Public Notice

U S Army Corps of Engineers
Huntington District
Pittsburgh District

In reply refer to Public Notice No. **200600307**

Issuance Date: April 19, 2006

Stream: N/A

Closing Date: May 19, 2006

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) 399-5710

PROPOSED REGIONAL PERMIT FOR IMPACTS TO WATERS OF THE UNITED STATES ASSOCIATED WITH SURFACE AND UNDERGROUND COAL MINING ACTIVITIES WITHIN THE HUNTINGTON AND PITTSBURGH DISTRICTS IN THE STATE OF OHIO

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (COE) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the COE Regulatory Program.

SECTION 10: The COE is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The COE is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity. This notice serves as the COE request to the Ohio Environmental Protection Agency (OEPA) to act on Section 401 Water Quality Certification for this general permit.

TO WHOM IT MAY CONCERN: In accordance with Title 33 CFR 325.5 (c)(1) as published on November 13, 1986, in the Federal Register, Volume 51, Number 219, the District Engineer, U.S. Army District, Huntington, West Virginia and District Engineer, U.S. Army District, Pittsburgh, Pennsylvania have proposed a regional permit to authorize impacts to waters of the

United States for surface and underground mining activities, pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

LOCATION: This Regional General Permit for Surface and Underground Mining Activities in the State of Ohio would authorize impacts to waters of the United States within the Huntington and Pittsburgh Districts.

Joint Procedures Framework for Surface Coal Mining Permit Applications
The memorandum titled "Memorandum of Understanding (MOU) Among the U.S. Army Corps of Engineers (COE), the U.S. Office of Surface Mining (OSM), the U.S. Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service (FWS) For the Purpose of Providing Concurrent and Coordinated Review and Processing of Surface Coal Mining Applications Proposing Placement of Dredged and/or Fill Material into Waters of the United States" was released February 10, 2005. The MOU was developed to improve coordination and information sharing among the agencies responsible for reviewing and processing Surface Mining Control and Reclamation Act (SMCRA) and Clean Water Act (CWA) Section 404 dredge and fill permits. The purpose of the MOU is to provide a framework for establishing more coordinated procedures to improve the decision-making process for surface coal mining permit applications received pursuant to SMCRA and CWA Section 404.

The MOU encourages development of joint procedures between COE Districts and SMCRA regulatory agencies, in coordination with EPA, FWS, and other appropriate agencies, to facilitate concurrent and coordinated review and processing of surface coal mining permit applications. Information about the COE regulatory program is available at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/ and information concerning surface mining regulations can be found at http://www.osmre.gov/. A copy of the MOU can also be found at http://www.epa.gov/owow/wetlands/.

Agency representatives from the COE, the Ohio Department of Natural Resources, Division of Mineral Resources Management (DMRM), and the Ohio Environmental Protection Agency (OEPA) developed the Integrated Application Process (IAP) for Mining Projects in the State of Ohio. The IAP was developed with the intent of clarifying the roles of each agency, enhancing environmental stewardship, improving communication between the agencies and the coal mining industry, and reducing the processing time for mining permits. **The use of this general permit will require use of the applicable procedures established in the IAP.** In accordance with the MOU, the proposed Regional Permit for Mining Activities in the State of Ohio would improve evaluation by making the permit process more available to the public, more predictable for the regulated community, and enhance the environmental review of proposed surface mining activities affecting waters of the United States.

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of this general permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the COE, and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA.

Interested parties are invited to state any objections they may have to the proposal. The decision whether to issue this general permit will be based on an evaluation of the probable impact including cumulative impacts of the proposal on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A general permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The COE is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposal should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the COE to determine whether to issue, modify, condition or deny a general permit. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposal.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered there are no objections. Comments and requests for additional information should be submitted to Ms. Tammy R. Fudge, Regulatory Project Manager, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, you may reach Ms. Tammy R. Fudge of the South Regulatory Section at 304-399-5710 or tammy.r.fudge@lrh01.usace.army.mil.

