US Army Corps of Engineers®

PUBLIC NOTICE

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Permit Application No. LRH-2023-00423

PROPOSED REGIONAL GENERAL PERMIT FOR ABANDONED MINE LANDS WITHIN THE BUFFALO, HUNTINGTON, LOUISVILLE AND PITTSBURGH DISTRICTS FOR THE STATE OF OHIO

TO WHOM IT MAY CONCERN: In accordance with Title 33 CFR § 325.5(c)(1) as published on November 13, 1986, in the Federal Register, Volume 51, Number 219, the district engineers of the United States Army Corps of Engineers Buffalo, Huntington, Louisville and Pittsburgh Districts are proposing to issue a Regional General Permit (RGP) for Abandoned Mine Lands (AML) pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. This RGP will be available for use within the entire state of Ohio by the Ohio Department of Natural Resources (ODNR), Division of Mineral Resources Management (DMRM) to authorize projects associated with AML and acid mine drainage (AMD) that require the discharge of dredged and/or fill material into waters of the United States and/or work in, over or under navigable waters of the United States.

BACKGROUND: RGPs are general permits issued by a district or division engineer on a regional basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. As part of the ODNR's responsibilities for the protection and restoration of the environment in Ohio, the ODNR, DMRM administers the AML program that focuses on the restoration of environmental damage associated with coal mining activities that occurred prior to the passage of the Surface Mining Control and Reclamation Act of 1977 (SMCRA; Public Law 95-87, 30 USC 1234-1328,). These programs include the AML and the Total Maximum Daily Load (TMDL) programs.

AML PROGRAM: On August 3, 1977, Congress passed the SMCRA. In enacting the SMCRA, Congress identified lands located throughout major regions of the United States, such as the Appalachian Mountains, which had been disturbed by surface and underground coal mining operations with little or no reclamation. Congress also recognized the impacts from these un- reclaimed lands imposed social and economic costs on the residents in nearby and adjoining areas as well as the impairment of environmental quality. Section 102(h) of the SMCRA defines one of its purposes as the promotion of the reclamation of mined areas left without adequate reclamation prior to its enactment and in their un-reclaimed condition: substantially degrade the quality of the environment; prevent or damage the beneficial use of land and water resources;

and/or endanger the health or safety of the public. Title IV of the SMCRA addresses Abandoned Mine Reclamation, including the establishment of the Abandoned Mine Reclamation Fund (AML Fund) and defines the purposes for which the AML Fund may be used.

The United States Department of Interior, Office of Surface Mining Reclamation and Enforcement (OSMRE) is the federal agency responsible for ensuring that the requirements of the SMCRA are implemented; however, many individual states have been given the primary regulatory responsibility. Ohio achieved primacy in 1982, giving the state responsibility to implement a state AML reclamation program.

The AML Fund also provides funding to address polluted drainage from abandoned coal mines. Mine drainage may contain high levels of metals and is often acidic. Polluted mine drainage is often referred to as AMD, although the water may sometimes be alkaline rather than acid. AMD treatment projects are being conducted throughout the state to restore or improve streams that are impaired as a result of AMD.

TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM: The Ohio Department of Environmental Protection (OEPA) has the primary responsibility for ensuring the state complies with the Federal Water Pollution Control Act (Title 33 Chapter 26), referred to as the Clean Water Act. Under Section 303(d)(1)(A) of the Act, the state is required to "identify those waters within its boundaries for which the effluent limitations required are not stringent enough to implement any water quality standard applicable to such waters" and to "establish a priority ranking for such waters." This is referred to as the 303(d) List. Paragraph (C) of this section of the Act requires the state to establish the TMDL of pollutants discharged into waters on the list. Subsection (2) requires the state to incorporate the TMDL into its "current plan" after approval by the Administrator of United States Environmental Protection Agency (USEPA).

The OEPA TMDL program focuses on identifying and restoring polluted rivers, streams, lakes and other surface water bodies. TMDLs are prepared for waters identified as impaired on the 303(d) List in the Integrated Water Quality Monitoring and Assessment Report (also called the Integrated Report). The Integrated Report indicates the general condition of Ohio's waters and identifies waters that are not meeting water quality goals. The report satisfies the Clean Water Act requirements for both Section 305(b) for biennial reports on the condition of the state's waters and Section 303(d) for a prioritized list of impaired waters. For each impaired water, the OEPA typically prepares a TMDL analysis. Water quality impacts in the coal region of Ohio often are a result of coal mining conducted prior to the SMCRA, and are responsible for many of Ohio's waters being placed on the 303(d) List.

PERMITTEE INFORMATION: This RGP may be used by the ODNR, DMRM for projects associated with AML and AMD that require the discharge of dredged and/or fill material into waters of the United States.

SCOPE OF WORK: This RGP may be used for the following activities, subject to all appropriate terms and conditions: site access and preparation for active AMD treatment such as the establishment of dosing systems, application of limestone fines, and construction of limestone leach beds; site work associated with mine land reclamation, other related projects such as wetland construction, enhancement, and removal; stream channel lining (i.e. limestone, gravel, or other suitable aggregate); mine seal installation; channel diversion; impoundment construction; underdrain construction, highwall backfilling, regrading and capping of overburden and/or refuse spoils, disposal of spoil, piping, grouting in-situ, stream relocation, coal refuse sediment removal; bank and/or slope stabilization; construction of sediment control structures, reducing bioreactors, vertical flow ponds, diversion wells, successive alkaline producing systems, anoxic limestone drains; sludge removal, maelstrom oxidizer, refuse excavation and quenching; landslide repairs and subsidence control; mine fire excavation, quenching, trenching, and foaming; shaft backfilling and capping; and retaining wall construction, in addition to other passive and active mine drainage treatment and AML reclamation technologies.

This RGP applies to all aquatic resources (e.g., streams, wetlands, rivers, etc.) under the jurisdiction of the Corps within the Buffalo, Huntington, Louisville and Pittsburgh Districts in Ohio, except those excluded under conditions of the RGP or conditions imposed by the state's water quality certification. The permittee is responsible for ensuring the work is performed in accordance with the attached terms and conditions. Work performed under this authorization can be suspended, modified or revoked in accordance with 33 CFR § 325.7 if a later determination is made by the Corps that the information provided was inaccurate, incomplete or done in bad faith. In the event of such a determination, the Corps may use the suspension, modification or revocations procedures contained in 33 CFR § 325.7 or enforcement procedures such as those contained in 33 CFR § 326.4 and § 326.5. The RGP would be effective for five (5) years from the date of issuance.

PRE-CONSTRUCTION NOTIFICATION (PCN) PROCEDURES: To ensure the activities authorized by the RGP cause no more than minimal individual and cumulative adverse environmental effects, pre-construction notification (PCN) to the district engineer is required before commencing the activity. Reference proposed General Condition 26 for additional information.

Note: Written authorization from the appropriate Corps District is required prior to commencement of any work resulting in a discharge of dredged and/or fill material into waters of the United States associated with this RGP.

AGENCY NOTIFICATION PROCEDURES: As part of the National Environmental Policy Act (NEPA) process, and on behalf of the OSMRE, ODNR, DMRM will consult with United States Fish and Wildlife Service (USFWS) to address potential impacts to federally listed species, the ODNR Division of Wildlife to address potential impacts to state listed species, and the Ohio History Connection, Ohio State Historic Preservation Office, to address potential impacts to cultural resources/historic properties for all AML

projects. The results of these consultations will be provided to the Corps as part of the PCN. Notification in accordance with Part B. Condition 27 is required for the following types of projects to the appropriate federal and state resource agencies,:

- Discharges of dredged and/or fill material resulting in greater than 0.25 acre of loss of waters of the United States as a result of conversion, or elimination;
- Channelization of streams;
- Discharge of dredged or fill material into greater than 0.05 acre of perennial and intermittent streams for projects involving valley fill construction necessary to provide for the disposal of excess spoil;
- Projects involving the discharge of dredged or fill material that include the lining of perennial streams or lining of greater than 0.05 acre of intermittent streams; and
- Projects involving the discharge of dredged or fill material that include stream channelization that increases in perennial or intermittent stream channel capacities in excess of 0.05 acre.

