Public Notice

U S Army Corps of Engineers
Huntington District

In reply refer to Public Notice No. LRH-2006-2228 | Issuance Date: October 20, 2006

Stream: N/A | Closing Date: December 4, 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) 399-5210

NATIONWIDE PERMIT REISSUANCE FOR THE STATE OF OHIO REQUEST FOR COMMENTS

On September 26, 2006, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue its nationwide permits (NWPs). Enclosure A is an index of the proposed NWPs and general conditions.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. Many of the proposed NWPs require notification to the district engineer before commencing the work, to ensure that the activities authorized by those NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2006-0005 at www.regulations.gov . Instructions for submitting comments are provided in the September 26, 2006 Federal Register notice. Comments on the proposed NWPs are due by November 27, 2006.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning: Division Engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to ensure that impacts to the aquatic environment authorized by the NWPs are minimal, both individually and cumulatively. Division Engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where impacts authorized by those NWPs may be more than minimal. An enclosure for this public notice, lists the proposed regional conditions currently under consideration by the Huntington, Buffalo, and Pittsburgh Districts of the US Army Corps of Engineers for the State of Ohio. These districts are seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWPs are minimal. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the State of Ohio.

The intent of this Public Notice is to provide an opportunity for the public to express their views on proposed regional conditions. Persons wishing to submit comments, on regional issues

relating to the proposed NWPs and regional conditions should write:

Ms. Jean B. Siedel, Regulatory Project Manager
North Regulatory Section, CELRH-OR-FN
U. S. Army Corps of Engineers, Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070

If you have any questions concerning this public notice, please contact Ms. Jean B. Siedel of the North Regulatory Section, Dover Regulatory Field Office at (330) 364-6177. Comments relating to regional conditions are due by December 2, 2006. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

In conjunction with the Federal Register notice, Corps districts will be announcing proposed regional conditions for these NWPs for public comment. When the final NWPs are issued, the final regional conditions will be issued at the same time so that the States and Tribes can make their Clean Water Act Section 401 water quality certification and Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 60 days of the Federal Register notice announcing the issuance of the NWPs. After that 60-day period, the NWPs and the regional conditions will become effective.

Draft decision documents, which include environmental documentation required by the National Environmental Policy Act, have been prepared by Corps Headquarters. The decision documents will address compliance of the NWPs with the requirements for issuance under general permit authority. These documents, as well as the proposed NWPs, are available for viewing at the U.S Army Corps of Engineers, Huntington District Office, located at 502 8th Street in Huntington, West Virginia or on the Internet at the www.regulations.gov site (docket ID number COE-2006-0005). Final decision documents will be prepared for those NWPs that are issued. In addition, supplemental decision documents will be issued by division engineers to address their determinations concerning regional conditions for the NWPs.

Anyone wishing to provide comments may obtain a full text copy of the NWPs through www.regulations.gov (docket ID number COE-2006-0005), the Corps home page or the Federal Register address listed below. The Corps home page is:
http://www.usace.army.mil/inet/functions/cw/cecwo/reg/ .
As an alternate, internet users can access the Federal Register through the Government Printing Office (GPO) at http://www.gpoaccess.gov/fr/index.html .

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act.

Ginger Mullins

Ginger Mullins, Chief
Regulatory Branch

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Enclosure A

<u>Index of Proposed Nationwide Permits, Conditions, and Definitions</u>

Proposed Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Oil Spill Cleanup
21. Surface Coal Mining Operations
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
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43. Stormwater Management Facilities
44. Mining Activities
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B. Discharges into Ditches and Canals
C. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs
D. Commercial Shellfish Aquaculture Activities
E. Coal Remining Activities
F. Underground Coal Mining Activities

Proposed Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Wild and Scenic Rivers
16. Tribal Rights
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18. Historic Properties
19. Designated Critical Resource Waters
20. Mitigation
21. Water Quality
22. Coastal Zone Management
23. Regional and Case-by-Case Conditions
24. Use of Multiple Nationwide Permits
25. Transfer of Nationwide Permit Verifications
26. Compliance Certification
27. Pre-Construction Notification

Proposed Nationwide Permit Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Enhancement
Ephemeral stream
Establishment (creation)
Independent utility
Intermittent stream

Loss of waters of the United States
Non-tidal wetland
Open water
Perennial stream
Practicable
Pre-construction notification
Preservation
Re-establishment
Rehabilitation
Restoration
Riffle and pool complex
Riparian areas
Single and complete project
Stormwater management
Stormwater management facilities
Stream bed
Stream channelization
Structure
Tidal wetland
Vegetated shallows
Waterbody

Enclosure B

2007 Nationwide Permit Regional Conditions for the State of Ohio

1. ***Aids to Navigation***. No proposed regional conditions.