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Ginger Mullins

Ginger Mullins, Chief
Regulatory Branch
Huntington District Corps of Engineers

(OH)

TERMS AND CONDITIONS:

This general permit authorizes the discharge of dredged or fill material into waters of the United States (US) associated with surface and underground coal mining and reclamation operations provided:

1. the coal mining activities are authorized by the DOI, Office of Surface Mining (OSM), or by the Ohio Department of Natural Resources, Division of Mineral Resources Management with an approved program under Title V of the Surface Mining Control and Reclamation Act of 1977;
2. the permittee notifies the District Engineer in accordance with the Integrated Application Process (attached) for Surface Mining Activities in the State of Ohio (the notification shall include a delineation of waters of the United States, and the appropriate functional assessment as described in the *Guidance for Preparing a Preliminary Jurisdictional Determination for Surface Mining Activities in the State of Ohio*);
3. the District Engineer determines the activity complies with the terms and conditions of the General Permit and notifies the applicant of this determination in writing. The COE, at the discretion of the District Engineer, may require a bond to ensure success of the mitigation, if no other Federal or state agency has required one; and
4. the proposal is a <u>single and complete project</u>. The use of this general permit may not be combined with previous authorizations if the total impacts to jurisdictional waters for the single and complete project exceeds the thresholds defined in this general permit.

Authorization is given for impacts to waters of the United States associated with surface and underground coal mining, including mining within previously mined areas, conducted under a permit issued by the DOI, Office of Surface Mining (OSM) or Ohio Department of Natural Resources, Division of Mineral Resources Management (DMRM) that incorporates the standards of the federal Surface Mining Control and Reclamation Act, and including activities conducted under contracts to reclaim forfeited coal mining operations or abandoned mine land areas as described below:

I. SURFACE IMPACTS ASSOCIATED WITH LANDS NOT PREVIOUSLY MINED

A. Streams:

Using the appropriate functional assessment method verified by OEPA, this general permit authorizes:

1. Unlimited impacts to Class I Primary Headwater Habitat (PHWH) Streams,
2. Impacts to 1,500 linear feet of streams with a Qualitative Habitat Evaluation Index (QHEI) score less than 45, and
3. No more than an aggregate total of 500 linear feet of impacts to:
   - Class II PHWH Streams or
   - Streams with a QHEI score of 45 – 60.

No impacts shall be authorized by this general permit to:

- Class III PHWH Streams or
- Streams with a QHEI score greater than 60.

B. Wetlands:
Using OEPA's Ohio Rapid Assessment Method (ORAM), this general permit authorizes a maximum of 3 acres total wetland impacts based on the following limitations:

- No more than 3 acres of impact to Category 1 wetlands,
- No more than ½ acre of impact to Category 2 wetlands, and
- No impacts to Category 3 wetlands.

C. Open Waters:
This general permit authorizes impacts to no more than 3 acres of open waters.

II. SURFACE IMPACTS ASSOCIATED WITH LANDS PREVIOUSLY MINED

Part A

1. **Streams:** Using the appropriate functional assessment method verified by OEPA, this general permit authorizes:
   a. Unlimited impacts to Class I PHWH Streams,
   b. Streams with a QHEI score less than 45, and
   c. No more than an aggregate total of 2,000 linear feet of impacts to
      - Class II PHWH Streams or
      - Streams with a QHEI score of 45 – 60.

   No impacts shall be authorized by this general permit to:
      - Class III PHWH Streams or
      - Streams with a QHEI score greater than 60.

2. **Wetlands:** Using OEPA's ORAM, this general permit authorizes wetland impacts based on the following limitations:
   a. No more than 6 acres of impact to Category 1 wetlands;
   b. No more than 1 acre of impact to Category 2 wetlands; and
   c. No impacts to Category 3 wetlands.

3. **Open Waters:** This general permit authorizes unlimited impacts to jurisdictional open waters resulting from previous mining.