The Corps will provide the resource agencies copies of the permit application and any supplemental information. These agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If contacted by an agency, the district engineer will wait an additional10 calendar days before making a decision on the PCN. To expedite this review, it is requested that permit applications for project subject to agency notification be provided in electronic form. Reference proposed General Condition 27 for additional information. Additionally, consultation with the USFWS may be required pursuant to Section 7 of the Endangered Species Act. Further consultation with the State Historic Preservation Office and American Indian Tribes may be required pursuant to Section 106 of the National Historic Preservation Act.

WATER QUALITY CERTIFICATION: On February 6, 2025, the Corps submitted a pre-filing meeting request to the OEPA. A certification request in accordance with 40 CFR Part 121 will be submitted to the OEPA to act on the Section 401 Clean Water Act Water Quality Certification for the proposed RGP. A Department of the Army permit, if otherwise warranted, would not be issued on this project until the Clean Water Act Section 401 Water Quality Certification has been issued or waived and the Section 401(a)(2) process has been completed with the United States Environmental Protection Agency.

COASTAL ZONE MANAGEMENT CONSISTENCY: The Corps has certified that the proposed activity complies with Ohio's approved Coastal Zone Management Program and that activities authorized by the RGP will be conducted in a manner consistent with that program. The Corps has submitted its consistency determination to the ODNR.

PUBLIC INTEREST REVIEW: This proposed RGP will be reviewed and evaluated in

accordance with 33 CFR Parts 320-332, the implementing regulations for the Corps' Regulatory Program as well as other pertinent laws, regulations, and executive orders. The Corps' evaluation will also follow the guidelines published by the USEPA pursuant to Section 404(b)(1) of the Clean Water Act (40 CFR Part 230). The decision whether to issue a permit will be based on an evaluation of the probable impacts associated with the discharge of dredged and/or fill material into waters of the United States and/or work within navigable waters of the United States, including cumulative impacts of the proposed activities, on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may be reasonably expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; among those factors are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENT: The Buffalo, Huntington, Louisville and Pittsburgh Districts are soliciting comments from the public, federal, state and local agencies and officials, Tribal Nations and other interested parties in order to consider and evaluate the impacts of this proposed RGP. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed RGP should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any person may request, in writing, within the comment period specified in the notice, that a public hearing be held to consider the proposed RGP. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Written statements received in this office on or before the expiration date of this Public Notice will become a part of the record and will be considered in the final determination. The RGP will be authorized unless its issuance is found to be contrary to the public interest..

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one (1) of this Public Notice. Comments, information requests, and any public hearing requests should be submitted in accordance with the submission methods listed below. If no comments are received by that date, it will be considered that there are no objections.

COMMENT SUBMISSION: Comments should be submitted electronically via the Regulatory Request System (RRS) at https://rrs.usace.army.mil/rrs or to the Energy Resource Branch by email at CELRH.Energy@usace.army.mil or via email to michelle.m.doolin@usace.army.mil.

If you do not have internet access, comments may be submitted through the United States Postal Service (USPS) to the following address:

United States Army Corps of Engineers, Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070
ATTN: CELRH-RDE
Public Notice No. LRH-2023-00423

Copies should only be provided through the USPS when electronic transmission is not possible. To be considered in our evaluation, comments submitted through the USPS should have a postmark dated on, or prior to, the close of the comment period listed on page one (1) of this Public Notice.

Please note names, addresses, and comments submitted in response to this Public Notice become part of our administrative record and, as such, may be available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's aquatic resources. If you have any questions concerning this Public Notice, please contact Energy Resource Branch at the above address, by telephone at (304) 399-5610, or by email at CELRH-RD-E@usace.army.mil.

PROPOSED

A. **Special Conditions of the Regional General Permit (RGP) for Abandoned Mine Lands (AML) Reclamation for the State of Ohio**

1. Subject to the limits described below, this RGP authorizes the discharge of dredged or fill material into waters of the United States and/or work in, over or under navigable waters of the United States associated with AML and acid mine drainage (AMD) projects. Categories of activities authorized under this RGP include: site access and preparation for active AMD treatment such as the establishment of dosing systems, application of limestone fines, and construction of limestone leach beds; site work associated with mine land reclamation, other related projects such as wetland construction, enhancement, and removal; stream channel lining (i.e. gravel, limestone or other appropriate aggregate); mine seal installation; channel diversion; impoundment construction; underdrain construction, highwall backfilling, regrading and capping of overburden and/or refuse spoils, disposal of spoil, piping, grouting in-situ, stream relocation, coal refuse sediment removal; bank and/or slope stabilization; construction of sediment control structures, reducing bioreactors, vertical flow ponds, diversion wells, successive alkaline producing systems, anoxic limestone drains; sludge removal, maelstrom oxidizer, refuse excavation and quenching; landslide repairs and subsidence control; mine fire excavation, quenching, trenching, and foaming; shaft backfilling and capping; and retaining wall construction, in addition to other passive and active mine drainage treatment and AML reclamation technologies. This RGP will authorize:

    a. Impacts to stream reaches (intermittent, or perennial) that were historically impacted as a result of pre-Surface Mining Control and Reclamation Act (SMCRA) mining activities with no mitigation requirement when;
        i. Stream impacts are necessary to complete reclamation and/or abatement of an AML problem type;
        ii. Permanent loss does not exceed 0.05 acre; and
        iii. Impacted streams reaches not included in acres of permanent loss will be replaced at a ratio of one to one.

    b. Impacts to open water features that are a direct result of pre-SMCRA mining activities with no mitigation requirement when;
        i. Open water impacts are necessary to complete reclamation and/or abatement of an AML problem type.

    c. Impacts to Category 1 and Category 2 (Ohio Rapid Assessment Method [ORAM]) emergent, shrub scrub and forested wetlands that were impacted as a result of pre-SMCRA mining activities with no mitigation requirement when;
        i. Wetland impacts are necessary to complete reclamation and/or abatement of an AML problem type; and

ii. Impacted wetlands are replaced at a one to one ratio with the same ORAM category where possible.

Note: The purpose of this RGP is to expedite the Corps' review of requests for authorization(s) from the ODNR to perform projects in waters under the jurisdiction of the Corps for the purposes of restoring environmental damage associated with coal mining activities. In general, the ODNR should wait until the district engineer verifies in writing the proposed activity meets the terms and conditions of the RGP. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the proposed activity may proceed immediately and the district engineer will consider the information in the PCN and any comments received as a result of agency coordination to decide whether the RGP authorization should be modified, suspended, or revoked.

Emergency processing procedures for the Corps regulatory program are described in 33 CFR § 325.2(e)(4). 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 the normal time needed to process the application under standard procedures. If such an "emergency" exists, the ODNR could request the Corps evaluate the emergency corrective actions under the Corps' emergency procedures.