2. ***Structures in Artificial Canals***.

   a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for any proposed structure exceeding 25% of the width of the existing canal.

3. ***Maintenance.***

   a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required prior to the use of vertical sheet piling and closed structures in the special habitat waters of Lake Erie (See Nationwide Permit General Condition 19 *Designated Critical Resource Waters*, and Regional General Condition (5d) for *Critical Resource Waters*.)

   b. The placement of any new rip-rap is limited to a total of 200 feet.

   c. This nationwide permit does not authorize temporary construction, access, and dewatering necessary to construct the project. These activities may be authorized by NWP 33.

4. ***Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities.*** No proposed regional conditions.

5. ***Scientific Measurement Devices.***

   a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for any discharge associated with weirs and flumes.

   b. This nationwide permit does not authorize discharges of dredged or fill material into wetlands, islands, island backchannels, embayments, and/or sites at the confluence of one stream with another.

6. ***Survey Activities.***

   a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for "exploratory trenching."

7. ***Outfall Structures and Associated Intake Structures.*** No proposed regional conditions.

8. ***Oil and Gas Structures on the Outer Continental Shelf.*** No proposed regional conditions.

9. ***Structures in Fleeting and Anchorage Areas.*** No proposed regional conditions.

10. ***Mooring Buoys.*** No proposed regional conditions.

11. ***Temporary Recreational Structures.***

a. This nationwide permit does not authorize discharges of dredged or fill material into wetlands, islands, island backchannels, embayments, and/or sites at the confluence of one stream with another.

12. ***Utility Line Activities.***

a. Pre-Construction Notification: The permittee must notify the District Engineer in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition for the following activities:

- All work in waters of the U.S., including special aquatic sites, associated with utility line substations;
- All stream work (perennial, intermittent, and ephemeral) associated with foundations for overhead utility line towers, poles, and anchors;
- All impacts to forested wetlands; and
- The utility line in waters of the US, excluding overhead lines, exceeds 500 feet.

b. Where certain functions and values of waters of the US are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

c. Anti-seep collars or clay plugs must be utilized for trenching activities conducted in a wetland.

d. This nationwide permit does not authorize the placement of manholes in wetlands.

e. Excess material must be removed to upland areas immediately upon completion of construction.

f. Pre-Construction Notifications for aerial transmission lines over Section 10 waters must include the nominal system voltage and the additional clearance above low steel for bridges, if available, or above maximum high water elevation.

Note: All aerial crossings will have the following minimum clearances above the clearance required for bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed crossing. These clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electrical Safety Code. For any non-electrical

cable, the crossing must have a minimum clearance of 20 feet above the clearance required for bridges.

NOMINAL SYSTEM VOLTAGE, KV	ADDITIONAL CLEARANCE, FEET
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750 – 765	45

13. ***Bank Stabilization.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for the use of any vertical bulkhead. A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.

14. ***Linear Transportation Projects.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for activities in Section 10 waters.

b. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for all perennial and intermittent stream impacts greater than 200 feet total and for all stream impacts greater than 500 feet, including ephemeral streams.

c. The Pre-Construction Notification must include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration. The compensatory mitigation proposal may be either conceptual or detailed.

15. ***U.S. Coast Guard Approved Bridges.*** No proposed regional conditions.

16. ***Return Water From Upland Contained Disposal Areas.*** No proposed regional conditions.

17. ***Hydropower Projects.*** No proposed regional conditions.

18. ***Minor Discharges.***

a. This Nationwide permit does not authorize stream culverting, relocation, channelization or elimination of streams.

b. This nationwide permit does not authorize structures or fills that extend beyond 10% of the width of the existing stream channel.

19. ***Minor Dredging.*** No proposed regional conditions.

20. ***Oil Spill Cleanup.*** No proposed regional conditions.

21. ***Surface Coal Mining Operations.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for all activities associated with this permit and shall include at a minimum all items identified in the Standard Operating Procedure for Nationwide Permit 21 Processing, dated March 19, 2004, or current version.

b. Compensatory Mitigation is required for all discharges associated with use of this nationwide permit.

c. Discharges involving perennial streams are ineligible for this nationwide permit, unless the perennial nature of the stream results from previous mining activities.

d. For those projects that rely on infrastructure or storage areas associated with other mine sites, a detailed description of the manner in which the proposed project is reliant upon features of another project shall be explained.

e. The Pre-Construction Notification shall include an area map, preferably a USGS 7.5 Minute Series topographic map, depicting the names, ODNR, DMRM Article 3 Permit and Corps Project Numbers, and locations of all adjacent mines. In addition, if adjacent mines and the proposed project are owned by the same company (including parent company), a summary of the status of each adjacent site should be provided.