Part B:
This general permit authorizes unlimited stream impacts on impaired streams, provided at least two of the following parameters are met:

- pH less than 6.0 standard units
- Iron greater than 6.0 mg/l daily
- Manganese greater than 4.0 mg/l daily

These conditions must be met during each of the low, intermediate and high seasonal variation background sampling at the downstream sampling point. Please refer to DMRM Procedure Directive Permitting and Hydrology 2000-5. You shall identify the pollution source and submit a plan of resolution to improve the impaired parameters. Background sampling shall be obtained from a maximum three years prior to the date of submittal. You shall include a copy of the lab analysis sheets for each sampling event. Upon completion of mining activities and reclamation, all discharges must meet the NPDES New Source Performance Standards.

Part C:
This general permit authorizes unlimited stream impacts associated with activities that satisfy the requirements of Ohio Administrative Code section 1501:13-4-15 for pollution abatement and have an approved pollution abatement plan for coal mining operation.

MITIGATION
The District Engineers will determine on a case-by-case basis the requirement for adequate mitigation to ensure the effects to aquatic resources are minimal. In cases where OSM or the designated state agency has required restoration for the loss of aquatic habitat, the COE may consider this in determining appropriate mitigation under Section 404. Mitigation shall be provided in accordance with OEPA's water quality standards (OAC rule 3745-1).

1) A mitigation plan to compensate for temporary and permanent impacts associated with mining activities shall be submitted in accordance with the U.S. Army Corps of Engineers Mitigation Guidelines Checklist for the State of Ohio, Public Notice NO. 20040008-OH, dated September 23, 2004.

2) Impacts to any waterways with a slope greater than 2% shall be reclaimed and/or reconstructed using natural stream channel design standards identified in the ODNR/DMRM-Ohio EPA Joint Stream Reconstruction Guidelines, when appropriate. The reclamation of streams with 2% slope or less will be completed using natural channel design techniques.

3) All streams shall be reconstructed on site using natural stream channel design techniques as stated above. If streams cannot be mitigated on site, an off-site mitigation plan shall be submitted to compensate for the permanent loss of waters of the US. Mitigation shall be provided for impacts to all jurisdictional streams, unless a variance for previously mined areas is approved in writing by the Corp of Engineers following coordination with OEPA.

4) Riparian corridors shall be planted along all reconstructed streams for a minimum width of 50 feet on both sides of the stream measured from top of bank, or 2.5 times the stream width, whichever is greater, except for areas of prime farmland restoration. Vegetation shall be selected in accordance with the DMRM Approved Riparian Species List.

GENERAL CONDITIONS:
The following **general conditions** apply to I and II Parts A, B, and C of this general Permit:

- This general permit does not authorize impacts to streams designated as Warmwater Habitat or having an equivalent or higher designation, as set forth in OAC rule 3745-1-07 through 32.

- All in-stream impounding structures shall be removed from waters of the United States prior to final bond release, unless a waiver is granted in writing from the COE through coordination with OEPA. Request for a waiver shall include the justification, Sediment/Impoundment Data Sheet with addendum demonstrating compliance with Rule 1501:13-9-04 of the Ohio Administrative Code, and mitigation plan to compensate for the loss of aquatic resources.

DEFINITIONS

- **Abatement plan:** any individual technique or combination of techniques, the implementation of which may result in reduction of the base line pollution load. Abatement techniques may include but are not limited to: addition of alkaline material, special plans for managing toxic- and acid-forming material, regrading, and revegetation. **OAC 1501:13-1-02(A)**

- **Base line pollution load:** the characterization of the material being discharged from or on the pollution abatement area, described in terms of mass loading for pH, iron and manganese, including seasonal variations and variations in response to precipitation events. **OAC 1501:13-1-02(N)**

- **Compensatory Mitigation:** For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

- **Impounding structure:** a dam, embankment or other structure used to impound sediment, water, slurry, or other liquid or semi-liquid material. **OAC 1501:13-1-02 (JJJ)**

- **Independent utility:** a test to determine what constitutes a single and complete project in the COE regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

- **Open Water:** An area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing water is very sparse or absent. Vegetated shallows are considered to be open waters. For the purposes of this general permit, the term "open water" includes lakes, ponds and impoundments.

