



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
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Flood Recovery and Repair Activities in the Tulsa District

In response to the severe flooding and other storm related damages in the Tulsa District, it is anticipated that municipalities and owners of damaged property will want to conduct repair activities promptly. A U.S. Army Corps of Engineers Clean Water Act (CWA) Section 404 permit may be required for dredging or placing fill material in waters of the United States, including rivers, lakes, streams, creeks, and adjacent wetlands. However, some existing permits have scopes of work and thresholds which may allow owners to accomplish their project without delay or waiting for a project specific authorization.

For projects that require specific authorization, the Division Engineer is authorized to approve special processing procedures in emergency situations. An emergency is defined as a situation that 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 the normal time needed to process the application under standard procedures. For more information regarding emergency authorizations, click on [Emergency Procedures](#).

For any activities that are not emergency protective measures (i.e., permanent work or final reconstruction), all regular permitting and Regulatory processes apply, as outlined below. Therefore, communities should keep the long-term recovery requirements in mind as they move through the initial construction stages of emergency protective measures. This advisory is a summary for municipalities and property owners of existing regulations which may streamline many activities within waters of the United States including repair and maintenance of existing facilities, bank stabilization, emergency watershed protection and rehabilitation, repair of upland areas, dredging in and around water intake structures, boat slips, and docks. Clearing and removal of floating debris, such as tree trunks and limbs and trash, from around culverts, bridge crossings, boat docks or retaining walls may not require authorization, provided: (1) No fill material for temporary access; and (2) No disposal of material in water of the United States. (temporary or permanently). Other provisions may apply for activities located in navigable waters subject to the authority of Section 10 of the Rivers and Harbors Act of 1899.

Depending on the size and location of the proposed work, the proponent may be required to provide an application or Pre-Construction Notification (PCN) for review prior to authorization of the project. Please note that all Regional and General Conditions, such as compliance with the Endangered Species Act and Section 106 of the National Historic Preservation Act still apply. For more information regarding each of the following permitting options go to

<http://www.swt.usace.army.mil/Missions/Regulatory.aspx>. These permits do not authorize any damage to private property, invasion of property rights, or any

infringement of federal, state, or local laws or regulations. Check with the local reservoir or water authority prior to any activities.

MAINTENANCE EXEMPTIONS

Certain activities that result in a discharge of dredge or fill material may not require Section 404 authorization. Examples of activities meeting this exemption may include 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, provided there is no change in the lines, grades or character of the original features. Exemptions are also available for the construction or maintenance of farm or stock ponds and construction of temporary sedimentation basins. See [33 CFR 323.4](#) for more information.

NATIONWIDE PERMITS (NWP)

To view NWP documents listed below, visit our website at <https://www.swt.usace.army.mil/Missions/Regulatory/Nationwide-Permit-Program/>.

Note: References to “tidal waters” in the following NWPs are retained from the published text for consistency but do not apply in the Tulsa District geographic area of responsibility.

NWP 3 Maintenance

- This NWP is used to authorize the repair, rehabilitation and replacement of currently serviceable structures or fills and temporary fills to undertake such work and the minor deviations associated with such repairs.
- It also authorizes the removal of accumulated sediments and debris that involve regulated discharges within 200 feet of existing structures such as bridges, culverted road crossings, and intake and outfall structures.
- The 200-foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall or intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall or intake structures. A PCN is required for the removal of sediments.

Note: In Oklahoma, NWP 3 requires Oklahoma Department of Environmental Quality (ODEQ) [Water Quality Certification](#) (WQC) pursuant to Section 401 of the CWA prior to Corps verification in any designated [Critical Resource Waters \(CRW\)](#).

NWP 13 Bank Stabilization

Bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the Regulatory Office waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the Regulatory Office waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle and pool complexes), unless the Regulatory Office waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

(g) The activity is not a stream channelization activity.

Note: NWP 13 requires ODEQ WQC prior to Corps verification in any designated CRW.

This NWP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Invasive plant species shall not be used for bioengineering or vegetative bank stabilization.

Notification: The permittee must submit a PCN to the Regulatory Office prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot along the bank below the plane of the ordinary high water mark or the high tide line (see NWP 13 General Condition 32). (Authorities: Sections 10 and 404)

NWP 14 Linear Transportation Projects

Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot

cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a PCN to the Regulatory Office prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands (see NWP 14 General Condition 32). (Authorities: Sections 10 and 404)

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note: NWP 14 cannot be verified within designated CRW. However, [General Permit 14 for Linear Transportation Crossing](#), is available.

NWP 19 Minor Dredging

This NWP allows for the dredging of no more than 25 cubic yards below the plane of the ordinary high water mark, the mean high water mark or reservoir conservation level from navigable waters of the United States (i.e., Section 10 waters). No PCN is required for this limited amount of dredging. *Best management practices must be used to control sediments from re-entering the water.* This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), anadromous fish spawning areas, or wetlands, or the connection of canals or other artificial waterways to navigable waters of the United States (see 33 CFR 322.5(g)). (Authorities: Sections 10 and 404).