Streams

a. Using the appropriate functional assessment method verified by OEPA, this nationwide 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.

b. This nationwide permit shall not authorize impacts to Class III PHWH Streams or streams with a QHEI score greater than 60.

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

1) No more than 3 acres of impact to Category 1 wetlands,

2) No more than ½ acre of impact to Category 2 wetlands, and

3) No impacts to Category 3 wetlands.

Open Waters
a. This nationwide permit authorization is limited to no more than 3 acres of open waters.

22. ***Removal of Vessels.*** No proposed regional conditions.

23. ***Approved Categorical Exclusions.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for use of this nationwide permit.

b. Pre-Construction Notifications must also include a copy of the CE determination, delineation of special aquatic sites and a mitigation plan for impacts greater than 1/10 acres of waters of the United States.

24. ***Indian Tribe or State Administered Section 404 Programs.*** No proposed regional conditions.

25. ***Structural Discharges.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required if the impacts to waters of the United States are more than 1/10 acre.

26. [Reserved]

27. ***Aquatic Habitat Restoration, Establishment, and Enhancement Activities.***

Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for all work in waters of the U.S., including special aquatic sites.

28. ***Modifications of Existing Marinas.*** No proposed regional conditions.

29. ***Residential Developments.***

a. The Pre-Construction Notification must include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit

justification explaining why compensatory mitigation should not be required for the District Engineer's consideration. The compensatory mitigation proposal may be either conceptual or detailed.

b. The Pre-Construction Notification shall include information sufficient to demonstrate the proposed project represents a single and complete project.

c. Discharges of dredged or fill material into waters of the US for the construction or expansion of a single residence (not associated with a multiple unit development) and attendant features is limited to ¼ acre of impacts to waters of the US.

d. Perpetual protection, in the form of a conservation easement, deed restriction, deed-restricted open space, or other similar legal protection, should be placed on the remaining waters of the United States on-site to guarantee their preservation for aquatic resources, wildlife, open space, and flood protection. The Pre-Construction Notification should include a written description of the perpetual protection and corresponding drawings. The permittee is required to clearly identify, on the plot plan, the boundary of the Federal jurisdictional waters and associated upland buffer that is protected by the easement. The restrictions shall specifically state that the aquatic resources are not to be adversely impacted such as filling; excavating; draining; dredging; removal, destruction, or cutting of vegetation; spraying with herbicides; grazing of domestic animals; placement of structures; or other disturbances or manipulation of the protected area. A copy of the recorded easement shall be provided to the Army Corps of Engineers by December 31st in the year the authorized work commences, or by an approved time extension.

30. ***Moist Soil Management for Wildlife.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for use of this nationwide permit unless the applicant is working under the leadership of a governmental wildlife resource agency such as the Natural Resource Conservation Service (NRCS), the United States Fish & Wildlife Service (USFWS), and the Ohio Department of Natural Resources.

31. ***Maintenance of Existing Flood Control Facilities.*** No proposed regional conditions.

32. ***Completed Enforcement Actions.*** No proposed regional conditions.

33. ***Temporary Construction, Access and Dewatering.*** No proposed regional conditions.

34. ***Cranberry Production Activities.*** No proposed regional conditions.

35. ***Maintenance Dredging of Existing Basins.***

a. Dredging operations in Lake Erie and its bays that recover material consisting of greater than 60% sand and/or gravel shall be disposed of in the nearshore areas of Lake Erie, within the littoral zone, down drift from the dredging location. The dredged material to be disposed of in the nearshore areas must not exceed 5 grams/kilogram total organic carbon.

36. ***Boat Ramps.***

a. The discharge into waters of the United States is limited to 50 cubic yards of material and the width of the boat ramp is limited to 20 feet. However, for public boat ramps, the District Engineer may consider proposals for boat ramps with discharges into waters of the United States in excess of 50 cubic yards of material and a 20 foot width.

b. This nationwide permit does not authorize discharges of dredged or fill material into wetlands, islands, island backchannels, embayments, and/or sites at the confluence of one stream with another.

37. ***Emergency Watershed Protection and Rehabilitation.*** No proposed regional conditions.

38. ***Cleanup of Hazardous and Toxic Waste.*** No proposed regional conditions.