- **Loss of Waters of the US:** Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a NWP or GP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

- **Permanent impoundment:** an impoundment approved by the chief (DMRM) and, if required, by other state and federal agencies for retention as part of the postmining land use. **OAC 1501:13-1-02 (EEEE)**

- **Permit area:** the area of land to be affected indicated on the approved map submitted by the applicant or operator with his application required by section 1513.07 or 1513.074 of the Revised Code. This area shall include, at a minimum, all areas which are or will be affected by the coal mining and reclamation operations during the term of the permit. With respect to underground mining operations, "permit area" shall not include those surface areas overlying underground workings and not included within the affected area. **OAC 1501:13-1-02 (GGGG)**

- **Pollution abatement area:** that part or parts of the permit area which are causing or contributing to the base line pollution load, and which must be affected to bring about potential improvement of the base line pollution load, and which may include the immediate location of the discharge(s). **OAC 1501:13-1-02 (MMMM)**

- **Pre-existing discharge:** a discharge from surface or subsurface waters which is located on previously mined area as defined in this rule. **OAC 1501:13-1-02 (OOOO)**

- **Previously mined land:** area affected by coal mining operations either by direct surface mining or underground mining surface affectment.

- **Single and Complete Project**: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility).

US Army Corps of Engineers

OHIO DEPARTMENT OF NATURAL RESOURCES
MINERAL RESOURCES MANAGEMENT

OhioEPA

Integrated Application Process For Coal Mining Activities in the State of Ohio (4-17-06)

Agency representatives from the U.S. Army Corps of Engineers (COE), the Ohio Department of Natural Resources, Division of Mineral Resources Management (DMRM), and the Ohio Environmental Protection Agency (OEPA) developed the attached flow chart with the objective of integrating the permitting processes of each agency into a unified process. This process may be used for the review and evaluation of standard individual permits, nationwide permits and regional general permits.

The Integrated Application Process was developed with the intent of clarifying the roles of each agency, enhancing environmental stewardship, improving communication between the agencies and the coal mining industry, and reducing the processing time for mining permits. Concurrent reviews are expected to improve the timeliness of each agency's evaluation, avoid duplication of submissions, reduce inconsistency in requirements, eliminate multiple requests for similar information and result in concurrent issuance of permits.

Interagency site reviews will continue where schedules allow. Agency review and comment will not be delayed if timely joint site reviews are not possible.