NWP 37 Emergency Watershed Protection and Rehabilitation

Work done by or funded by:

(a) The Natural Resources Conservation Service for a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR part 624);

(b) The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13);

(c) The Department of the Interior for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3);

(d) The Office of Surface Mining, or states with approved programs, for abandoned mine land reclamation activities under Title IV of the Surface Mining Control and Reclamation Act (30 CFR Subchapter R), where the activity does not involve coal extraction; or

(e) The Farm Service Agency under its Emergency Conservation Program (7 CFR part 701).

In general, the prospective permittee should wait until the Regulatory Office issues an NWP verification or 45 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the emergency watershed protection and rehabilitation activity may proceed immediately and the Regulatory Office will consider the information in the PCN and any comments received as a result of agency coordination to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

Notification: Except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the permittee must submit a PCN to the Regulatory Office prior to commencing the activity (see NWP 37 General Condition 32). (Authorities: Sections 10 and 404)

NWP 41 Reshaping Existing Drainage Ditches

Discharges of dredged or fill material into non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the United States, for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. The reshaping of the ditch cannot increase drainage capacity beyond the original as-built capacity nor can it expand the area drained by the ditch as originally constructed (i.e., the capacity of the ditch must be the same as originally constructed and it cannot drain additional wetlands or other waters of the United States). Compensatory mitigation is not required because the work is designed to improve water quality.

This NWP does not authorize the relocation of drainage ditches constructed in waters of the United States; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch. This NWP does not authorize stream channelization or stream relocation projects.

Notification: The permittee must submit a PCN to the Regulatory Office prior to commencing the activity, if more than 500 linear feet of drainage ditch will be reshaped (see NWP 41 General Condition 32). (Authorities: Section 404)

Note: NWP 41 requires ODEQ WQC prior to Corps verification in any designated CRW.

NWP 45 Repair of Uplands Damaged by Discrete Events

This NWP authorizes discharges of dredged or fill material, including dredging or excavation, into all waters of the United States for activities associated with the restoration of upland areas damaged by storms, floods, or other discrete events. This NWP authorizes bank stabilization to protect the restored uplands. The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or ordinary high water mark, that existed before the damage occurred. The Regulatory Office retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this NWP. The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the District Engineer. This NWP cannot be used to reclaim lands lost to normal erosion processes over an extended period.

This NWP does not authorize beach restoration or nourishment. Minor dredging is limited to the amount necessary to restore the damaged upland area and should not significantly alter the pre-existing bottom contours of the waterbody.

Notification: The permittee must submit a PCN to the Regulatory Office (see NWP 45 General Condition 32) within 12-months of the date of the damage. The PCN should include documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration. (Authorities: Sections 10 and 404)

Note: The uplands themselves that are lost as a result of a storm, flood, or other discrete event can be replaced without a Section 404 permit, if the uplands are restored to the ordinary high water mark (in non-tidal waters) or high tide line (in tidal waters) (see 33 CFR 328.5.). This NWP authorizes discharges of dredged or fill material into waters of the United States associated with the restoration of uplands.

Note: NWP 45 requires ODEQ WQC prior to Corps verification in any designated CRW.

LETTER OF PERMISSION (LOP) AVAILABLE WITHIN THE STATE OF TEXAS (TULSA DISTRICT)

LOP Procedure for Activities at Certain Reservoirs and Federal and State Sponsored Projects (LOP-1)

The scope of work that may be authorized by this LOP procedure includes *any activity at a USACE, Bureau of Reclamation, state river authority, regional water district, city, county, or utility reservoir, including, but not limited to, bank stabilization, beach*

nourishment, property protection, and sediment removal. Work authorized by this LOP may also include any projects conducted, sponsored, or funded, in whole or in part, by the USACE, U. S. Fish and Wildlife Service, U. S. Environmental Protection Agency, Natural Resources Conservation Service, Texas Parks and Wildlife Department, Texas Commission on Environmental Quality, or the Texas Water Development Board. Activities associated with such programs as the Water Resources Development Act of 1986, as amended, Section 1135 Project Modifications for Improvement of Environment, Partners for Wildlife, the North American Waterfowl Management Plan, and the Wetlands Reserve Program and activities at National Wildlife Refuges, State Wildlife Management Areas, and State Parks are eligible for authorization under this procedure. For application procedures and additional information, see [LOP-1](#).

LOP Procedure for Excavation Activities (LOP-2)

The scope of work for the LOP-2 is limited to discharges of dredged or fill material associated with excavation activities in waters of the United States, including navigable waters of the United States. *Activities that may be authorized by LOP under this procedure include, but are not limited to, removal of accumulated sediment at road crossings, dredging of new and maintenance dredging of boat slips, boat access lanes and channels, intake and outfall structures,* mining of sand and gravel, and work associated with these activities, such as the construction of temporary coffer dams to perform such work. This procedure may be used to authorize the disposal of material excavated under authority of a LOP into waters of the United States provided the purpose of the disposal is not land reclamation. Impacts to waters of the United States, including wetlands, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States shall be required. Work that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States shall not be authorized by LOP under this procedure. For application procedures and additional information, see [LOP-2](#)

FOR FURTHER INFORMATION CONTACT:

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