2. This RGP will not authorize:

a. Activities that may result in more than minimal adverse impacts to the aquatic environment;
b. Activities that result in substantial increases (exceed the carrying capacity of the channel and results in water spilling onto the floodplain) in channel capacity;
c. Activities involving the discharge of steel slag in waters of the United States;
d. Activities that would affect historic, cultural or archaeological sites listed or eligible for listing in the National Register of Historic Places (NRHP), unless coordination is completed as required by Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Section 106). Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Office (SHPO), and the NRHP. When reviewing pre-construction notifications (PCN), district engineers will comply with the current procedures for addressing the requirements of Section 106. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed RGP activity has the potential to cause effects on the

historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR § 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR § 800.2(c) when he or she makes any of the following effect determinations for the purposes of Section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. If the prospective permittee chooses to contact the Ohio History Connection, State Historic Preservation Office (SHPO) to determine if historic, cultural or archaeological sites within the proposed work areas are eligible for or listed on the NRHP, the response from the SHPO shall be provided to the Corps. No work shall commence until Section 106 requirements have been satisfied and the Corps' RGP verification letter is provided to the prospective permittee.

i. Section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, the SHPO, appropriate American Indian Tribes if the undertaking occurs on or affects historic properties on Tribal lands or affects properties of interest to those Tribes, and other parties known to have a legitimate interest in the impacts to the authorized activity on historic properties;

e. Activities that may affect proposed or listed endangered or threatened species or their designated critical habitat unless consultation under Section 7 (c) of the Endangered Species Act (ESA) has been completed. No work shall commence until Section 7 requirements have been satisfied and the Corps' RGP verification letter is provided to the prospective permittee. Permit applicants may contact the United States Fish and Wildlife Service (USFWS) to determine the presence of potential threatened or endangered species or their habitats.

    i. Information on the location of threatened and endangered species and their critical habitat will be obtained directly from the USFWS http://www.fws.gov/ or http://www.fws.gov/ipac

and/or the USFWS, Ohio Field Office, Ecological Services, who can be contacted by phone at (614) 416-8993 or by writing to 4625 Morse Rd, Suite 104, Columbus, Ohio 43230. The USFWS can provide information to assist in complying with this general condition and General Conditions 4 and 17 pertaining to migratory birds and bald and golden eagles. The prospective permittee will contact the USFWS Ohio Field Office to obtain the most updated information regarding potential locations known to inhabit endangered or threatened species. The permittee will also coordinate with ODNR, Office of Real Estate and Land Management to conduct an Environmental Review Request. This process searches the Natural Heritage Database and the Ohio Biodiversity Database to provide information on state listed threatened and endangered species and other sensitive resources within the vicinity of potential projects. The process can be accessed at https://ohiodnr.gov/discover-and-learn/safety-conservation/about-ODNR/real-estate/environmental-review/;

f. The discharge of dredged and/or fill material in designated components of the National or State Wild and Scenic Rivers Systems, Federal or State designated wildlife management areas or at sites included in the National Registry of Natural Landmarks, unless approval is granted from the administering agency and the Corps' RGP verification letter is provided to the prospective permittee. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, United States Forest Service, Bureau of Land Management, USFWS). Information on these rivers is also available at: http://www.rivers.gov/. Waterways that are components of the National Wild and Scenic River System will require a PCN to the Corps.

    i. The discharge of dredged and/or fill material proposed in the Nationwide Rivers Inventory streams, unless coordinated with the National Park Service and the Corps' RGP verification letter is provided to the prospective permittee. The permitted will review the most up to date Nationwide Inventory of Rivers within the State of Ohio for each project at: https://www.nps.gov/maps/full.html?mapId=8adbe798-0d7e-40fb-bd48-225513d64977;

g. Regulated activities which negatively impacts the functions and services of bogs and/or fens. Negative impacts include conversion of an area of the waters of the United States considered as a bog or fen 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. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration;

h. Regulated activities in Lake Erie which would result in diversion of water from the Great Lakes;

i. Regulated activities which have an adverse impact on littoral transport within Lake Erie;

j. Discharges of dredged or fill material into waters of the United States for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites.

    i. In Ohio, two (2) areas have been designated critical habitat for the piping plover (*Charadrius melodus*) and are defined as lands 0.62 mile inland from normal high water line. Unit OH-1 extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately two (2) miles. Unit OH-2 extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile. For maps of the designated critical habitat, visit https://www.govinfo.gov/content/pkg/FR-2001-05-07/pdf/01-11205.pdf#page=1

    ii. In Ohio three (3) areas have been designated critical habitat for the rabbitsfoot mussel (*Quadrula cylindrica cylindrica*). Unit RF26 includes 17.5 river kilometers (rkm) (10.9 river miles [rimi]) of the Walhonding River from the convergence of the Kokosing and Mohican Rivers downstream to Ohio Highway 60 near Warsaw, Coshocton County, Ohio. Unit RF27 includes 33.3 rkm (20.7 rmi) of Little Darby Creek from Ohio Highway 161 near Chuckery, Union County, Ohio, downstream to U.S. Highway 40 near West Jefferson, Madison County, Ohio. Unit RF29 includes 7.7 rkm (4.8 rmi) of Fish Creek from the Indiana and Ohio State line northwest of Edgerton, Ohio, downstream to its confluence with the St. Joseph's River north of Edgerton, Williams County, Ohio. For maps of the designated critical habitat, https://www.govinfo.gov/content/pkg/FR-2015-04-30/pdf/2015-09200.pdf#page=1

    iii. Old Woman Creek National Estuarine Research Preserve. For information pertaining to this reserve, visit https://ohiodnr.gov/go-and-do/plan-a-visit/find-a-property/old-

woman-creek-nerr-state-nature-preserve

iv. Round Hictorynut: Grand River Unit RH 2 consists of 92 river miles (148.2 km) of the Grand River in Ashtabula, Lake, and Trumbull Counties, Ohio, from the Trumbull/ Geauga County line south of Lake County, Ohio State Route 88, downstream to the mouth of the Grand River at its confluence with Lake Erie. For maps to the designated critical habitat, visit https://www.govinfo.gov/content/pkg/FR-2023-03-09/pdf/2023-03998.pdf#page=1

v. Discharges of dredged or fill material into wetlands in the Oak Openings Region of Northwest Ohio located in Lucas, Henry and Fulton Counties. For a map of the Oak Openings Region, visit https://www.google.com/maps/d/viewer?mid=1JADupaZXJzO6AUDvnUaV18GVjG7yfBim&usp=sharing

3. Any work associated with a regulated activity under this RGP cannot take place during the restricted period of the following Ohio Department of Natural Resources (ODNR), Division of Wildlife (DOW) In-Water Work Restrictions, unless the applicant receives advanced written approval (a copy of which should be submitted with the application submittal) from the ODNR, DOW and receives written approval from the Corps:
    a. Salmonid Locations Restriction Period: September 15 – June 30
    b. Other Locations Restriction Period: March 15 – June 30

    Note: This list of restriction locations can be found at https://dam.assets.ohio.gov/image/upload/ohiodnr.gov/documents/wildlife/general/IN-WATER_WORK_RESTRICTION_PERIODS_AND_LOCATIONS.pdf and is subject to change as determined by the Ohio Department of Natural Resources, Division of Wildlife.

4. All work shall be performed in an environmentally, technically, and economically sound manner and shall incorporate natural stream design principles to the maximum extent practicable. The prospective permittee must indicate why natural stream design principles are not practicable for use in the project design. Stream grouting shall be limited to those projects for which other stabilization methodologies are not practicable.

5. Adverse impacts to existing wetlands that are not a result of pre-SMCRA mining activities shall be avoided to the maximum extent practicable.

6. Stabilization through the planting of vegetation is highly encouraged and shall be limited to those species native to Ohio.

7. A copy of this RGP must be posted on-site during construction activities.

8. For all AML projects with a specified water quality improvement goal, the permittee will be required to provide pre-project baseline monitoring results, in addition to semi-annual water quality sampling for a minimum of one (1) year. These results must include appropriate mapping to identify monitoring site(s). Monitoring will be conducted at the final discharge(s) of the completed remediation project and the testing results will be submitted to the appropriate Corps District and the OEPA Clean Water Act Section 401 Water Quality Certification Program annually and will include all sampling performed for that project during the year.

9. The applicant will invite resource agencies to all field reviews and provide the ODNR DOW and the USFWS construction and location details for review a minimum of thirty (30) days prior to initiation of work on streams supporting federally listed threatened and endangered species.