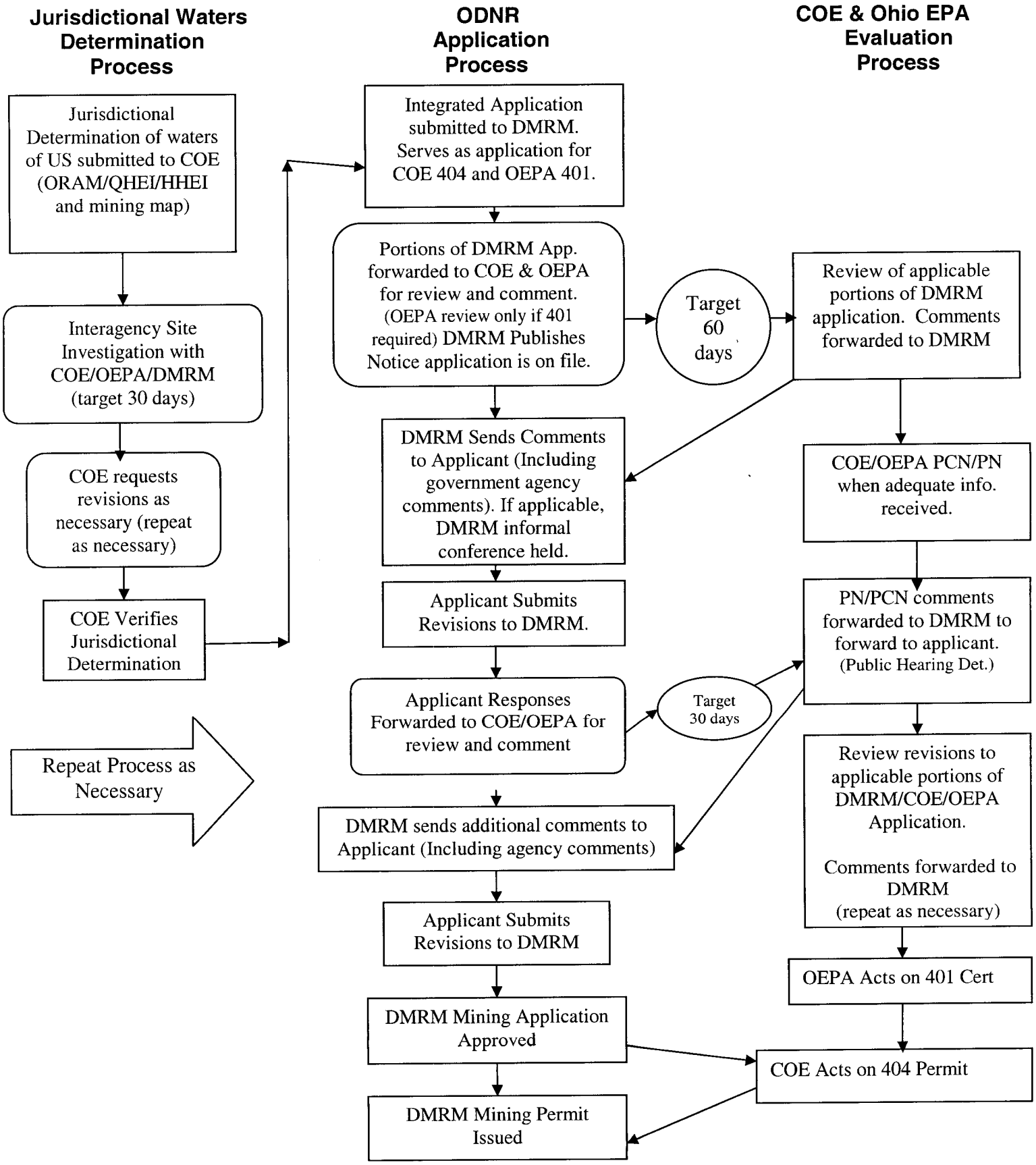
The DMRM application will serve as the application to the COE for Section 404 of the Clean Water Act and OEPA for Section 401 of the Clean Water Act. DMRM will continue the review and revision process in a timely manner regardless of timeliness of COE and OEPA review and comment.

Due to the diversity of regulatory authorities, each Agency retains the authority to approve or disapprove permit or certification requests as required by their regulations.

The Integrated Application Process will be monitored and discussed at interagency and quarterly meetings and updated to achieve improved clarity and success as necessary.

Integrated Application Process

ODNR - Division of Mineral Resources Management,
U.S. Army Corps of Engineers
Ohio Environmental Protection Agency &
(Revised 4-11-06)



Applicant Guidelines for Submitting Information Under the Integrated Application Process for Coal Mining Activities in the State of Ohio (Revised 4-17-06)

Jurisdictional Determination

The applicant shall submit three copies of the Preliminary Jurisdictional Report to the Corps of Engineers (COE) in accordance with the *Guidance for Preparing a Preliminary Jurisdictional Determination Report for Mining Projects within the State of Ohio*. This submittal should also include qualitative assessments of streams and wetlands identified on the project site.

When the COE determines the Jurisdictional Determination Report is complete, the COE will forward one copy to the Ohio Environmental Protection Agency (OEPA) for verification of ORAM and stream functional assessments, and one copy to Division of Mineral Resources Management (DMRM). The COE will attempt to schedule an interagency site investigation with DMRM, OEPA, the consultant and applicant within 30 days (weather permitting). If agency representatives are unavailable, the COE will conduct the site investigation. The applicant, or agent, shall ensure the wetland and stream jurisdictional limits are marked in the field prior to scheduling a site visit. The interagency site visit will also serve as a pre-application meeting to discuss project impacts, avoidance, minimization, restoration, mitigation and OEPA 401 certification requirements.