39. ***Commercial and Institutional Developments.***

a. The Pre-Construction Notification must include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration. The compensatory mitigation proposal may be either conceptual or detailed.

b. The Pre-Construction Notification shall include information sufficient to demonstrate the proposed project represents a single and complete project.

c. Perpetual protection, in the form of a conservation easement, deed restriction, deed-restricted open space, or other similar legal protection, should be placed on the remaining waters of the United States on-site to guarantee their preservation for aquatic resources, wildlife, open space, and flood protection. The Pre-Construction Notification should include a written description of the perpetual protection and corresponding drawings. The permittee is required to clearly identify, on the plot plan, the boundary of the Federal jurisdictional waters and associated upland buffer that is protected by the easement. The restrictions shall specifically state that the aquatic resources are not to be adversely impacted such as filling; excavating; draining; dredging; removal, destruction, or cutting of vegetation; spraying with herbicides; grazing of domestic animals; placement of structures; or other disturbances or manipulation of the protected area. A copy of the recorded easement shall be provided to the Army Corps of Engineers by December 31st in the year the authorized work commences, or by an approved time extension.

40. ***Agricultural Activities.***

a. This Nationwide permit shall be used only once per farm tract. The term "farm tract" refers to a parcel of land identified by the Farm Service Agency.

41. ***Reshaping Existing Drainage Ditches.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for use of this nationwide permit.

42. ***Recreational Facilities.***

a. The Pre-Construction Notification must include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration. The compensatory mitigation proposal may be either conceptual or detailed.

b. The Pre-Construction Notification shall include information sufficient to demonstrate the proposed project represents a single and complete project.

c. Perpetual protection, in the form of a conservation easement, deed restriction, deed-restricted open space, or other similar legal protection, should be placed on the remaining waters of the United States on-site to guarantee their preservation for aquatic resources, wildlife, open space, and flood protection. The Pre-Construction Notification should include a written description of the perpetual protection and corresponding drawings. The permittee is required to clearly identify, on the plot plan, the boundary of the Federal jurisdictional waters and associated upland buffer that is protected by the easement. The restrictions shall specifically state that the aquatic resources are not to be adversely impacted such as filling; excavating; draining; dredging; removal, destruction, or cutting of vegetation; spraying with herbicides; grazing of domestic animals; placement of structures; or other disturbances or manipulation of the protected area. A copy of the recorded easement shall be provided to the Army Corps of Engineers by December 31st in the year the authorized work commences, or by an approved time extension.

43. ***Stormwater Management Facilities.***

a. The permittee must notify the District Engineer in accordance with the Nationwide Permit Pre-Construction Notification General Condition for impacts to Section 10 waters and wetlands adjacent to Section 10 waters, impacts to perennial streams, and impacts to intermittent streams.

44. ***Mining Activities.*** **REVOKED**

A. ***Emergency Repair Activities.*** No proposed regional conditions

B. ***Discharges in Ditches and Canals.***

*******PROPOSING TO REVOKE********

C. ***Pipeline Safety Program Designated Time Sensitive Inspections and Repairs.*** Regional conditions not allowed.

D. ***Commercial Shellfish Aquaculture Activities.*** No proposed regional conditions.

E. ***Coal Remining Activities.***

a. Pre-Construction Notification in accordance with the "Pre-Construction Notification" Nationwide Permit General Condition is required for all activities associated with this permit and shall include at a minimum all items identified in the Standard Operating Procedure for Nationwide Permit 21 Processing, dated March 19, 2004, or current version.

b. Compensatory Mitigation is required for all discharges associated with use of this nationwide permit.

c. Discharges involving perennial streams are ineligible for this nationwide permit, unless the perennial nature of the stream results from previous mining activities.

d. For those projects that rely on infrastructure or storage areas associated with other mine sites, a detailed description of the manner in which the proposed project is reliant upon features of another project shall be explained.

e. The Pre-Construction Notification shall include an area map, preferably a USGS 7.5 Minute Series topographic map, depicting the names, ODNR, DMRM Article 3 Permit and Corps Project Numbers, and locations of all adjacent mines. In addition, if adjacent mines and the proposed project are owned by the same company (including parent company), a summary of the status of each adjacent site should be provided.

Surface Impacts Associated with Lands Not Previously Mined

Streams

a. Using the appropriate functional assessment method verified by OEPA, this nationwide 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.

b. This nationwide permit shall not authorize impacts to Class III PHWH Streams or streams with a QHEI score greater than 60.

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

1) No more than 3 acres of impact to Category 1 wetlands,

2) No more than ½ acre of impact to Category 2 wetlands, and

3) No impacts to Category 3 wetlands.

Open Waters
a. This nationwide permit authorization is limited to no more than 3 acres of open waters.

Surface Impacts Associated with Lands Previously Mined

Streams
a. Using the appropriate functional assessment method verified by OEPA, this nationwide permit authorizes:

1) Unlimited impacts to Class I PHWH Streams,

2) Streams with a QHEI score less than 45, and

3) 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.

b. This nationwide permit shall not authorize impacts to Class III PHWH streams or streams with a QHEI score greater than 60.

c. This nationwide 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.