10. Prior to commencement of work, the Ohio Utilities Protection Service must be contacted at 800-362-2764 or 811 to determine the location of underground utility lines in the project area.

B. **General Conditions for Regional General Permit (RGP) for Abandoned Mine Lands (AML) Reclamation for the State of Ohio**

1. **Expiration:** Unless otherwise specified in the Corps letter verifying a project complies with the terms and conditions of this RGP, the time limit for completing work authorized by the permit ends upon the expiration date of the RGP.

2. **Navigation.**
   a. No activity may cause more than a minimal adverse effect on navigation within the streams as described in Appendices A and B of this RGP.
   b. Permittees will comply with required setback distances within federally maintained channels and/or waterways, as determined by the Corps.
   c. Any safety lights and signals prescribed by the United States Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
   d. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

3. **Aquatic Life Movements.** No activity may substantially disrupt the

necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements. When practicable, as recommended by the Ohio Environmental Protection Agency, bottomless or buried culverts are required when culvert size is greater than 36” in diameter. This condition does not apply if the culverts have a gradient of greater than 1% grade or installed on bedrock. A buried culvert means that the bottom 10% by dimension shall be buried below the existing stream bed elevation. The culvert shall be designed and sized to accommodate bankfull discharge and match the existing depth of flow to facilitate the passage of aquatic organisms. When practicable, culverts shall be installed at the existing streambed slope, to allow for the natural movement of bedload and aquatic organisms. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

4. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g. through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized unless specifically authorized by the ODNR, as indicated in Special Condition 3.

5. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

6. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, as determined by the ODNR or the USFWS. To protect shellfish populations, prior to any in-water work, a professional malacologist must collect and relocate the shellfish populations to suitable and similar habitat upstream of the project site. Should federal listed species be encountered, the work must cease and the USFWS must be contacted for consultation. Any juvenile and adult specimens must be located to an acceptable location, as approved by the ODNR and the USFWS. Individual adult mussel specimens must be marked when relocated. Juveniles are not to be marked.

7. **Suitable Material.** No activity may use unsuitable material (*e.g.,* trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

8. **Water Supply Intakes.** No activity may occur in the proximity of a public water

supply intake unless the prospective permittee obtains written verification from the Corps that the activity is authorized under the RGP.

9. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

10. **Management of Water Flows.** To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

11. **Fills Within 100-Year Floodplains.** The activity must comply with applicable Federal Administration Management Agency-approved state or local floodplain management requirements.

12. **Equipment.** Heavy equipment working in wetlands or mud flats must be placed on mats, or other measures must be taken to minimize soil disturbance.

13. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls, or best management practices (BMPs), must be used and maintained in effective operating condition during construction. All exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

14. **Removal of Temporary Structures and Fills.** Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

15. **Tribal Rights.** No activity or its operation may impair reserved Tribal rights (executive orders, military decrees, federal legislation, and judicial decisions), including, but not limited to, protected tribal resources, reserved water rights and treaty fishing and hunting rights.

16. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable RGP general conditions, as well as any activity-specific conditions

added by the district engineer to this RGP authorization.

17. **Single and Complete Project.** The activity must be a single and complete project with independent utility.

18. **Migratory Birds and Bald and Golden Eagles.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. The prospective permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The prospective permittee is responsible for contacting appropriate local office of the USFWS to determine applicable measures to reduce impacts to migratory birds or eagles, including whether ''incidental take'' permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

19. **Discovery of Previously Unknown Remains and Artifacts.** Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this RGP must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

20. **Mitigation.** The Corps will conduct a project-specific review and determine if compensatory mitigation would be required to ensure the activity results in minimal adverse environmental effects. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:
    a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
    b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
    c. Except as specified in the Special Conditions of this RGP, compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1⁄10-acre, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses or permanent

wetland conversion of 1/10-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

d. Except as specified in the Special Conditions of this RGP, compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 0.03 acre, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. Compensatory mitigation for losses of streams not associated with pre-SMCRA mining activities should be provided, if practicable, through stream rehabilitation, enhancement, or preservation since streams are difficult to-replace resources (see 33 CFR § 332.3(e)(3)).
e. Compensatory mitigation plans for RGP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted (with the exception of temporary cover crops). The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
f. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR Part 332.
    i. The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more

than minimal adverse environmental effects. For the RGPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR § 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

ii. The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see also 33 CFR § 332.3(f)).

iii. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

iv. If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the RGP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR § 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR § 332.3(k)(3)). If permittee responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

v. If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR § 332.4(c)(1)(ii)).

vi. Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the RGP authorization, instead of components of a compensatory mitigation plan (see 33 CFR §332.4(c)(1)(ii)).

g. Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR § 332.3(b).

For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the RGP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

21. **Water Quality.** In accordance with Section 401 of the Clean Water Act, certification of compliance with state or tribal water quality standards by the state or tribal water quality certifying authority, is required for any discharge of dredged and fill material into waters of the United States.

22. **Coastal Zone Management.** In coastal states where this RGP has not previously received a state coastal zone management consistency concurrence from the ODNR, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur. If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by this RGP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. **Case-By-Case Conditions.** The activity must comply with any case specific conditions added by the Corps or by the state in its Section 401 Water Quality Certification or by the state in its Coastal Zone Management Act consistency determination.

24. **Transfer of Regional General Permit (RGP) Verifications.** If the permittee sells the property associated with a RGP verification, the permittee may transfer the RGP verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the RGP verification must be attached to the letter, and the letter must contain the following statement and signature:

    ‘‘When the structures or work authorized by this RGP are still in existence at the time the property is transferred, the terms and conditions of this RGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this RGP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.’’

    _____
    (Transferee)

_____
(Date)

25. **Compliance Certification.** Each permittee who receives a RGP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the RGP verification letter. The certification document will include:

    a. A statement that the authorized activity was done in accordance with the RGP authorization, including any special, general or activity-specific conditions;
    b. A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR § 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
    c. The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

26. **Activities Affecting Structures or Works Built by the United States.** If this RGP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a United States Army Corps of Engineers (USACE) federally authorized Civil Works project (a ‘‘USACE project’’), no RGP verification will be granted until the appropriate Corps office issues the Section 408 permission or completes its review to alter, occupy, or use the USACE project.

27. **Pre-Construction Notification.**

    a. **Timing.** The prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the

prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

i. Written verification is provided by the district engineer that the activity may proceed under the RGP with any special conditions imposed by the district engineer; or

ii. 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district engineer. However, if listed species or critical habitat might be affected or are in the vicinity of the activity, or the activity might have the potential to cause effects to historic properties, or the project will occur within a Wild and Scenic River, or the project requires review by, or permission from, the Corps pursuant to 33 U.S.C. § 408, the permittee cannot begin the activity until receiving written notification from the Corps that there is ''no effect'' on listed species or ''no potential to cause effects'' on historic properties, or that any consultation required under Section 7 of the Endangered Species Act and/or Section 106 of the National Historic Preservation Act has been completed and/or the National Park Service has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status and/or the Corps has granted permission under 33 U.S.C. § 408. If the proposed activity requires a written waiver to exceed specified limits of this RGP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the RGP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR §330.5(d)(2).

b. **Contents of Pre-Construction Notification (PCN)**: The following PCN information will be provided to the appropriate United States Army Corps of Engineers' (Corps) District concerning each project, prior to the initiation of reclamation work that results in a discharge of dredged and/or fill material into waters of the United States and/or work in, under or over navigable waters of the United States:

    i. A completed and signed Department of the Army Engineering Form 6082 (https://www.publications.usace.army.mil/USACE-Publications/Engineer-Forms/u43543q/36303832/). All

activities which the applicant plans to undertake which are reasonably related to the same project and for which a Department of the Army permit would be required should be included in the same pre-construction notification. District engineers will reject, as incomplete, any pre-construction notification which fails to comply with this requirement.

