

U.S. Army Corps of Engineers *Water Resources Regulatory Program: Emergency Stream Restoration*

Margaret Crawford
Biologist
Auburn Field Office
June 3, 2014



Section 10 of the Rivers and Harbors Act of 1899

- applies to Navigable Waters - waters that are currently, historically and could in the future represent opportunity for interstate commerce (33 CFR 329.4)
- all activities and structures within, above, or beneath navigable waters are regulated
- Section 10 list available at website:
<http://www.lrb.usace.army.mil/Missions/Regulatory/DistrictInformation/NavigableWaterways.aspx>



Section 404 of the Clean Water Act of 1977

- applies to ‘waters of the United States’ (33 CFR 328.3)
- discharges of dredged or fill material are regulated (33 CFR 323.2)
- goal - to preserve the physical, chemical and biological integrity of U.S. waters



‘Waters of the U.S.’

- **Navigable Waters**

- includes Section 10 waters (e.g. Genesee River, Niagara River, Barge Canal, Seneca and Cayuga Lakes) as well as “navigable-in-fact” waters (e.g. Keuka & Canandaigua Lakes)

- **All Interstate Waters**

- e.g. Great Lakes, Susquehanna River

- **Tributaries**

- ephemeral, intermittent & perennial

- **Adjacent Wetlands**

- Bordering, contiguous or neighboring



A Department of the Army Permit is Required :

- For activities which involve a discharge of dredged or fill material into a water of the United States (Sec. 404, Clean Water Act).
- For any structure or work that takes place in, under, or over a navigable water, or wetlands adjacent to navigable waters (Sec. 10, Rivers and Harbors Act).



Other Approval Mandated by Law:

- 401 Water Quality Certification:
 - New York State Department of Environmental Conservation (NYSDEC)
- Coastal Zone Management Program:
 - Consistency Certification by the New York State Department of State (NYSDOS)
- Also need to show compliance with:
 - ▶ Endangered Species Act
 - ▶ National Historic Preservation Act



Department of the Army

Permits Include:

- Individual Permits
 - ▶ Letter of Permission (LOP)
 - ▶ Standard Individual Permit (IP)
- General Permits
 - ▶ Regional Permits (RP)
 - ▶ Nationwide Permits (NWP)



Regional Permits

- District permit/geographic area
- authorize proposals commonly applied for within the District
- pre-determined to result in minimal impacts to aquatic environment
- minor activities not covered by NWPs
- Some do not require notification and affirmation by Corps prior to use



Nationwide Permits (NWP)

- A type of general permit used to authorize specific types of activities
- Minimal impact to aquatic environment
- Expedited permit review process
- 50 different NWPs
- 31 general conditions
- Regional conditions developed by District/state agencies
- Mitigation may be required
- Valid for 5 years
- Available on-line at:

<http://www.lrb.usace.army.mil/Missions/Regulatory/NationwidePermits/DistrictPermitProgram/NWPNY.aspx>

Effective March 19, 2012

Expires March 18, 2017



BUILDING STRONG®

Emergency Authorizations

- Non-jurisdictional activities
- Exempt Activities (Section 404 only)
- Nationwide Permits (e.g., Nos. 3 and 13)
- Regional Permits
 - ▶ RP 99-000-1



Non-Jurisdictional Activities

- Debris removal
- Excavation, with no resulting discharge (unless in a navigable water)
- Mowing/hand cutting of vegetation with no soil disturbance



Exempt Activities:

- **In accordance with Section 323.4 - Discharges not requiring permits: (2) Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.**
- **Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced.**



Nationwide Permits –

A few examples ...