Wetlands
a. Using OEPA's ORAM, this nationwide permit authorizes wetland impacts based on the following limitations:

1) No more than 6 acres of impact to Category 1 wetlands;

2) No more than 1 acre of impact to Category 2 wetlands; and

3) No impacts to Category 3 wetlands.

Open Waters
a. This nationwide permit authorizes unlimited impacts to jurisdictional open waters resulting from previous mining.

F. ***Underground Coal Mining Activities.***

a. The maximum impact for this nationwide permit is 2,500 linear feet of stream. This total may include a combination of up to 2,500 linear feet of permanent intermittent and/or ephemeral impact or 2,500 linear feet of temporary perennial, intermittent, and/or ephemeral stream impacts.

b. Discharges involving permanent impacts to perennial streams are ineligible for this nationwide permit, unless the perennial nature of the stream results from previous mining activities.

Regional General Conditions

1. Nationwide Permits shall not authorize any activity which impact bogs and/or fens.

2. No Nationwide permit may be used in Lake Erie for purposes of diverting water from the Great Lakes.

3. Culvert Installation: Culverts shall be installed with their inverts at or below existing grade so as to preserve hydraulic connectivity, at its present level, between the waterbody on either side of the road. If future inspections discover damage to the waterbody, perceived to be from lack of hydraulic connectivity, the Permittee shall take necessary measures to correct this deficiency. Any road crossing shall be culverted to municipal or state standards (number and size) sufficient to prevent the restriction of flows and/or faunal movement.

4. ***ODNR In-Water Work Exclusion Dates***: Any work associated with a Nationwide permit cannot take place during the restricted period of the following ODNR Division of Wildlife Statewide In-Water Work Restrictions unless the permittee notifies the District Engineer in accordance with the Nationwide Permit Pre-Construction Notification General Condition and receives written approval from the Corps:

Location	Restricted Period
Salmonid streams[1]	9/15 – 6/30
Percid streams[2]	3/15 – 6/30
Other streams[3]	4/15 – 6/30

1. Arcola Creek (entire reach), Ashtabula River (to Hadlock Rd.), Ashtabula Harbor, Chagrin River (to I-90), Cold Creek (entire reach), Conneaut Creek (entire reach), Conneaut Harbor, Cowles Creek (entire reach), Euclid Creek (entire reach), Grand River (to dam at Harpersfield Covered Bridge Park just upstream of the S.R. 534 bridge)/Fairport Harbor, Indian Creek (entire reach), Rocky River (to dam off Park Dr. just south of the I-90 bridge south of Rock River), Turkey Creek (entire reach), Vermillion River (to dam at Wakeman upstream of the S.R. 20/60 bridge), Wheeler Creek (entire reach), Whitman Creek (entire reach).

2. Cuyahoga River (to dam below the S.R. 82 bridge east of Brecksville (Chippewa Rd.)), Great Miami River (to dam south of New Baltimore), Hocking River (lower section), Little Miami River (lower section), Maumee River (to split dam at Mary Jane Thurston State Park and Providence Park in Grand Rapids), Maumee Bay, Muskingum River (to Devola Dam No. 2 off S.R. 60 north of Marietta), Ohio River (entire reach), Portage River (entire reach), Sandusky River (to Ballville Dam off River Road in Fremont), Sandusky Bay, Scioto River (lower section), Toussaint Rive (entire reach).

3. Class III primary headwater streams (watershed ≤ 1 mi^2), EWH, CWH, WWH, or streams with T&E species. Includes Lake Erie & bays. Special conditions (such as occurrence of T&E species) may mandate local variation of restrictions.

5. ***Waters of Special Concern***: The permittee must notify the District Engineer in accordance with the Nationwide Permit Pre-Construction Notification General Condition for activities in the following resources:

a. ***Category 3 Wetlands***: Pre-Construction Notification is required for all temporary or permanent impacts to Category 3 wetlands as determined through use of the latest approved version of Ohio EPA's Ohio Rapid Assessment Method (ORAM) for wetland evaluation **long form.**

b. ***Ohio Stream Designations***: Pre-Construction Notification is required for all temporary or permanent impacts to Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation, or with an antidegradation category of State Resource Water, Superior High Quality Water (except as it applies to Lake Erie), Outstanding National Resource Water, or Outstanding High Quality Waters as determined by Ohio EPA. The current list of these streams can be found on the Ohio EPA web-site at: `http://www.epa.state.oh.us/dsw/rules/3745-1.html`. You should look for these designations under the aquatic life use of the stream within its basin and under the "Anti-deg Rule #05."

c. ***State Wild and Scenic Rivers***: Pre-Construction Notification is required for all activities in State Wild and Scenic Rivers. The following are **State Wild and Scenic Rivers**:

Little Miami River - Clermont County line at Loveland to headwaters, including North Fork, Clermont County line at Loveland to confluence with East Fork and from the confluence with East Fork to Ohio River. Miles designated (approximate): 105

Sandusky River - US Rt. 30 in Upper Sandusky to Roger Young Memorial Park in Fremont. Miles designated (approximate): 65

Olentangy River - Delaware Dam to Old Wilson Bridge Road in Worthington. Miles designated (approximate): 22

Little Beaver Creek - *Wild segments* - West Fork from 1/4 mile downstream from Twp. Rd. 914 to confluence with Middle Fork. North Fork from Twp

Rd. 952 to confluence with Little Beaver Creek. Little Beaver Creek from confluence of West and Middle Forks downstream to 3/4 mile north of Grimm's Bridge.

