



PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: NAN-2011-00984
Issue Date: 29 Aug 2011

PUBLIC INFORMATION ANNOUNCEMENT HURRICANE IRENE STORM DAMAGE REPAIR

On August 28, 2011, winds, storm surge and flooding from Hurricane Irene resulted in severe flooding and other storm related damages in New York and New Jersey. As a result, State and Federal disaster declarations were made in the States of New York and New Jersey. It is anticipated that owners of damaged property will want to conduct repair activities in the near future. This advisory is intended to inform property owners of the U.S. Army Corps of Engineers (Corps) permit requirements for storm damage repairs proposed within the boundaries of the New York District of the U.S. Army Corps of Engineers, as shown on the attached map.

The Corps has Federal jurisdiction over activities that include dredging or construction in or over any navigable waters of the United States, certain excavation activities within, and the placement of dredged or fill material into waters of the United States (including wetlands), or the accomplishment of work affecting the course, location, condition or capacity of such areas. Such activities may require a Department of the Army permit, in accordance with Title 33 of the Code of Federal Regulations, Parts 320-332. Please note that waters of the United States also include intermittent streams, natural drainage courses, and wetlands which meet applicable Federal criteria, regardless of their size.

It is expected that the majority of proposed activities to remediate storm damage would be authorized under a general permit. A general permit is a blanket authorization for construction in waters of the United States, including navigable waters, that substantially reduces the time needed by the Corps to process applications for a category or categories of activities that cause only minimal individual and cumulative environmental impacts, when those activities are substantially similar in nature. This allows adequate control of minor construction while avoiding the lengthier processing required to issue an individual permit. General permits are issued on a nationwide or regional basis; they include Nationwide General Permits and regional general permits which apply to a specific geographic area.

For activities proposed within the portion of New York State covered by the New York District (see attached map), New York District Regional General Permit 15 (NYDGP-15) authorizes activities to remediate damage from storms that result in a Federal and/or State disaster declaration. Specifically, NYDGP-15 authorizes the installation of structures and dredging in navigable waters and the discharge of dredged or fill material, including discharges associated with excavation activities, into waters of the United States to facilitate the remediation of sites that are damaged from major storms, subject to terms and permit conditions that ensure that activities cause only minimal individual and cumulative environmental impacts. Copies of the NYDGP-15 are available from the New York District Office and via the internet at:

<http://www.nan.usace.army.mil/business/buslinks/regulat/index.php?regional>

Activities that do not fall under the scope of the NYDGP-15 may be authorized under one or more nationwide general permits. The current nationwide permits are prescribed in the Federal Register dated March 12, 2007. Copies of the Nationwide General Permits (NWP) are available via the internet at:

http://www.usace.army.mil/CECW/Documents/cecwo/reg/nwp/nwp_2007_final.pdf

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NWP's which may be applicable to proposed remediation efforts include:

NWP Number 3 -Maintenance

NWP Number 13 -Bank Stabilization

NWP Number 18 -Minor Discharges

NWP Number 19 -Minor Dredging

NWP Number 27 -Stream and Wetland Restoration Activities

NWP Number 33 -Temporary Construction Access and Dewatering

NWP Number 45 – Repair of Uplands Damaged by Discrete Events

Please thoroughly review the terms and conditions of the NYDGP-15 and the NWP's and note that some activities require written authorization prior to commencement of work. **It is imperative that the conditions and the management practices be followed explicitly.** If you are uncertain that the activity you propose qualifies for a NYDGP-15 or a NWP you are advised to contact the New York District office prior to the commencement of work. Also note that just because a condition cannot be met does not necessarily mean that the activity cannot be authorized; in those cases a formal application will have to be made to the Corps for authorization by an individual permit.

The regional and nationwide general permits apply only to Department of the Army regulatory programs. It is noted that authorization by a Corps regional or nationwide general permit does not obviate the need for state or local permits, or other federal permits as required by law. It is recommended that you check your regional office of the New York State Department of Environmental Conservation or the New Jersey Department of Environmental Protection and your local County, Town, City and/or Village for their permit requirements.

Based on our experience with reviewing past remedial efforts, the most common activities include the repair, rehabilitation, and replacement, in-kind and in-place, of currently serviceable structures or fills or those that were serviceable at the time of the storm or flood event. Section 404 of the Clean Water Act specifies that some discharges of fill material associated with the reconstruction of recently damaged parts of currently serviceable structures (such as dikes, dams, groins, riprap, breakwaters, causeways and bridge abutments) may be exempt from Corps regulations. This exemption does not include any modifications that change the character, scope or size of the original fill design. In addition, Corps authorization may be required if the work would take place in a navigable water of the United States. Emergency reconstruction must occur within a reasonable period of time after damage has occurred in order to qualify for this exemption. You are advised to contact the Corps District office noted in this advisory to determine if your proposed activity falls under this exemption.

In cases where the proposed work does not meet an exemption, the requirements of the NYDGP-15 or the NWP's and there 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 is not undertaken within a time period less than the normal time needed to process a permit application under standard procedures, the District can process an application for a permit under emergency procedures stated in Title 33 of the Code of Federal Regulations, Part 325.2(e)(4). You are required to contact the New York District office if you feel your activity qualifies for the emergency procedures.

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It is recommended that you retain for your records a copy of permits, photographs, drawings, surveys, etc., for the structures or fill being repaired, replaced or rehabilitated and/or any other documentation showing that the structure or fill was serviceable immediately prior to the storm damage that occurred, or at the time the work was done.

For additional information regarding Corps permit requirements, please contact the New York District office at (917) 790-8411, or for work north of Dutchess, Sullivan or Ulster Counties contact our Upstate New York Section at (518) 266-6350/6360.

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice.

For more information on New York District Corps of Engineers programs, visit our website at

<http://www.nan.usace.army.mil>

Enclosed boundary map



Richard L. Tomer
Chief, Regulatory Branch



NEW YORK DISTRICT REGULATORY BOUNDARY