- NWP 3 – Maintenance
- NWP 13 – Bank Stabilization
- NWP 18 – Minor Discharges
- NWP 33 – Temporary Construction, Access, and Dewatering
- NWP 37 - Emergency Watershed Protection and Rehabilitation
- NWP 45 - Repair of Uplands Damaged by Discrete Events



Regional Permits

- 99-000-1 Remediation of major storm damaged sites
 - ▶ Must be activated by USACE generally as a result of emergency declaration from FEMA or the Governor
 - ▶ Activation specific to county in which emergency declaration applies
 - ▶ Removal of sediment or debris, including storm deposited gravel bars
 - ▶ Construction of temporary roads, staging areas, and/or installation of cofferdams for dewatering
 - ▶ Rechannelization, channel widening, deepening, or straightening are not authorized
 - ▶ Work must occur w/i one year of permit activation date
 - ▶ Notification required for certain activities; e.g., where gravel bar removal exceeds 200 linear feet or .10 acre, and impacts of greater than 1/10 acre of wetland



Regional General Condition

G.A.11 of NWP's - culverts

- Requires the new or replacement culvert support aquatic life movements and management of water flows
- Provides general information on things to consider when designing
- Suggests ways to design replacement culvert
 - ▶ Span, embedment 20%, maintain slope
 - ▶ Culvert width accommodate bankfull channel (~1.25 x width at OHW or 2 YR design storm)
- If you meet terms no notification is needed



Regional General Condition

G.A.11 - culverts

- Provides for waiver as suggestions do not work in every instance
- Requires applicant to submit a PCN with site specific information about aquatic system, evaluation of effects, & rationale
- May require use of mitigation measures to minimize effects
 - ▶ Grade control, baffles, etc.



Streamlining the Regulatory Process

- Plan Ahead:
 - ▶ Understand Corp's jurisdiction, exemptions, terms and conditions of NWPs and RPs
 - ▶ Evaluate need for written NWP or RP affirmation
 - ▶ Identify upland disposal sites ready for use



Streamlining the Process

- How To Help Yourself
 - ▶ Ensure PCNs are complete
 - joint application form
 - map of project site
 - detailed project description
 - photos
 - legible plan and cross-section view drawings
 - alternatives analysis, endangered sp., historic properties
 - ▶ Design projects to stay below PCN requirements
 - ▶ Disposal sites must be in upland locations
 - ▶ Self Regulate



Streamlining the Process

- **Available Resources**

USGS Quadrangle Maps or Topographic Maps

<http://www.topozone.com/>

Wetland Maps:

USFWS National Wetland Inventory Maps

- <http://107.20.228.18/Wetlands/WetlandsMapper.html>

NOTE: The NWI maps are not regulatory maps. These maps have limited accuracy and are not accepted by the Corps as confirmation of the presence/absence of wetlands. Federal wetlands are not mapped.

- NYSDEC Freshwater Wetland Maps

<http://www.dec.ny.gov/imsmaps/ERM/index.htm>



Streamlining the Process

Available Resources, cont'd

Soil Maps

<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Floodplain Map Website

<https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Aerial Photographs

NYS GIS Orthoimagery Maps:

<http://www.orthos.dhSES.ny.gov/>



BUILDING STRONG®

Streamlining the Process

Available Resources, cont'd

T&E species (NY) IPAC:

<http://www.fws.gov/northeast/nyfo/es/section7.htm>

<http://ecos.fws.gov/ipac/>

SHPO website (NY):

<http://nysparks.state.ny.us/shpo/online-tools/disclaimer.aspx?pgm=gis>

NYS Coastal Boundary map:

<http://www.dos.ny.gov/communitieswaterfronts/atlas/index.html>

Buffalo District Corps' website:

<http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>

(NWPs, Regional Permits, Regulations, etc.)



BUILDING STRONG®

Where do we go from here ...

- Plan ahead
- Familiarize yourself with permits and conditions before emergency hits (eg., culvert replacement requirements)
- Corps currently talking to NYSDEC in attempts to develop an SPGP
- Training available through SWCDs for Post-emergency Stream Intervention



Questions?

Maggie Crawford, US Army Corps of Engineers

Ph. 315-255-8090 x3 / Fax 315-255-1492

E-mail: margaret.a.crawford@usace.army.mil

Address: US Army Corps of Engineers
Auburn Field Office
7413 County House Road
Auburn, New York 13021

Thank You...



BUILDING STRONG®