Scenic segments - North Fork from Ohio-Pennsylvania line downstream to Jackman Road. Middle Fork from Elkton Rd. (Twp. Rd. 901) downstream to confluence with West Fork. Little Beaver Creek from 3/4 mile north of Grimm's Bridge downstream to the Ohio-Pennsylvania line. Miles designated (approximate): Wild 20, Scenic 16

Grand River - *Wild segment* - from Harpersfield covered bridge downstream to Norfolk and Western Railroad trestle south of Painesville.

Scenic segment - from St. Rt. 322 bridge in Ashtabula County downstream to Harpersfield covered bridge. Miles designated (approximate): Scenic 33, Wild 23

Upper Cuyahoga River - Troy-Burton Township line in Geauga County to US Rt. 14. Miles designated (approximate): 25

Maumee River - Scenic segment - Ohio-Indiana line to St. Rt. 24 bridge west of Defiance.

Recreational segment - St. Rt. 24 bridge west of Defiance to US Rt. 25 bridge near Perrysburg. Miles designated (approximate): Scenic 43, Recreational 53

Stillwater River System - *Recreational segment* - Englewood dam to confluence with Great Miami River.

Scenic segments - Stillwater River from Riffle Road bridge in Darke Co. to Englewood dam. Greenville Creek from the Ohio-Indiana state line to the confluence with the Stillwater. Miles designated (approximate): Scenic 83, Recreational 10

Chagrin River - Aurora Branch from St. Rt. 82 bridge downstream to confluence with Chagrin. Chagrin River from confluence with Aurora Branch downstream to St. Rt. 6 bridge. East Branch from Heath Road bridge downstream to confluence with Chagrin. Miles designated (approximate): 49

Big and Little Darby Creeks - Big Darby Creek from the Champaign-Union County line downstream to the U.S. Rt. 40 Bridge, from the northern boundary of Battelle-Darby Creek Metro Park to the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Lafayette-Plain City Road Bridge downstream to the confluence with Big Darby Creek. Miles designated (approximate): 84

Kokosing River - Knox/Morrow County line to confluence with Mohican River. North Branch of Kokosing from confluence with East Branch downstream to confluence with main stem. Miles designated (approximate): 48

d. ***National Wild and Scenic Rivers***: Pre-Construction Notification is required for all work in components of the National Wild and Scenic River System. The following are components of the **National Wild and Scenic River System:**

Big and Little Darby Creeks (National Wild and Scenic River System): Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Layfayette-Plain City Road Bridge downstream to within 0.8 mile from the confluence with Big Darby Creek. Total designation is approximately 82 miles.

Little Beaver Creek (National Wild and Scenic River System): Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth; North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown; Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport; West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport. Total designation is 33 miles.

Little Miami (Scenic component of the National System from Clifton to Foster): the portion from Foster to the Ohio River was designated a Recreational component of the National system. Total designation is 92 miles.

e. ***Endangered Species***: Due to the potential presence of Federally endangered species or their habitats, Pre-Construction Notification is required for all work in the following waterway or township of the corresponding county:

County	**Waterway**	**Township**
Adams	Ohio River	
Allen		Sugar Creek,
Ashtabula	Pymatuning Creek	Harperfield, Hartsgrove, Kingsville, Morgan, Orwell, Rome, Trumbell, Wayne, Williamsfield
Athens	Ohio River	
Brown	East Fork Little Miami River, Ohio River	Huntington, Pleasant, Union
Champaign	Little Darby Creek	Urbana
Clark		Bethel, Moorefield, Springfield
Clinton		Chester
Clermont	East Fork of Little Miami River, Ohio River	
Columbiana		Butler, Hanover

