



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-2010-00306
Issue Date: May 14, 2010

PUBLIC INFORMATION ANNOUNCEMENT STORM DAMAGE REPAIR

Between March 13-15, 2010, a Nor'easter with severe winds and significant amounts of rain fell upon New York resulting in severe flood and other damages. As a result, State and Federal disaster declarations were made for the following six (6) counties in New York State: Nassau, Orange, Richmond, Rockland, Suffolk and Westchester. 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.

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 till 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.

The purpose of this Public Information Announcement is to notify property owners of an existing Regional General Permit (NYDGP-15) that may be used to facilitate the remediation of sites that are damaged from major storms that result in a Federal and/or State disaster declaration. 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 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 more lengthy and time-consuming processing required to issue an individual permit. Copies of the Regional General Permit NYDGP-15 are available from the New York District Office and via the internet at:

<http://www.nan.usace.army.mil/business/buslinks/regulat/regional.htm>

In addition, for those activities that do not fall under the scope of the NYDGP-15, this announcement serves to describe the Corps Nationwide General Permit Program and to list current nationwide permits which are relevant to remediation activities. A nationwide permit is a form of permit which authorizes a category of activities throughout the nation. Nationwide permits are designed to allow work in these categories to occur with little, if any, delay or paperwork.

The current nationwide permits are prescribed in the Federal Register dated March 12, 2007. Copies of the Nationwide General Permits are available from the New York District office and via the internet at:

<http://www.nan.usace.army.mil/business/buslinks/regulat/permits/index.htm>

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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 if 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, but rather that a formal application will have to be made to the Corps for authorization by an individual permit.

The regional and nationwide permits apply only to Department of the Army regulatory programs. It is noted that authorization by a Corps regional or nationwide 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 NYSDEC 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 or the requirements of the NYDGP-15 or the NWP 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 flooding that occurred between March 13-15, 2010, 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 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>



Richard L. Tomer
Chief, Regulatory Branch