The applicant will revise the Jurisdictional Determination Report, if necessary, and submit any revisions to the COE for approval. Upon approval of a final Jurisdictional Determination Report, the COE will verify the jurisdictional limits of waters of the United States and forward a copy of the verification letter to the OEPA and DMRM. If significant changes were made to the report or if replacement reports were determined necessary, the applicant shall submit these to the COE for distribution to OEPA and DMRM.

Application

The applicant shall submit a *Request for Review Form* (attached); a copy of the COE Jurisdictional Determination verification letter; the additional information identified in the *Application Requirements for Coal Mining Activities in the State of Ohio* (attached); the *Stream, Wetland and Open Waters Impact Summary Tables* (attached) with the DMRM application. (The minimal degradation alternative information is only necessary if the proposal requires an Individual 401 Water Quality Certification from OEPA).

In addition to the copies required by DMRM, the applicant shall submit two additional copies of the following portions of the mining application to DMRM for submittal to the COE & OEPA for agency review (only one additional copy is needed if the proposal meets OEPA's NWP 21 401 certification conditions or regional general permit conditions):

For Surface Mining Applications

- Part 2, items A, B, C, D, F and H
- Part 3, items A, D, E, F, H, I and J
- Engineering designs
- Application & Hydrology map(s)
- Wetland and stream restoration plans

For Underground Mining Applications

- Part 2, items A, B, C, D, E and G
- Part 3, items A(12), A(14), D, E and F
- Engineering designs
- Application & Hydrology map(s)
- Wetland and stream restoration plans

Technical Review

DMRM shall forward the items identified above to the COE and OEPA <u>to serve as the COE CWA 404 application and the 401 application for the OEPA</u>. The COE and OEPA will have a target of 60

days to provide comments to DMRM requesting any additional information needed to complete the 404 & 401 evaluations.

DMRM will compile all technical review comments and forward a revision letter to the applicant. The applicant shall not submit any revisions directly to the COE or OEPA after verification of the Jurisdictional Determination. The applicant will submit revisions (to replace original pages in the submittal) to DMRM including two extra sets of the revisions for the COE & OEPA. DMRM will forward the updated information to the COE and OEPA. The COE and OEPA will review the revised information and determine if additional information is necessary.

Additional technical reviews will follow the same procedure, allowing, on average, a 30 day review.

- DMRM forwards revised portions of the DMRM application to COE and OEPA
- COE and OEPA review and submit comments to DMRM, if necessary
- DMRM sends revision letter to applicant including comments from all technical reviewers
- Applicant responds to DMRM with revised application responses
- DMRM forwards revisions to technical reviewers

This process will be repeated until the application is complete, accurate and meets the requirements of each agency.

COE PCN/PN and OEPA PN Process

The COE may consider the application complete for Preconstruction Notification (PCN) to the agencies as part of the Nationwide Permit 21 and RGP notification procedures or Public Notice (PN), but not complete for final authorization. When sufficient information is received, the COE will PCN/PN the proposal. A goal would be to PCN/PN after the first technical review. However, multiple technical reviews may be necessary to receive all requested information.

When the COE determines the application is complete for PCN, the COE will fax a notification to the applicant or designated agent requesting four additional copies of the submitted information. The applicant will forward five copies of the revised application materials to the COE for PCN procedures. Upon receipt of the five copies, the COE will PCN/PN the proposal to the agencies.

The COE and OEPA will forward any agency or public comments to DMRM to provide to the applicant. The same coordination procedure will occur throughout the process, all correspondence to and from the applicant will go through DMRM. This process will maintain agency awareness of problems, concerns, revisions, etc. DMRM may request the COE and OEPA contact the applicant directly if DMRM has completed their review and has no outstanding issues.

