittals. The Council and DEM have developed protocols that set out how proposed dredging activities shall be coordinated for review. A pre-application consultation request with the Council and DEM (and other agencies as appropriate) is an element of these protocols and is strongly encouraged for all

applicants.

1. Permits for maintenance and improvement dredging and disposal projects for navigational purposes must be obtained from the Army Corps of Engineers as well as the Council. Council and Army Corps requirements are designed to compliment one another; applicants should consider the requirements of both agencies when preparing to begin the permit process and may apply for CRMC and Army Corps permits concurrently.

2. Except for direct federal activities, applicants for dredging or open waters disposal of dredged materials shall be required to obtain a dredging permit (which contains the Section 401 Clean Water Act Water Quality Certification) from the Department of Environmental Management (DEM) before the Council can consider granting approval for the project.

3. All materials to be dredged for either open water disposal or upland disposal must be classified by the Department of Environmental Management (DEM) based upon an approved analysis process prior to the Council acting on an application of either dredging or dredged materials disposal.

4. Any application for open water disposal of dredged materials shall obtain a suitability determination from the Army Corps of Engineers.

5. All applicable requirements of the Freshwater Wetlands Act have or will have been met.

6. Upland disposal of dredged materials must comply with all applicable local zoning ordinances.

7. When disposal is proposed for approved upland facilities, the applicant shall provide a letter of acceptance from that facility, unless the disposal is approved for the central landfill.

8. For dredge volumes greater than 10,000 cubic yards, a pre-application meeting is required.

#### **D. Prohibitions**

1. The disposal of dredged materials on or adjacent to coastal wetlands in Type 1 and 2 waters is prohibited unless associated with a Council- approved program of wetland building or rehabilitation. The disposal of dredged materials is also prohibited on coastal wetlands designated for preservation in Type 3, 4, 5, and 6 waters (see Section 210.3).

2. No dredging for navigational purposes is permitted in Type 1 waters. Only maintenance dredging may be permitted in Type 2 waters, except as allowed per section 200.2.C.2.

3. It is prohibited to utilize any mechanical system to remove, relocate, wash or otherwise alter the seabed in any Rhode Island waters, unless authorized through a council assent. It is also prohibited to remove, relocate, wash or otherwise alter marine sediments with any device or deflector without a permit for the specific equipment, method and location. This regulation is not intended to prohibit or otherwise impact commercial fishing or shellfishing activities in Rhode Island waters or to establish additional permitting requirements for such activities.

#### **E. Additional Category B Requirements**

1. Applicants for all dredging projects shall provide accurate soundings in the area of the proposed dredging operation.

2. Applicants shall describe any temporary or permanent disturbance to a coastal feature which is required or anticipated in order to gain access for heavy equipment to the dredging or disposal site.

3. When fine-grained sediments are to be removed, the applicant shall employ proper turbidity controls as

necessary to control the transport of materials placed in suspension by dredging unless the applicant demonstrates to the Council on the basis of competent professional analysis that such transport will not be significant or will be controlled by other measures.

4. The applicant shall limit dredging and disposal to specific times of the year in order to minimize odors and/or impacts on fish and shellfish unless the applicant demonstrates to the Council on the basis of competent professional analysis that such odors or impacts will not be significant or will be controlled by other measures.

5. Applicants for improvements dredging projects shall describe, on the basis of competent professional analysis, anticipated siltation rates, sediment sources, and anticipated maintenance dredging needs.

6. When dredged materials are removed from a marine to an upland environment for disposal, the applicant shall demonstrate that any release of pollutants present in the materials shall not cause significant environmental degradation.

7. Applicants proposing dredging operations associated with residential boating facilities in Type 2 waters must demonstrate that the purpose is to restore channels and basins to dimensions that support and maintain existing levels of use, and must submit clear and convincing evidence documenting a diminished use of a facility or navigational fairway by natural shoaling or accretion, not merely a need for additional water depth.

## **F. Standards**

All applications submitted to the Council for dredging and disposal shall demonstrate that they have met all applicable sections of the CRMC/DEM dredging application checklist.

### 1. For dredging:

- (a) Bottoms of dredged areas shall slope downward into the waterway so as to maximize tidal flushing.
- (b) Bottom slopes at the edges of dredged areas shall have a maximum slope of 50 percent.
- (c) Dredging shall be planned so as to avoid undermining adjacent shoreline protection facilities and/or coastal features.
- (d) Shellfish dredged from waters classified SB or lower shall not be made available for human consumption or bait.
- (e) All dredging at any marina shall be bounded to the footprint of the Marina Perimeter Limit (MPL). Side slopes associated with such dredging shall be allowed to extend beyond the MPL and then only when all adjacent structures are not impacted.

### 2. For dredged materials disposal in open water:

- (a) Dredged materials may not be placed in areas determined by the CRMC to be prime fishing grounds.
- (b) Measures must be employed and described to ensure that all dredged materials will be dumped solely within the confines of an approved site.
- (c) Hydrographic conditions at the approved disposal site must be such that the disposed dredged materials will remain within the disposal area and that re-suspension of bottom sediments will be minimal.
- (d) Following disposal operations involving polluted materials, clean coarse-grained materials may be required be deposited to cap the spoil mound and minimize the release of any potential contaminants to the water column. The cap shall have a minimum thickness of 6 inches.

- (e) The applicant shall provide for an environmental monitoring program designed to detail physical conditions and biological activity at and near the site for a period of at least one year. The results of such programs shall be made public. This shall not apply to disposal into the CAD cell. However, if the monitoring of the disposal of dredged materials at a site is to be performed by, and/or in conjunction with, a state or federally-sponsored monitoring program, then the applicant shall adhere to the requirements of such state-or-federally-sponsored program.
3. For dredged materials disposal in the creation of wetlands, aquatic habitat, or island:
- (a) Disposal sites must be in sheltered environments which are approved by the Council for such purposes and are not prone to extensive wave or current energies yet subject to sufficient tidal action to provide adequate flushing.
- (b) Dredged materials must be pumped or placed into a containment area that will permit sediment consolidation and prevent erosion.
- (c) The applicant must provide for an environmental monitoring program designed to detail physical conditions and biological activity at and near the site for a period of at least one year. The results of such a program shall be made public.
- (d) All applicable requirements of Section 300.2 shall be met.
4. For upland disposal:
- (a) Dewatering of dredged materials shall occur within a properly designed dewatering facility.
- (b) After dewatering, dredged materials placed on uplands adjacent to tidal waters shall be vegetated or otherwise permanently stabilized. Surface slopes of the disposal area shall be graded so as to prevent surface ponding.
- (c) Where dredged materials are placed behind a wall or bulkhead: (1) the structure shall be suitably engineered to resist the pressures of the dredged material; (2) the material, including fines, shall be prevented from seeping through the wall or bulkhead by the placement of an adequate filtering device; and (3) all applicable standards listed for shoreline protection facilities (Section 300.7) shall be met.
- (d) All applicable requirements of Section 300.2 shall be met.
5. Disposal for beach nourishment:
- (a) The placement of dredged materials on a beach is a preferred disposal alternative, providing that the materials in question are predominantly clean sands possessing grain size and such other characteristics to make them compatible with the naturally occurring beach material.
- (b) In areas where the processes of littoral drift would result in significant re-entry of dredged sediments into a navigable waterway, dredged materials must be placed on the downdrift side of the inlet.
- (c) All applicable requirements of Section 300.2 shall be met.