



Public Notice

**U.S. Army Corps
of Engineers
Baltimore District**

**In Reply Refer To CENAB-OP-R
Repairs Following Tropical Storm Lee, September 2011
Special Public Notice # 11-73**

Date September 15, 2011

This Public Notice is issued on behalf of the Baltimore, Philadelphia, and Pittsburgh Districts. The purpose of this notice is to inform the public that repair of damage to public and private property caused by Tropical Storm Lee in September 2011, and associated flooding and weather conditions, may be authorized as described below.

Authorized Activities:

a. In Maryland, work that qualifies as "non-reporting" for Category I under the current Maryland State Programmatic General Permit -3 until expired, and Category A for the pending Maryland State Programmatic General Permit -4, does not require further notification to the U.S. Army Corps of Engineers, Baltimore District.

b. In Pennsylvania, work that qualifies as a Category I or II activity under the Pennsylvania State Programmatic General Permit – 4 (PASPGP-4) does not require further coordination or notification of the U.S. Army Corps of Engineers . This includes those Emergency Permits issued by the Pennsylvania Department of Environmental Protection which do not require a Category III review under the PASPGP-4. In accordance with PASPGP-4, PASPGP-4 may be used to authorize one-acre or less of impact to jurisdictional waters of the United States, provided the required permit processing procedures are followed.

c. The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill is authorized for purposes of Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act as published in the March 12, 2007 Federal Register, Final Notice of Issuance, Reissuance, and Modification of Nationwide Permits (NWP) (72 FR 11092), NWP number (3), provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification and the conditions are complied with. NWP 3 conditions may be viewed in the March 12, 2007 NWP (72 FR 11092) (p. 11181). Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means that prior to damage that occurred in September 2011 as a result of Tropical Storm Lee, the structure or fill was useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. Please note that activities authorized under NWP 3 may require additional state and local authorization prior to commencement of work. The Maryland Department of the Environment (MDE) can be reached at (410) 537-3000, the Pennsylvania Department of Environmental Protection (PA DEP) at (717) 787-5266 and the District of Columbia District Department of the Environmental (DC DDOE) at (202) 535-2255.

For work performed under NWP 3(a), the prospective permittee must submit a pre-construction notification (PCN) to the District Engineer, prior to doing work that involves the use of equipment

to move material from or across a stream channel as part of the proposed activity for repair, rehabilitation, or replacement. Any PCN to the District Engineer must clearly describe any activity proposing the use of equipment to move material from or across a stream channel.

Under the terms of the NWP 3 authorization, the removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to approximate dimensions that existed when the structure was built, but cannot extend further than 50 feet in any direction from the structure, unless specifically authorized by the District Engineer.

A PCN shall be submitted to the District Engineer for any proposed activity seeking NWP 3 authorization which involves work in the District of Columbia, Maryland, and/or the Potomac River Watershed within military installation of Northern Virginia which are within the regulatory geographic boundaries of the Baltimore District, provided the work affects more than 10,000 square-feet of tidal wetlands and/or tidal waters. For such activities, the Corps shall provide the PCN to the National Marine Fisheries Service (NMFS) for individual Essential Fish Habitat consultation and coordination. In addition, for culvert replacement and repair activities, work in tidal tributary streams and nontidal coastal plain streams shall be prohibited during the period February 15 through June 15 of every year to protect sensitive life stages of anadromous fish, unless specifically waived by the District Engineer in consultation with NMFS.

In the Commonwealth of Pennsylvania, a PCN shall be submitted to the District Engineer for any proposed activity seeking NWP 3 authorization, which would:

i. result in impacts, temporary or permanent, to jurisdictional wetlands in the following counties in Pennsylvania: Adams, Berks, Bucks, Carbon (Aquashicola Creek watershed), Chester, Cumberland, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, York, and Schuylkill (Swatara Creek watershed); and

ii. be constructed in the following waterways: Allegheny River (from Kinzua Dam to the Ohio River) (Armstrong, Clarion, Forest, Venango, and Warren Counties); Conewago Creek (Warren County); French Creek (Crawford, Erie, Mercer, and Venango Counties); Conneaut Outlet (Crawford County); Conneauttee Creek (Crawford County); LeBoeuf Creek (Erie County); Muddy Creek (Crawford County); Schenango River, Pymatuning Reservoir to Big Bend (Crawford and Mercer Counties); Delaware River (Monroe Pike, and Wayne Counties). Concurrently, a copy of the PCN to the District Engineer must be forwarded to the U.S. Fish and Wildlife Service.

This public notice clarifies that the repair, rehabilitation, or replacement of those structures damaged or destroyed by Tropical Storm Lee that occurred in September 2011, is authorized by NWP 3 provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, by September 15, 2013. If activities cannot be completed by September 15, 2013, an individual case-by-case written extension must be secured from the applicable Corps District.

Emergency Actions:

For emergency actions not covered in the paragraphs above, Division Engineers are authorized to approve special procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen and significant economic hardship, if corrective action requiring a permit is not undertaken within a time period less than normal time needed to process the application under standard procedures. Even in an emergency situation, reasonable efforts will be made to receive comments from

interested Federal, State, and local agencies and the affected public [33 CFR 325.2(e)(4)]. Such actions require notification to the appropriate U.S. Army Corps of Engineers permits section for authorization to proceed. Notification will require identification of the project proponent, a point of contact, work description, photographs of the site, and the location of the work to be performed.

The removal of floatable debris material does not require Department of the Army authorization. Any inquiries regarding the above authorizations are to be directed to the Permitting Section of the applicable Corps District, as indicated below:

Baltimore District (Maryland, Pennsylvania (Susquehanna River Basin), District of Columbia, and Military Bases in Northern Virginia):

i. Maryland Section Northern (410) 962-4252 (Allegany, Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Garrett, Harford, Howard, Washington Counties and Baltimore City), and all Maryland State Highway Administration projects.

ii. Maryland Section Southern (410) 962-4500 (Calvert, Caroline, Charles, Dorchester, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties, District of Columbia, and Military Bases in Northern Virginia).

iii. Pennsylvania Section (814) 235-0570 (Susquehanna River Basin).

Philadelphia District (Delaware River Basin):

i. Mr. William Jenkins, Chief, Applications Section I (215) 656-6726.

ii. Mr. Samuel Reynolds, Chief, Applications Section II (215) 656-5715.

Pittsburgh District (Ohio River, Lake Erie, and Genesee River Basins): (412) 395-7155.

FOR THE DISTRICT ENGINEER:

William P. Seib
Chief, Regulatory Branch