Approval/Verification

When all requested information is submitted to complete an application for final verification, the COE Project Manager will determine the application is complete for verification and wait for DMRM approval and OEPA certification, if applicable. OEPA will forward the 401 certification to the COE and DMRM, if applicable. DMRM will forward the application approval to the COE and OEPA. If approved, the COE will verify the project meets the terms and conditions of NWP 21, a Regional General Permit or issue a Standard Individual Permit and provide a copy to OEPA and DMRM. DMRM will wait for COE verification to avoid issuing a conditional permit, unless the applicant requests the application be issued conditionally. In this case an Application to Revise Permit (ARP) would need to be submitted and approved prior to removal of the permit conditions.

Request for Review
under the
Integrated Application Process
for Coal Mining Activities in the State of Ohio

By submitting this form, and the information specified below, I am requesting an interagency review under the Integrated Process for Mining Projects in the State of Ohio.

Project Number/Name: _____

☐ **To initiate the process, I have completed a Jurisdictional Determination and have attached the Corps of Engineers Verification Letter.**

☐ **I have provided additional copies of the applicable parts of the DMRM application to be furnished to the Corps of Engineers and the Ohio Environmental Protection Agency (OEPA). An additional copy for OEPA is only needed if an individual 401 certification is required.**

☐ **I have completed the attached Stream, Wetland and Open Waters Impact Summary Tables. (Information concerning the minimal degradation alternative is only necessary if individual 401 Water Quality Certification is required.)**

Permitting Mechanism

- ☐ **I am requesting COE evaluation under the Standard Individual Permit and OEPA Individual 401 water quality certification.**
- ☐ **I am requesting COE consideration under Nationwide Permit 21 and an individual 401 water quality certification from OEPA.**
- ☐ **I am requesting COE consideration under Nationwide Permit 21 and have preliminarily determined my project meets the OEPA 401 certification for NWP 21.**
- ☐ **I am requesting COE consideration under a Regional General Permit.**

Signature of Applicant_____**Date**_____

Print Name_____

Company_____

or

Designated Agent_____**Date**_____

Print Name_____

Company_____

Application Requirements for Coal Mining Activities in the State of Ohio
(4-17-2006)

A goal of the Integrated Application Process (IAP) is to combine the Surface Mining Control and Recreation Act (SMCRA), Corps of Engineers (COE) Clean Water Act (CWA) 404 and Ohio Environmental Protection Agency (OEPA) CWA 401 regulatory requirements into one application to reduce duplication and redundancy for the applicant. Information required under Sections 404 and 401 of the CWA can be incorporated into appropriate sections of the Division of Mineral Resources Management (DMRM) application. The Buffer Zone Variance Request (BZVR) of the DMRM application includes information also required by the COE and OEPA. The specific COE and/or OEPA requirements are listed in bold with the appropriate sections of the DMRM application referenced in italics.

Provide the approximate linear feet (and acres) of stream(s) that would be impacted by the proposed activity. Indicate flow regime for each stream.

> **<u>Direct Impacts</u> include: footprints of hollow fills or other permanent fill, footprints of sediment pond embankments or other temporary fills, road crossings, mining through streams, and other direct placement of fill or dredged material into waters.**
> **<u>Indirect Impacts</u> include: reach of stream impacted by sediment pond pool, reach of stream impacted by sediment transport, diversion of waters, excavation, and other secondary impacts.**

This information should be included in the DMRM BZVR found in Part 3, E(4).

Provide the approximate acres of wetland(s) and open waters that would be impacted by the proposed activity.
This information should be included in the DMRM BZVR with the exception of ephemeral stream impacts and wetlands outside the buffer zone. Information regarding impacts to ephemeral streams may be included in the BZVR and wetlands outside the buffer zone may be included in Part 3, D(18).

Provide the drainage acreage above the proposed activity (If a valley fill is involved, the drainage acreage must be calculated from the toe of the fill).
This information may be provided in Part 3, H(4).

Describe the purpose of the proposed activities.
Provided throughout the DMRM application and in BZVR.

Provide the expected date mining activity and mitigation would commence, duration of activity and expected completion of activity.
Provided in Part 1, E(1), Part 3, D(18), and should be included in the BZVR in Part 3, E(4).

