



Public Notice

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

In reply refer to Public Notice No.

LRH-201100098-6

Issuance Date:

July 2, 2014

Stream:

N/A

Closing Date:

August 1, 2014

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-RD-N Public Notice No. (*reference above*)

502 8th Street

Huntington, WV 25701-2070

Phone: (304) 399-5210

MODIFICATION TO REGIONAL CONDITIONS OF THE NATIONWIDE PERMITS FOR THE STATE OF OHIO REQUEST FOR COMMENTS

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 impacts to the aquatic environment authorized by the Nationwide Permits (NWP) 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.

On June 20, 2014, a Public Notice was issued by the Ohio Environmental Protection Agency (Ohio EPA) advertising proposed modifications to the issued Clean Water Act section 401 water quality certification for the Department of the Army Nationwide Permits described in the February 21, 2012, Federal Register, Reissuance of Nationwide Permits (77 FR 10184). In concert with Ohio EPA, this Public Notice provides an opportunity for the public to express their views on the proposed changes to Regional Condition 6(e) that would be made if the Ohio EPA's proposed modifications are approved. In addition, modifications to Regional Condition Nos. 4, 4(3.), 5(e) and 6(f) are also being proposed. The intent of this Public Notice is to provide an opportunity for the public to express their views on the proposed modified Regional Conditions currently under consideration by the Huntington, Buffalo and Pittsburgh Districts of the U.S. Army Corps of Engineers (Corps) for the State of Ohio.

For your convenience, an electronic copy of the current NWPs with Regional Conditions may be referenced online at the following address:

[http://www.lrh.usace.army.mil/Portals/38/docs/regulatory/nationwide/2012%20Nationwide%20Permits%20for%20the%20State%20of%20Ohio%20\(with%20OEPA%20401%20Water%20Quality%20Certifications\).pdf](http://www.lrh.usace.army.mil/Portals/38/docs/regulatory/nationwide/2012%20Nationwide%20Permits%20for%20the%20State%20of%20Ohio%20(with%20OEPA%20401%20Water%20Quality%20Certifications).pdf)

Comments relating to the proposed modified Regional Conditions being considered are due to the Huntington District by August 1, 2014, and should be addressed to the following:

Teresa Spagna, Regulatory Project Manager
U.S. Army Corps of Engineers, Huntington District
502 8th Street
Huntington, West Virginia 25701

The Ohio EPA, in conjunction with the Huntington, Buffalo and Pittsburgh Districts of the Corps, will hold a public information session and public hearing relative to these proposed modifications and to issues of lower water quality on August 5, 2014, at 3:00 p.m. in Conference Room A located on the sixth floor of the Ohio EPA's offices at 50 West Town Street, Suite 700, Columbus, Ohio, 43215. The public hearing will end when all interested parties have had an opportunity to provide testimony related to the proposed modifications.

All interested persons are entitled to attend or be represented and give written or oral comments on the proposed modifications. The purpose of the hearing is to obtain additional information that will be considered by the Ohio EPA and the Corps prior to any further action on the proposed modifications. In an effort to conserve and eliminate duplication of facts presented, groups with common interests are encouraged to consolidate their comments for presentation by a representative spokesperson.

If you have any questions concerning this public notice, please contact Ms. Teresa Spagna at 304-399-5210. 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.

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-Regional General Condition No. 4. [reference page 87 of the current NWP]: The proposed modification includes revising the current text, as follows: “**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 applicant notifies the district engineer (DE) in accordance with Nationwide Permit Regional Condition 31, submits ODNR approval to conduct work within the excluded period with their notification, and subsequently receives a nationwide permit verification to conduct the work:" No other changes are proposed to the current text within this section.

-Regional General Condition No. 4.(3.) [reference page 88 of the current NWP]: The proposed modification would involve deleting the following text from the first line “Class 3 primary headwater streams (watershed >1 mi²)”. No other changes are proposed to the current text within this section.