Coshocton	Killbuck Creek, Muskingum River, Walhonding River	Franklin, Linton, Newcastle, Virginia
Crawford		Auburn, Bucyrus, Cranberry, Lykens, Texas
Cuyahoga		Brooklyn
Defiance	St. Joseph River	Defiance, Hicksville, Mark, Milford, Richland
Delaware	Alum Creek Olentangy River, Scioto River,	Genoa, Orange, Radnor, Thompson, Troy
Erie		Berlin, Florence, Huron, Kelleys Island, Margaretta, Milan, Oxford, Perkins, Vermilion.
Fairfield	Walnut Creek	Walnut
Franklin	Alum Creek, Big Darby Creek, Blacklick Creek, Little Darby Creek, Olentangy River, Scioto River, Big Walnut Creek, Walnut Creek	
Fayette		Concord, Green, Jefferson, Jasper
Fulton		Fulton, Swan Creek
Gallia	Ohio River	
Geauga		Auburn, Burton, Munson, Troy
Greene	Little Miami River	Spring Valley, Bath
Guernsey		Jefferson
Hancock	Blanchard River	Amanda, Blanchard
Hamilton	Ohio River	
Hardin	Blanchard River	Blanchard, Dudley, Hale, Jackson
Harrison		Franklin, Stock
Henry		Flat Rock, Harrison, Liberty
Highland		Marshall, Paint
Holmes		Killbuck, Prairie, Washington,
Huron		Hartland, New Haven, Norwalk, Peru, Richmond, Sherman
Knox		Berlin, Butler, Union
Lake		Concord, Painesville, Willoughby
Lawrence	Ohio River	
Licking		Hanover, Newark, Union
Logan		Zane
Lorain		Brownhelm, Henrietta, Ridgeville, Russia
Lucas	Swan Creek	Adams, Jerusalem, Monclova, Oregon, Providence, Richfield, Spencer, Springfield, Swanton, Sylvania, Washington, Waterville
Madison	Big Darby Creek, Little Darby Creek	
Mahoning		Austintown, Beaver, Boardman, Jackson, Milton

Marion	Olentangy River	Big Island, Bowling Green, Green Camp
Medina		Harrisville
Meigs	Ohio River	
Mercer		Butler, Franklin, Jefferson
Miami	Stillwater River	
Montgomery		Mad River
Morgan	Muskingum River	Windsor
Morrow	Alum Creek	
Muskingum	Muskingum River	Blue Rock, Falls, Harrison, Hopewell, Madison, Muskingum
Noble		Beaver, Marion, Seneca, Wayne
Ottawa		Bay, Benton, Carroll, Clay, Erie, Danbury, Harris, North Bass Island (Put-in-Bay Twp.), Portage, Put-in-Bay, Riley, Salem
Paulding		Brown
Pickaway	Big Darby Creek, Scioto River, Walnut Creek.	Deer Creek, Monroe
Portage		Atwater, Aurora, Brimfield, Charleston, Franklin, Palmyra, Streetsboro
Preble		Gasper, Somers
Putnam		Sugar Creek
Richland		Blooming Grove, Butler, Franklin, Madison, Mifflin, Troy, Washington, Weller
Ross		Paint, Paxton, Twin
Sandusky		Ballville, Jackson, Green Creek, Madison, Rice, Riley, Sandusky, Townsend, Woodville, Washinton
Scioto	Ohio River, Scioto Brush Creek	Union, Rush
Seneca		Adams, Bloom, Eden, Pleasant, Seneca, Venice
Stark		Lake, Marlboro, Sugar Creek
Summit		Northfield, Twinsburg
Trumbull	Pymatuning Creek	Bloomfield, Bristol, Farmington, Greene, Gustavus, Hartford, Kinsman, Mecca, Mesopotamia, Vernon
Tuscarawas	Tuscarawas River	Franklin
Union	Big Darby Creek, Little Darby Creek, Mill Creek	
Warren	Little Miami River	Wayne
Washington	Muskingum River, Ohio River	
Wayne		Chester, Clinton, Franklin, Wooster
Williams	Fish Creek, St. Joseph River	Bridgewater, Center, Florence, Jefferson, Madison, Northwest, St. Joseph, Superior

Wood		Center, Freedom, Middleton, Perrysburg, Troy
Wyandot	Tymochtee Creek	Antrim, Crane, Marseilles, Mifflin, Pitt, Sycamore, Tymochtee

f. *Critical Resource Waters*: Pre-Construction Notification is required for all work in Critical Resource Waters. The following are designated as **Critical Resource Waters**:

Special habitat waters of Lake Erie including the shoreline, off shore islands, rock outcrops, and adjacent waters within the boundaries defined as 82° 22' 30" West Longitude, 83° 07' 30" West Longitude, 41° 33' 00" North Latitude, and 42°00'00" North Latitude.

In Ohio, two areas have been designated critical habitat for the piping plover (Charadrius melodus) and are defined as lands 0.62 miles inland from normal high water line. Unit OH-1, extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately 2.0 miles. Unit OH-2, extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile.

g. *Oak Openings:* Pre-Construction Notification is required for all activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry, and Fulton counties. For a map of the Oak Openings Region, visit http://www.oakopen.org/maps/.