Describe the type (rock, sand, dirt, rubble, etc.) and quantity (cubic yards) of dredged or fill material proposed to be discharged into the aquatic environment.
Specific CWA requirement included in Part 3, D(14) or D(18).

Minimal Impact Determination - Information to allow the District Engineer to determine if a project will result in minimal adverse environmental effects on the aquatic environment, both individually and cumulatively. Compare loss of aquatic functions as a result of proposal with

the gain of aquatic functions with compensatory mitigation (Required for consideration under NWP 21).
Specific 404 requirement: Include in Part 3, D(14) or D(18).

Impact Determination - A discussion of how the project has been designed and constructed to avoid and minimize adverse effects to waters of the United States to the maximum extent practicable at the site. This discussion may include, but not limited to, the following:

- **i. Demonstration that there is not a practicable alternative outside waters of the U.S., including other alternatives that were considered**
- **ii. Discussion of avoidance and minimization to waters of the U.S**
- **iii. Avoidance of high quality waters**

Avoidance is discussed in the BZVR with the exception of ephemeral streams and wetlands outside the buffer zone. Information regarding ephemeral streams may be included in the BZVR and wetlands outside the buffer zone should be included under page 27, D (18).

Demonstration that sediment control structures will be located as close as practical to the fill(s) and/or mining area with which it is associated.
Included under Part 3, H(4) or the BZVR Part 3, E(4).

Provide a general description of the aquatic environment directly affected, as well as the aquatic resources a reasonable distance downstream. For stream impacts, the areas to be impacted shall be assessed to include the stream pattern, profile and dimensions.
Some information may be found in the Jurisdictional Determination Report identifying waters of the United States. However any additional information should be provided in the BZVR.

Summarize results of functional (habitat) assessment
Waters of the U.S. Delineation
Included in the Jurisdictional Determination to be submitted and verified prior to the DMRM application submittal.

Cumulative Impacts
Include an evaluation of the impact on the environment that results from the incremental impact of the proposed activity when added to other past, present and reasonably foreseeable future actions regardless of what agency or person undertakes them. Consider other land disturbance activities and watershed improvement projects within the same watershed as the proposed activity on water quality and aquatic habitat.
Specific CWA requirement. Include in Part 3, D(14).

Compensatory Mitigation Plan
Specific CWA requirement to be prepared in accordance with RGL 02-2. Include in Part 3, D(14) or D(18).

COE NEPA Requirements
COE Standard Individual Permit application shall be completed in accordance with the *NEPA Guidance Document for use in preparation of NEPA documents required by Clean Water Act Section 404 Individual Permits for surface coal mining operations in the state of Ohio within the Huntington District. Include in Part 3, D(18).*

Stream Impact Summary Table

Page ____ of ____

Applicant: _____ Project Name: _____ COE #: _____

Date: _____

Stream Id/Name	QHEI	HHEI	Total stream length on-site	Preferred Impacts			Minimal Degradation Impacts (only if individual 401 required)		
				Stream Length		Describe proposed types of impacts	Stream Length		Describe proposed types of Impacts
				Impacted	Avoided		Impacted	Avoided	
S-1	53		1,500	1,500	0	-900' mine through -200' spoil placement only -200' sediment transport only 150' embankment construction -200' impoundment 500' valley fill	1,000	500	-600' mine through -100' spoil placement only -100' sediment transport only -200' impoundment
Totals									

Wetland and Open Water Impact Summary Table Page ____ of ____

Applicant: _____ Project Name: _____ COE #: _____

ORAM Version Used: _____ Date:

Id #	ORAM Score	Total acres on-site	Proposed (Preferred) Alternative (acres)						Actual (Minimal Degradation) Alternative (acres) (only if individual 401 required)					
			Impact			Avoidance			Impact			Avoidance		
			Forested	Non-Forested	Total Impact	Forested	Non-Forested	Total Avoided	Forested	Non-Forested	Total Impact	Forested	Non-Forested	Total Avoided
Category 1														
Total														
Category 2														
Total														
Category 3														
Total														
Grand Total														
Open Waters														