-Regional General Condition 5.(e.) [reference pages 92-95 of current NWP] Endangered Species: The proposed modification includes revising the text of this section in its entirety, as follows: “**(e) Endangered Species:** Due to the potential presence of Federally threatened or endangered species or their habitats, Notification is required for all work in the following waterway or township of the corresponding county (see Appendix A for a list):

***Note:** Applicants should ensure they are referencing the latest version of Appendix A by contacting their nearest Corps district office and visiting the online resources identified in General Condition 18.(f.) of these NWP, since federally-listed species are continuously listed, proposed for listing, and/or de-listed.”

-Regional General Condition No. 6.(e.) [reference page 99 of the current NWP]: The proposed modification includes replacing the current text of this section in its entirety, as follows: “**(e) 401 Water Quality Certification:** For activities involving discharges of dredged and/or fill material into wetlands and streams, an applicant shall coordinate the wetland characterization and stream assessment with Ohio EPA in accordance with each section below:

Wetlands

For activities involving discharges of dredged and/or fill material into wetlands, an applicant shall perform a wetland characterization analysis consistent with the Ohio Rapid Assessment Method (ORAM) to demonstrate eligibility for coverage under the specific Ohio certification requested. The ORAM results and information outlined below shall be coordinated with Ohio EPA prior to submittal of Pre-Construction Notification to the Corps:

- 1) The complete ORAM v. 5.0 (or its successor) evaluation, completed by the applicant or their consultant, for all wetlands proposed to be impacted. A complete ORAM evaluation includes the following for each wetland to be impacted:

- i. Background Information;
- ii. Scoring Boundary Worksheet;
- iii. Narrative Rating;
- iv. Quantitative Rating;
- v. ORAM Summary Worksheet; and
- vi. Wetland Categorization Worksheet

- (2) Legible site plan drawing showing the location of all waterways and wetlands on site and the proposed development layout including the location of permanent and temporary structures and construction limits;
- (3) Photographs of all the waterbodies.

Streams

For activities involving discharges of dredged and/or fill material into more than 60 linear feet of each perennial and intermittent stream that does not have an aquatic life use designation pursuant to Admin. Code Chapter 3745-1, the applicant shall submit a qualitative assessment of the physical and biological characteristics for each stream and high quality photographs of the stream length assessed to Ohio EPA prior to Notification submittal for use in determining its existing aquatic life use (for NWP 49, the applicant shall assess each perennial stream that does not already have an aquatic life use designation for activities involving discharges of dredged and/or fill material into more than 60 linear feet). For purposes of fulfilling the physical and biological assessment, the applicant may conduct, but is not required, a Headwater Habitat Evaluation Index (HHEI). If the HHEI score is 49 or below, no further coordination with Ohio EPA is required. If the HHEI score is 50 or higher, results must be submitted to Ohio EPA for review prior to submittal of Notification to the Corps. If the applicant chooses to use another method to conduct the physical and biological assessment, the applicant must submit the results to Ohio EPA for review prior to submittal of Notification to the Corps.

The Ohio EPA, Division of Surface Water, may be notified at (614) 644-2001 or by writing to P.O. Box 1049, Columbus, Ohio 43216-1049. All relevant information obtained from Ohio EPA as well as the ORAM and HHEI (or other acceptable methodology) evaluation(s) must be submitted with the Notification to the Corps.”

-Regional General Condition 6.(f.) [reference page 99 of current NWPs] Agency Coordination: The proposed modification includes revising the current text in its entirety, as follows: “**(f) Agency Coordination:** A complete compact disc (CD) copy shall be submitted for any application or Notification Package greater than 15 pages and/or includes maps, drawings, spreadsheets or other similar materials which are larger than 8.5 inches by 11 inches to assist in expediting permit application distribution and concurrent reviews (all files saved on CDs shall be in .pdf format; an index or table of contents shall be provided and correspond with each file saved on the CD as well as the Notification hard copy). A hard copy of specific portions of the Notification package shall be submitted and accompany the complete CD copy of any maps,

Public Notice No: 201100098-6

Subject: Modification to Regional Conditions of the Nationwide Permits for the State of Ohio Request for Comments

drawings, spreadsheets, or other similar materials. The applicant shall submit five (5) hard copies or CDs of the Notification package when the Notification requires full agency coordination in accordance with Nationwide Permit General Condition 31 (d)(2)."