

# Public Notice

**U S Army Corps  
of Engineers**  
Huntington District

In reply refer to Public Notice No.  
**2004-002**

Issuance Date:  
**October 6, 2004**

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Huntington District  
ATTN: CELRH-OR-F Public Notice No. (*reference above*)  
502 Eighth Street  
Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

**The purpose of this notice is to inform the public concerning the Corps of Engineers (Corps) regulatory program relative to the repairs of damage to public and private property and waterways, caused by recent heavy rains in September 2004 within the Huntington and Pittsburgh Districts' portions of the State of Ohio. Work may be authorized subject to the procedures described below.**

**Procedures for Removing Debris from a water of the United States (U.S.):**

No Corps permit is required for the use of equipment in an upland area.

Any work in a Section 10 designated stream including dredging, excavation and filling activities, requires a Corps permit. For the State of Ohio, Section 10 Streams in the Huntington District include the Ohio, Muskingum, Scioto, Tuscarawas, Walhonding and Hocking Rivers. Section 10 Streams in the Pittsburgh District include the Ohio and Mahoning Rivers, Little Beaver Creek, Middle Fork Little Beaver Creek, and North Fork Little Beaver Creek.

In Section 404 waterways, no permit is required for the use of bucket type equipment to remove debris and sediment from a water of the U.S. as long as a one step removal process is used and no material is redeposited into a water of the U.S. during the activity. The material must be placed directly in a truck to be hauled away or placed in an upland area to prevent reentry into the waterway. Activities only involving "incidental fallback" do not require authorization under Section 404 of the Clean Water Act. Examples of "incidental fallback" include material that falls from a dredge or backhoe bucket as it is raised up through the water column or moved through sediment and/or debris.

All excavated material must be disposed in an upland location outside waters of the U.S.

The use of bulldozers or equipment that is designed to push material, in waters of the U.S. requires a permit authorization from the Corps.

The temporary or permanent stockpiling of excavated material in a water of the U.S. requires a permit authorization from the Corps.

Mechanized land clearing, which typically involves pushing or moving soil with a bulldozer blade or other equipment from one location to another in waters of the U.S. also requires a permit authorization from the Corps.

**Procedures for the Repair, Rehabilitation, or Replacement of Structures or Fill:**

**Nationwide Permit (NWP) 3** authorizes the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill is authorized for the purposes of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act as published in the January 15, 2002 Federal Register, Final Notice of Issuance, Reissuance, and Modification of Nationwide Permits (NWPs) (67 FR Vol 10), NWP 3, provided the currently serviceable structure or fill authorized by 33 CFR 330.3 is not to be put to uses differing from those uses specified or contemplated in the original permit or the most recently authorized modification.

Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means prior to September 2004 as a result of heavy precipitation, the structure or fill was useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. Prior notification is not required provided the structure or repair replaces the structures' original configuration or approximate original contours and the activity complies with the terms and conditions of the NWP's.

In accordance with **NWP 3(iii)**, discharges of dredged or fill material in waters of the US associated with upland restoration activities require notification to this office.

**Procedures for Bank Stabilization:**

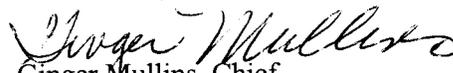
**NWP 13** authorizes bank stabilization activities provided no material is placed in excess of the minimum needed for erosion protection. Notification is required for bank stabilization activities greater than 500 linear feet in length and exceeding one cubic yard per running foot below the Ordinary High Water (OHW) mark. NWP 13 does not authorize the placement of material into wetlands.

**Procedures for Emergency Watershed Protection and Rehabilitation:**

**NWP 37** authorizes work performed or funded by the NRCS requiring immediate action under its emergency Watershed Protection Program, the USFS under its Burned-Area Emergency Rehabilitation Handbook or the DOI for wildland fire management burned area emergency stabilization and rehabilitation. Notification to the COE is required for use of this permit.

General Conditions and State 401 Water Quality Conditions are applicable for all NWPs. NWPs for the State of Ohio can be found on the Huntington District Regulatory Website at <http://www.lrh.usace.army.mil/permits/> or on the Pittsburgh District Website at <http://www.lrp.usace.army.mil/or/or-f/ohio.pdf>.

For additional information you may contact Ms. Rebecca Rutherford or Ms. Lee A. Pittman of the Huntington District at 304-399-5210. You may also contact Mr. Scott Hans or Mr. Fred Pozzuto of the Pittsburgh District at 412-395-7155.

  
Ginger Mullins, Chief  
Regulatory Branch  
Huntington District

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