i. Name, address and telephone numbers of the property owner;
ii. Name, address and telephone numbers of the prospective permittee;
iii. Name, address and telephone numbers of entity responsible for project operation, maintenance, and monitoring;
iv. Exact location of the work, including a location map on United States Geological Survey 7.5 Minute Series Quadrangle, with Latitude and Longitude in decimal degree format (e.g. Latitude 38.2111 and Longitude -81.3533);
v. A description of the proposed activity. The description of the proposed activity must be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal, considered individually and cumulatively, and to determine the need for compensatory mitigation or other mitigation measures. The description must include the following, as applicable:
    1. Description of project purpose and need, including baseline conditions and anticipated conditions upon project construction;
    2. Description of any anticipated maintenance activities;
    3. Amount of dredged and/or fill material to be discharged into waters of the United States, expressed in linear feet and acres for streams and acres for wetlands and open waters;
    4. Volume of material (expressed in cubic yards) to be discharged below the ordinary high water mark of waters of the United States; and
    5. If bank stabilization is proposed along both banks of a stream, the linear footage should be provided separately for each bank;
vi. A delineation of all potential waters of the United States located within the project boundary, including rivers, stream (ephemeral, intermittent and perennial), open waters (such as impounded features) and wetlands

identified. All wetlands must be delineated in accordance with the 1987 Corps of Engineers Wetland Delineation Manual and the applicable Regional Supplement to the Corps Wetland Delineation Manual. The extent of waters of the United States must be identified in accordance with the definitions and limits of jurisdiction contained in 33 CFR Part 328 and 33 CFR Part 329;

ii. Project plan and cross section views depicting boundaries of waters of the United States and boundaries of the proposed work. Drawings should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans;

iii. Ground photographs with locations and directional views depicted on a site plan;

iv. A description of the expected direct and indirect adverse environmental effects the activity would cause;

v. A description of the ways in which adverse impacts to waters of the United States have been avoided and minimized. The district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure the activity results in minimal adverse environmental effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources, if required, must comply with the applicable provisions of 33 CFR Part 332;

vi. The location of any water intakes in the vicinity of the project;

vii. A statement regarding any historic property which might have the potential to be affected by the proposed activity or a vicinity map indicating the location of the historic property; and if necessary, the applicant will submit a cultural resources report including, but not limited to the following:

1. A detailed description of the project site in its current condition (i.e. prior to construction activities) including information on the terrain and topography of the site, the acreage of the site, the proximity of the site to major waterways, and any known disturbances within the site;

2. A detailed description of past land uses in the project site;

3. Photographs and mapping showing the site conditions and all buildings or structures within the project site and on adjacent parcels are useful. Photographs and maps supporting past land uses should be provided as available;

4. Information regarding any past cultural resource studies or coordination pertinent to the project area, if available;

5. United States Geological Survey (USGS) 7.5' series topographic maps;

6. Ohio History Connection State Historic Preservation Office (SHPO) files including:
    a. Ohio Archaeological Inventory files;
    b. Ohio Historic Inventory files;
    c. Ohio SHPO Cultural Resources Management/contract archaeology files;
    d. National Register of Historic Places files including Historic Districts; and
    e. County atlases; histories and historic USGS 15' series topographic map(s).

When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the district engineer as part of the application submittal. The Corps may request additional information and/or surveys be conducted such as a Phase 1 Archaeological Survey or an Architectural Survey. The applicant may choose to conduct pre-coordination with the State Historic Preservation Office prior to submitting a PCN via Section106@ohiohistory.org. Any correspondence related to this pre-coordination should be provided with the PCN.

viii. A statement confirming if the proposed activity will require permission from the Corps pursuant to 33 U.S.C. § 408 (Section 408) because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. If yes, describe if a written request for Section 408 has been submitted. RGP decisions for activities that require Section 408 permission will not be authorized until the Section 408 permission decision is finalized. See

https://section408.ops.usace.army.mil/ords/f?p=9408:75:6204308711017:::::&tz=-4:00 for program requirements.

ix. A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.

x. Ohio Rapid Assessment Method (ORAM) concurrence from the OEPA for each wetland greater than 0.1 acre. Applicant should adhere to the current ORAM manual when coordinating with the OEPA for each wetland proposed to be impacted and include the following information in the ORAM coordination:

1. A minimum of four (4) high resolution color photographs taken while facing each of the four (4) cardinal directions of each wetland proposed for impact. Photographs must accurately depict the quality of the wetland and may not include a majority of dying or dead vegetation or excessive cover due to seasonal conditions that vegetation and substrates cannot be observed, such as leaf litter, snow, or ice. Photographs deemed to be insufficient of representing the wetland will be required to be retaken once seasonal conditions are appropriate. Photographs shall be clearly labeled with the wetland name, direction, and date;
2. United States Geological Survey topographical map, National Wetlands Inventory map, Soil Survey map and aerial images (both historical and current) which clearly outline the entire wetland boundary;
3. Coordination letter from the Ohio Department of Natural Resources, Natural Heritage Database indicating the presence or absence of state listed threatened or endangered species (requests should be sent via environmentalreviewrequest@dnr.ohio.gov); and
4. A detailed description of how the project meets public need, as defined in Ohio Administrative Code 3745-1-50, for impacts to Category 3 wetlands.

It is highly recommended that the project proponent submit their ORAM form and the other noted required information directly to the Ohio Environmental Protection Agency for verification via their EBusiness center at https://ebiz.epa.ohio.gov/ Copies of any correspondence submitted to and received from the Ohio Environmental Protection Agency should be included in the application package.

xi. For activities that may affect federally listed threatened or endangered species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such

designation), pursuant to Section 7 of the Endangered Species Act (ESA) the applicant must submit a biological resources report and an official species list from Information for Planning and Consultation. The report must include a description of the action to be considered; the specific area that may be affected by the action; any listed species or critical habitat that may be affected by the action; the manner in which the action may affect any listed species or critical habitat; and an analysis of any cumulative effects on listed species and/or their critical habitat. The report must include copies of all references, a proposed mitigation plan, and any other relevant available information. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the United States Fish and Wildlife Service or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac.

xii. A list of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.

c. **PCN Submittal:** The project proponent must submit the application package, which includes the information above, as follows:

a. PCNs may be submitted via the Corps' Regulatory Request System at: https://rrs.usace.army.mil/rrs/home or saved as a PDF document, and then submitted as an attachment in an email to the respective district, as follows:
Buffalo District – LRB.Ohio.RegActions@usace.army.mil
Huntington District – LRH.permits@usace.army.mil
Pittsburgh District – Regulatory.Permits@usace.army.mil
Louisville District – CELRL.Door.To.The.Corps@usace.army.mil

b. Electronic documents must have sufficient resolution to show project details. The Department of the Army permit application and supporting documents submitted electronically must not exceed 10 megabytes (10MB) per email. Multiple emails may be required to transmit documents to ensure the 10MB limit is not exceeded. Alternatively, use of the Department of Defense Secure Access File Exchange (DoD SAFE) service to transfer large files may be requested in your email.

c. For tracking and processing purposes, the email should include the following:

i. Email Subject Line: include the name of the applicant, type of Department of the Army permit application request, and location (County and State). Example: RE: Doe, John, Department of the Army permit application and CWA Section 401 Water Quality Certification Request, Fayette County,

Ohio;

ii. Email Body: 1) Brief description of the proposed project, 2) contact information (phone number, mailing address, and email address) for the applicant and/or their agent, and 3) the project location: address and latitude/longitude in decimal degrees (e.g. 42.92788° N, 88.36257° W).

d. If you do not have internet access, information may be submitted through the United States Postal Service to the appropriate Regulatory Office:

United States Army Corps of Engineers, Buffalo District
ATTN: Regulatory Branch
478 Main Street
Buffalo, New York 14202