6. *Pre-Construction Notification (PCN) Submittals*: In addition to the information required under the Nationwide Permit Pre-Construction Notification General Condition (GC 27), the following information is needed for all Pre-Construction Notifications:

a. Drawings: The PCN must include project drawings on 81/2" x 11" paper. Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Typical Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section. In addition, each illustration should be identified with a figure or attachment number.

b. Avoidance and Minimization: The PCN must include a written statement explaining how avoidance and minimization of temporary impacts and permanent losses of waters of the US were achieved on the project site.

c. Endangered Species: Prior to submitting notifications, it is recommended that the applicant contact the United States Fish & Wildlife Service (USFWS) office in Reynoldsburg, Ohio, at (614) 469-6923 or by writing to United States Fish & Wildlife Service, 6950 Americana Parkway, Suite H, Reynoldsburg, Ohio 43068-4127 for assistance in complying with Nationwide Permit General Condition 17. All relevant information obtained from the USFWS should be submitted with the notification.

d. Cultural Resources: The PCN must provide information concerning whether the proposed activity would affect any historic properties listed, determined to be eligible, or which you have reason to believe may be eligible, for listing on the National Register of Historic Places. This is necessary to ensure compliance with Nationwide Permit General Condition 18. To initiate efforts in identifying those properties on the project site which may be listed on the National Register or may be eligible for inclusion in the National Register, it is recommended that the applicant compile basic information about the general project area, as listed below, and submit this information to the District Engineer. This preliminary resource review should encompass a search radius of 2 miles and be centered on the project area. The following resources may be consulted during this review:

1) OHPO United States Geological Survey (USGS) 7.5' series topographic maps;
2) Ohio Archaeological Inventory (OAI) files;
3) Ohio Historic Inventory files (OHI);
4) OHPO Cultural Resources Management (CRM)/contract archaeology files;
5) National Register of Historic Places (NRHP) files including Historic Districts; and
6) County atlases, histories and historic USGS 15' series topographic map(s).

As an alternative, the applicant may choose to complete the Ohio Historic Preservation Office Section 106 Review Project Summary Form or request comments from the Ohio Historic Preservation Office and District Engineer on specific requirements appropriate to the particular circumstances of the project.

In addition to the information requested above, the applicant should provide information regarding the terrain and topography of the project area, acreage of the project area, proximity of the project area to major waterways, past land uses in the project area, and any past cultural resources studies or coordination for the project area, if available. It is also helpful if the applicant includes photographs, keyed to mapping, showing the project area and any buildings or structures on adjacent parcels. Upon receipt of review of this and the information listed above, the Corps will be able to determine if further studies of the project area should be conducted (e.g., Phase I Cultural Resources Management Survey or Archeological Survey).

e. National Wild and Scenic Rivers: Prior to submitting notifications for work in a National Wild and Scenic River System, it is recommended that the applicant contact the National Park Service Regional Wild and Scenic Rivers Specialist, at the Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, for assistance in complying with Nationwide Permit General Condition 15.

f. 401 Water Quality Certification: For activities that result in between 1/10 and ½ acre of loss of waters of the US **two copies of** the PCN must be submitted. In order to determine if a project meets the terms and conditions of Ohio EPA's 401 water quality certification the following additional information must be submitted:

1) To determine the quality of the wetlands on the site, all wetland delineations must include the latest approved version of the Ohio Rapid Assessment Method (ORAM) for wetland evaluation **long form**; and

2) Photographs of all the waterbodies on the site are recommended.

g. Agency Coordination: Activities that result in the loss of greater than ½ acre of waters of the US require full agency coordination (See Nationwide Permit General Condition 27 *Pre-construction Notification*). In an effort to expedite permit review, it is requested that all PCN's for activities resulting in the loss of greater than ½ acre of waters of the US include five (5) copies of the notification package. Applicants are encouraged to submit this information in electronic format in order to minimize the use of paper.

h. Floodplain Coordination: All PCN's must include a copy of the applicable FIRM map. You can get a FIRMette free from: http://www.msc.fema.gov. From this page select the "Product Catalog" tab at the top. Then select "FEMA Issued Flood Maps". The choices allow you to select a state and county. Then you follow the instructions to create a FIRMette. In addition, from the same web-site, you can obtain a FIRMette for a specific address. From http://www.msc.fema.gov
conduct a "Product Search" for "Public Flood Map" and then follow the instructions to create a FIRMette.

Note: Nationwide Permit General Condition 27 *Pre-construction Notification* requires the permittee to include a delineation of special aquatic sites and all other waters of the United States on the project site. Special aquatic sites include sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle and pool complexes.