United States Army Corps of Engineers, Huntington District
ATTN: Regulatory Division
502 Eighth Street
Huntington, West Virginia 25701-2070

United States Army Corps of Engineers, Louisville District
ATTN: CELRL-RD, Room 752
600 Dr. Martin Luther King Jr. Place
Louisville, Kentucky 40202-0059

United States Army Corps of Engineers, Pittsburgh District
ATTN: Regulatory Division
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186

28. **Agency Coordination:**

a. The district engineer will consider any comments from federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the RGPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

b. Agency coordination is required for:

i. Discharges of dredged and/or fill material resulting in greater than 0.25 acre of loss of waters of the United States as a result of conversion, degradation, or elimination;
ii. Channelization of streams;
iii. Discharge of dredged and/or fill material into greater than 0.05 acre of perennial and intermittent streams for projects involving valley fill

construction necessary to provide for the disposal of excess spoil;

iv. Projects involving the discharge of dredged and/or fill material that include the lining of perennial streams or lining of greater than 0.05 acres of intermittent streams; and

v. Projects involving the discharge of dredged or fill material that include stream channelization that increases in perennial or intermittent stream channel capacities in excess of 0.05 acre.

c. When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate federal or state offices (USEPA, USFWS, ODNR, and OEPA). These agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If contacted by an agency, the district engineer will wait an additional 10 calendar days before making a decision on the PCN. The district engineer will fully consider agency comments received within the specified timeframe concerning the proposed activity's compliance with the terms and conditions of the RGP, including the need for mitigation, to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency. Emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life, or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the RGP authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR § 325.7.

29. **Non-Jurisdictional Waters:** In some cases, the Corps may determine that an activity will not impact waters of the United States because the water is a non-adjacent wetland that has been determined not to be subject to regulation under Section 404 of the Clean Water Act. However, under Ohio Revised Code 6111.02 to 6111.028, the OEPA has authority to regulate discharges of dredged and/or fill into isolated wetlands of the state of Ohio. Accordingly, any applicant proposing to impact an isolated wetland must contact the OEPA to obtain all necessary approvals for activities impacting any isolated wetlands.

30. **State-Listed Mussel Species:** The ODNR is responsible for ensuring their action complies with the requirements for state listed mussel species. At the earliest possible date, the ODNR, DMRM will provide the ODNR, DOW and the USFWS Ohio Field Office construction and location details (e.g., county, stream name, type of work, and latitude and longitude) for review prior to initiation of work on streams supporting protected freshwater mussels. The most current information on stream reaches known to support state protected freshwater mussel species is available

from the ODNR, DOW.

31. **Invasive species:** No area for which grading has been completed will be unseeded or unmulched for longer than 14 days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.

32. **Proper Maintenance and Abandonment:** You must maintain the structure/fill authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP to ensure public safety. You are not relieved of this requirement unless you transfer to a third party in compliance with Condition 5 below. Should you wish to cease maintenance of, or abandon the authorized activity, without transferring the permit, you must apply for a RGP modification from this office, which may require restoration of the area to the original condition.

33. **Changes to Scope or Impacts:** Should new information regarding the scope and/or impacts of a project become available that was not submitted to this office during our review of the proposal, the permittee will submit written information concerning proposed modification(s) to this office for review and evaluation, as soon as practicable.

C. **District Engineer's Decision**

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the RGP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If an applicant requests a waiver of an applicable limit, as provided above, the district engineer will only grant the waiver upon a written determination that the RGP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the RGP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by RGP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the RGP activity, the type of resource that will be affected by the RGP activity, the functions provided by the aquatic resources that will be affected by the RGP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the RGP activity (*e.g.,* partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (*e.g.,* watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or

condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the RGP authorization to address site-specific environmental concerns.

3. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the prospective permittee either: (a) That the activity does not qualify for authorization under the RGP and instruct the prospective permittee on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the RGP subject to the submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the RGP with specific modifications or conditions.

D. **Further Information**:

1. Congressional Authorities: This activity has been authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

2. Limits of this authorization:

    a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
    b. This permit does not grant any property rights or exclusive privileges.
    c. This permit does not authorize any injury to the property or rights of others.
    d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

    a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
    b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
    c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
    d. Design or construction deficiencies associated with the permitted work.
    e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that the activity is not contrary to the public interest was made in reliance on the information provided pursuant to the notification requirement. Any change to the proposed work may make the project ineligible for authorization by this RGP.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

    (a) Failure to comply with the terms and conditions of this RGP.
    (b) The information provided with the submitted permit application proves to have been false, incomplete, or inaccurate (See 4 above).
    (c) Significant new information becomes available which this office did not consider in reaching the original public interest decision.

    Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR § 325.7 or enforcement procedures such as those contained in 33 CFR § 326.4 and § 326.5.

E. **Definitions**

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Bogs: Bogs are a type of freshwater wetland. Histosol, bog soil, is made up largely of decaying plant matter. It is oxygen-poor and nutrient-poor, making biodiversity much lower than in other wetland ecosystems. Few plants can survive in such an acidic, waterlogged soil. Bogs are peat-forming ecosystems and are also known as mires.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Cumulative adverse environmental effects: Cumulative adverse environmental effects are the changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual discharges of dredged or fill material. Although the impact of a particular discharge may constitute a minor change in itself, the cumulative effect of numerous such piecemeal changes can result in a major impairment of the

water resources and interfere with the productivity and water quality of existing aquatic ecosystems. Cumulative adverse environmental effects attributable to the discharge of dredged or fill material in waters of the United States should be predicted to the extent reasonable and practical.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term ‘‘discharge’’ means any discharge of dredged or fill material into waters of the United States.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Fens: A fen is a type of peat-accumulating wetland fed by mineral-rich ground or surface water. The unique water chemistry of fens is a result of the ground or surface water input. Typically, this input results in higher mineral concentrations and a more basic pH than found in bogs. As peat accumulates in a fen, groundwater input can be reduced or cut off, making the fen ombrotrophic rather than minerotrophic. In this way, fens can become more acidic and transition to bogs over time.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR Part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps’ Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed

even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

In-lieu fee program: In-lieu fee mitigation is a form of "third-party" compensation because a third party, in-lieu fee sponsor assumes responsibility from the permittee for the implementation and success of the compensatory mitigation. A permit applicant may make a payment to an in-lieu fee program that will conduct wetland, stream or other aquatic resource restoration, creation, enhancement, or preservation activities. In-lieu fee programs are generally administered by government agencies or non-profit organizations that have established an agreement with the regulatory agencies to use in-lieu fee payments collected from permit applicants. In-Lieu Fee Mitigation programs are currently active for our counties in Ohio.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Minor: Minor means effects that are beyond mere de minimus impact but no more than minimal individual and cumulative adverse environmental impacts when considering effects of the proposed action.

Mitigation banking: Mitigation bank involves the restoration, creation, enhancement, and, in exceptional circumstances, preservation of wetlands and/or other aquatic resources expressly for the purpose of providing compensatory mitigation for wetland losses authorized by Corps permits. The newly established wetland acreage (credits) may then be sold to permittees who need to provide compensatory mitigation for unavoidable impacts. (i.e., "debits"). The Corps tracks credits through the Regional In-Lieu Fee and Banking Information Tracking System (RIBITS). The decision to allow the use of a mitigation bank for compensatory mitigation must comply with the Final

Compensatory Mitigation Rule. Per the Final Compensatory Mitigation Rule, there is a preference to use available mitigation credits in a particular service area if there are of the appropriate type to compensate for the impact.

National Register of Historic Places: The National Park Service administers the National Register of Historic Places. The National Register is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of their community state, or the nation. Nominations for listing historic properties come from State Historic Preservation Officers, from Federal Preservation Officers for properties owned or controlled by the United States Government, and from Tribal Historic Preservation Officers for properties on Tribal lands. Private individuals and organizations, local governments, and American Indian Tribes often initiate this process and prepare the necessary documentation. A professional review board in each state considers each property proposed for listing and makes a recommendation on its eligibility. National Historic Landmarks (NHL) are a separate designation, but upon designation, NHLs are listed in the National Register of Historic Places if not already listed.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR Part 329.

Open water: An open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of ‘‘open waters’’ include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Permittee-responsible mitigation: Permittee responsible mitigation is defined as an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility. Permittee responsible mitigation may include on-site or offsite mitigation. The proposed compensatory mitigation should utilize a watershed approach and fully consider the ecological needs of the watershed. Where an appropriate watershed or sub-watershed plan is available, mitigation site selection should be based on recommendations in the

plan. The applicant shall describe in detail how the mitigation site was chosen and will be developed, based on the specific resource need of the impacted watershed. A good mitigation design selects an appropriate site and takes into consideration all-important multi-disciplinary factors that affect self-sustaining ecological systems, such as wetlands and associated uplands. If the whole landscape design is not integrated with site water management, mitigation efforts may not achieve the performance standards. Proposed permittee responsible mitigation should be in a written report addressing all of the requirements of the Final Compensatory Mitigation Rule and utilizing the Monitoring and Performance Standards, which outline the criteria for establishing mitigation banks as well as permittee responsible mitigation.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification (PCN): A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by this RGP. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Reestablishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the

Section 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, and lakes shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 19)

Single and complete project: The total project proposed or accomplished by one (1) owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition of ‘‘independent utility’’). Single and complete non-linear projects may not be ‘‘piecemealed’’ to avoid the limits in an NWP authorization.

Special aquatic sites: Special aquatic sites are defined in 40 CFR Part 230, Subpart E and include wetlands, riffle and pool complexes, and vegetates shallows. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian Tribe or individual; or (2) held by any Indian Tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a Tribe or Tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the Section 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the RGP, a waterbody is a ‘‘water of the United States.’’ If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR § 328.4(c)(2)).

Waters of the United States: All waters which are currently used, or were used historically, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to ebb and flow of the tide; all interstate waters, including wetlands; all other waters such as lakes, rivers, streams, mudflats, sandflats, sloughs, prairie potholes, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce.

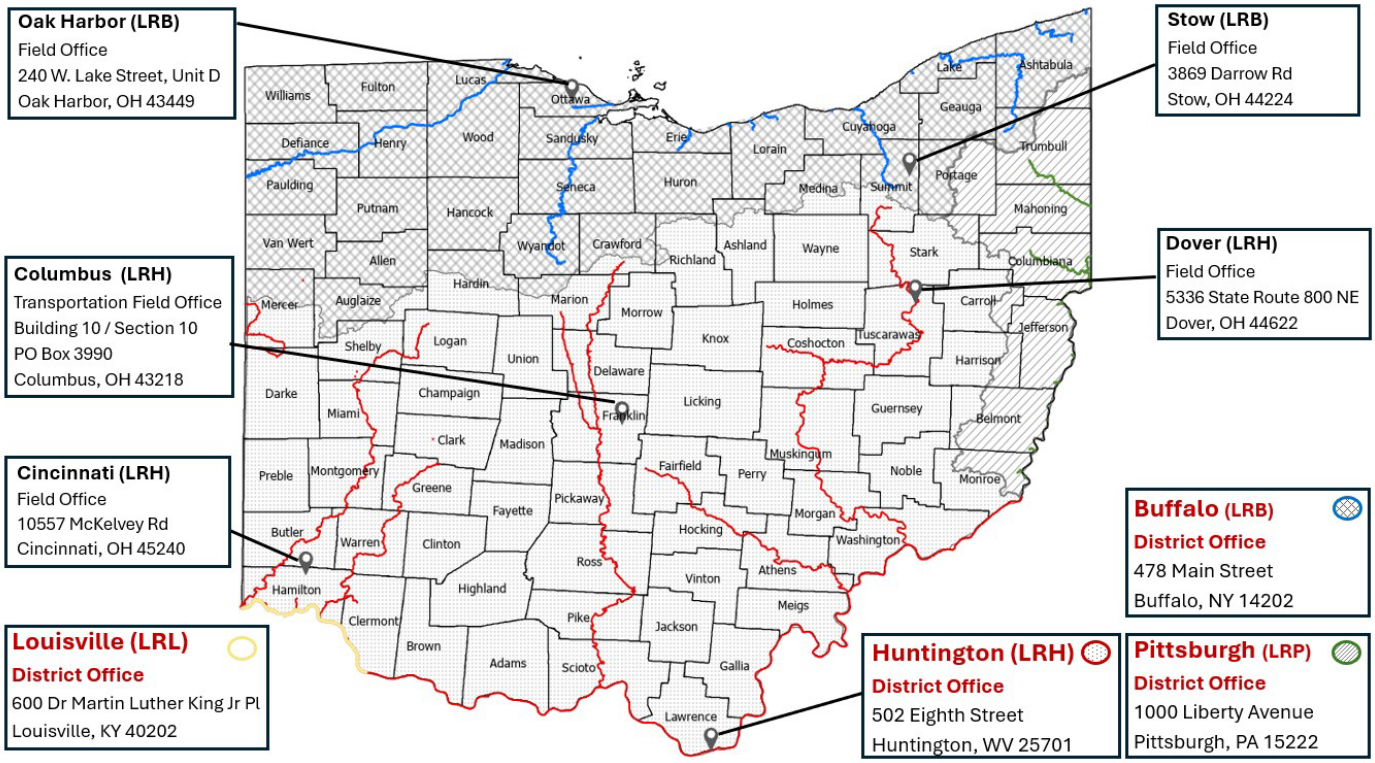
Wetlands: Wetlands are areas where water covers the soil or is present either at or near the surface of the soil all year or for varying periods of time during the year, including during the growing season. Water saturation (hydrology) largely determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The prolonged presence of water creates conditions that favor the growth of specially adapted plants (hydrophytes) and promote the development of characteristic wetland (hydric) soils.

ATTACHMENTS:

Attachment A – Buffalo, Huntington, Louisville and Pittsburgh Districts Areas of Responsibility

Attachment B – Helpful Information

ATTACHMENT A – BUFFALO, HUNTINGTON, LOUISVILLE AND PITTSBURGH DISTRICTS AREAS OF RESPONSIBILITY



ATTACHEMNT B – HELPFUL INFORMATION

DISCLAIMER: The below information is intended to provide helpful contact information and other submittal recommendations. Contact the appropriate local, state, or federal agency for the most updated links to ensure compliance with the conditions with the special and general conditions.

Special Condition 2(e) (Endangered Species)

To obtain the most up to date information on federally threatened and endangered species applicants are encouraged to utilize the USFWS's Information for Planning and Consultation System (IPaC) found at https://ecos.fws.gov/ipac/

Prior to the submittal of a PCN, applicants may also contact the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Mussel Survey Protocol may be found at the following link: https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor

Special Condition 2(f) (Wild and Scenic Rivers)

Currently, the following waterways are components of the National Wild and Scenic River System in the state of Ohio:

Big and Little Darby Creeks

- Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River;
- Little Darby Creek from the Lafayette-Plain City Road bridge downstream to within 0.8 mile from the confluence with Big Darby Creek; and
- Total designation is approximately 82 miles.

Little Beaver Creek

- Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth;
- North Fork from confluence of Brush Run and North Fork to

confluence of North Fork with main stem at Fredericktown;
- Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport;
- West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport; and
- Total designation is 33 miles.

Little Miami River

- Little Miami River - St. Rt. 72 at Clifton to the Ohio River;
- Caesar Creek - lower two (2) miles of Caesars Creek; and
- Total designation is 94 miles.

Prior to submitting a PCN for work in a National Wild and Scenic River System, it is recommended that the applicant contact the National Park Service Regional Wild and Scenic Rivers Specialist, at the Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, for assistance in complying with NWP General Condition 16. Any determination provided by the National Park Service should be submitted with the PCN. The following website provides information on National Wild and Scenic Rivers within Ohio: https://www.rivers.gov/ohio.php

Special Condition 3 and General Condition 4 (Spawning Areas)

For information about specific stream designations contact Ohio Environmental Protection Agency at 614 644-2001 or use the following link for their effective Division of Surface Water Rules: https://epa.ohio.gov/divisions-and-offices/surface-water/regulations/effective-rules. For information or questions regarding in-water work exclusion dates, including any waiver request questions for in-water work exclusion dates, please contact the Ohio Department of Natural Resources, Division of Wildlife at 614-265-7017 or by email at matthew.stooksbury@dnr.ohio.gov.

General Condition 1 (Navigation)

Navigable Limits of Major Section 10 Streams in Ohio (There are slackwaters of the Ohio River, Hocking River, and Little Hocking River, that are also subject to Section 10 of the Rivers and Harbors Act of 1899; Contact the proper District office for information.)

Huntington District

Scioto River……..……175.0 miles
Olentangy River……..……74.3 miles
Hocking River……79.0 miles
Muskingum River……112.5 miles
Walhonding River……8.8 miles
Tuscarawas River…… ……113.3 miles
Great Miami River……..117.0 miles

Buffalo District

Portage River……...12.0 miles
Maumee River…….To Ind. St. Line
Sandusky River……...96.0 miles
Huron River……10.0 miles
Cuyahoga River……...41.1 miles
Grand River……..91.6 miles

Little Miami River……90.7 miles
E. Fk. Little Miami River……6.4 miles

Louisville District
Ohio River below MP 438

Pittsburgh District
Ohio River below MP 40
Little Beaver Creek……..15.7 miles
Middle Fk. L. B. Creek…17.3 miles
North Fk. L. B. Creek…..14.3 miles
Mahoning River……...41.0 miles

Navigation Charts: The navigation charts for the Buffalo, Huntington, Louisville and Pittsburgh Districts can be found at the following link:
https://www.lrd.usace.army.mil/Water-Information/Navigation/

Locks and Dams: Information for all Locks and Dams located within the Buffalo, Huntington, Louisville, and Pittsburgh Districts can be found at the following link: https://www.lrd.usace.army.mil/Water-Information/Navigation/

Notice to Navigation Interests Request Sheets: The Notice to Navigation Interests Request Sheets for the Buffalo, Huntington, Louisville and Pittsburgh Districts can be found at the following link:
https://www.lrd.usace.army.mil/Water-Information/Navigation/

Special Condition 2(d) (Historic Properties)

The Ohio National Register of Historic Places can be found at the following link:
https://www.ohiohistory.org/preserve/state-historic-preservation-office/nationalregister

When reviewing a PCN, the Corps will scope appropriate historic property identification efforts and, if applicable, work with the applicant to take into account the effect of the proposed activity on historic properties. In these instances, information and coordination may include:

- Requesting comments directly from the Ohio History Connection SHPO on the effect the proposed regulated activity may have on historic properties. The Ohio History Connection SHPO may be contacted at:

  Address: Ohio History Center
  800 E. 17th Ave., Columbus, Ohio 43211
  Phone: (614) 297-2300
  Email: info@ohiohistory.org

- To identify potential historic properties that may be affected by a proposed project, the following information may be reviewed and/or provided with the PCN when applicable:
  i. A detailed description of the project site in its current condition (i.e. prior to construction activities) including information on the terrain and topography of the site, the acreage of the site, the proximity of the site to major waterways, and any known disturbances within the site.

ii. A detailed description of past land uses in the project site.
iii. Photographs and mapping showing the site conditions and all buildings or structures within the project site and on adjacent parcels are useful. Photographs and maps supporting past land uses should be provided as available.
iv. Information regarding any past cultural resource studies or coordination pertinent to the project area, if available.
v. United States Geological Survey (USGS) 7.5' series topographic maps;
vi. Ohio History Connection SHPO files including:
    1. Ohio Archaeological Inventory (OAI) files;
    2. Ohio Historic Inventory files (OHI);
    3. Ohio SHPO Cultural Resources Management (CRM)/contract archaeology files;
    4. NRHP files including Historic Districts; and
    5. County atlases, histories and historic USGS 15' series topographic map(s).

When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the District Engineer as part of the PCN.

General Condition 4 (Migratory Bird Breeding Areas) and General Condition 17 (Migratory Birds and Bald and Golden Eagles)

Prior to the submittal of a PCN, information to assist in complying with NWP General Conditions 4 and 19 may be obtained from the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Division of Natural Resources Division of Wildlife may be contacted at (800) 945-3543.

General Condition 5 (Shellfish Beds) and General Condition 25 (State Listed Species)

Shellfish beds in Ohio include concentrations of freshwater mussels. All native mussels are protected in the State of Ohio (Section 1533.324 of the Ohio Revised Code). In addition, 10 federally listed species occur in the state and are protected by the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). All rivers and tributaries that contain mussels or potential mussel habitat must be surveyed prior to any proposed streambed disturbance. Currently accepted protocol and supporting materials can be found on the Ohio Department of Natural Resources' website:
https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor

General Condition 7 (Water Supply Intakes)

Locations of drinking water source protection areas associated with public water supply intakes, including the name of the public water supply, can be found at the following link:
https://epa.ohio.gov/monitor-pollution/maps-and-advisories/drinking-water-source-protection-areas

Contact information for public water suppliers can be obtained from Ohio EPA by contacting the Division of Drinking and Ground Waters at whp@epa.ohio.gov or 614-644-2752.

General Condition 10 (Fills Within 100-year Floodplains)

The following website provides a statewide listing of Floodplain Managers in Ohio:
https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/water-resources/floodplains/

General Condition 20 (Mitigation)

Information pertaining to mitigation can be found at the following link:

https://www.lrd.usace.army.mil/Wetlands-Permits/Ohio/

General Condition 21 (Water Quality)

The Ohio Environmental Protection Agency may be contacted at:

Address: Lazarus Government Center
50 W Town St. Suite 700
Columbus, Ohio 43215

Phone: (614) 644-2001

Information pertaining to the Ohio Environmental Protection Agency water quality certification (WQC) program, including the Section 401 Clean Water Act WQC application form, can be obtained at the following link: https://epa.ohio.gov/divisions-and-offices/surface-water/permitting/water-quality-certification-and-isolated-wetland-permits

General Condition 22 (Coastal Zone Management)

The Ohio Department of Natural Resources may be contacted at:

Address: 2514 Cleveland Road East
Huron, Ohio 44839

Phone: 419-626-7980
888-644-6267 (toll free)

Information pertaining to the Ohio Department of Natural Resources Coastal Management Program, including the Federal Consistency form, can be obtained at the following link: https://ohiodnr.gov/discover-and-learn/safety-conservation/about-odnr/coastal-management

General Condition 27(b) (Pre-Construction Notification)

The pre-construction notification form (Form ENG 6082) may be obtained at the following link:

https://www.publications.usace.army.mil/Portals/76/Eng_Form_6082_2019Oct.pdf?ver=2019-10-22-081550-710/

Ordinary High Water Mark

Ordinary high water mark identification and/or delineation for official Corps' Regulatory purposes will continue in accordance with the applicable ordinary high water mark definition in the Federal regulations, Regulatory Guidance Letter 05-05, and any applicable Corps' district policies. However, the Final National Ordinary High Water Mark Field Delineation Manual for Rivers and Streams and Revised Ordinary High Water Mark Data Sheet (ENG 6250) may be used as technical resources to assist with identifying and delineating the ordinary high water mark using a scientifically supported, rapid framework.