

The Chief of Engineers  
HQUSACE  
Attn: CECW-OR  
Washington, D.C. 20314-1000

Re: All Counties, Cities and Townships in Ohio  
Grant of Regional General Permit (RGP) for Ohio Department of Transportation (ODOT)  
Authorizations of discharges of dredged or fill material to various waters of the state for the following Sections to the RGP.

**RGP, Sections:**

**Section A, Linear Transportation projects**

**Section B, Maintenance**

**Section C, Temporary Construction, Access and Dewatering**

To Whom It May Concern:

Pursuant to Section 401 Water Quality Certification Pursuant to Section 401 of the Federal Water Pollution Control Act, Public Law 95-217, the Director of Ohio Environmental Protection Agency hereby certifies that the above-referenced RGP will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.

This RGP is specifically limited to 401 Certifications with respect to water pollution and does relieve the applicant of further certifications or permits as may be necessary under applicable state and federal laws and/or local ordinances. I have determined that a lowering of water quality as authorized by this RGP is necessary. I have made this determination based upon the consideration of all public comments, and including the technical, social, and economic considerations concerning this application and its impact on waters of the state.

These Certifications are issued for impacts to waters of the state that may occur pursuant to activities authorized by this RGP, Sections A, B, and C, provided the following conditions are satisfied:

**RGP, Part 1- GENERAL LIMITATIONS AND CONDITIONS**

**STREAMS**

1. Temporary or permanent impacts to streams are limited to 500 linear feet, of which no more than 250 linear feet can be impacts to intermittent or perennial streams [except for projects authorized by RGP, Section B,

Maintenance]. Impacts shall be measured linearly from upstream to downstream, including the length of permanent or temporary stream impoundments, when calculating the total length of stream impacts.

2. Temporary or permanent impacts to water bodies meeting any of the criteria set forth in a through c below, are prohibited [except for RGP Section B, Maintenance].
  - a. Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation;
  - b. Waters bodies with an antidegradation category of Superior High Quality Water, Outstanding National Resource Waters or Outstanding High Quality Waters; and,
  - c. General high quality water bodies, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County, which harbor federally listed threatened and/or endangered species.

For an alphabetical listing of the Superior High Quality Waters, go to [http://www.epa.state.oh.us/dsw/rules/antidegHQlist\\_july03.pdf](http://www.epa.state.oh.us/dsw/rules/antidegHQlist_july03.pdf)

3. If appropriate, stream reconstruction activities shall maintain or enhance the habitat values of the stream as determined by an appropriate habitat assessment method and adhere to "natural channel design" principles. Natural channel design means a technique that integrates knowledge of natural stream processes to create a stable stream that maintains its form and function over time and achieves a targeted habitat or biological endpoint.
4. Stream or buffer improvements and/or mitigative measures required by the Corps shall address the following:
  - a. In order of priority, these measures shall focus on the following:
    - i. the stream segment being impacted;
    - ii. upstream segments and tributaries;
    - iii. the receiving stream.

The measures should, to the extent practicable, consider the causes and sources of impairment of the stream where the measures would be undertaken if the stream is listed as impaired in the most recent final report submitted to the United States Environmental Protection Agency by the director of Ohio EPA to fulfill the requirements of Section 303(d) of the Clean Water Act. The current list of impaired streams, as of the date of this

certification, can be found on Ohio EPA's web site at:

[http://www.epa.state.oh.us/dsw/tmdl/2004IntReport/final\\_2004IR\\_a ppB\\_2.pdf](http://www.epa.state.oh.us/dsw/tmdl/2004IntReport/final_2004IR_a ppB_2.pdf)

- b. If the permittee cannot find appropriate mitigation on streams listed in Section "a" above, mitigation shall be in the Ohio EPA 8-digit watershed;
  - c. Vegetative buffers on both stream banks shall be of an appropriate length (at least the length of the impacted stream segment), and, if practicable:
    - i. Provide a minimum width of 25 feet for preservation of existing vegetative buffers; or,
    - ii. Provide a minimum width of 50 feet for re-vegetating buffers cleared during construction.
    - iii. Buffer width is measured from the top of bank or level of bankfull discharge.
  - d. Vegetated buffers shall be planted, or restored, as soon as practicable after in-stream work is complete and shall extend to the top of both stream banks, or beyond as stipulated by the Corps or Ohio EPA, using native tree and shrub species with rapid growth characteristics;
  - e. Impacts to existing vegetative buffers shall be minimized to the maximum extent practicable. Entry to surface waters shall be through a single point of access on each side of the stream whenever practicable to minimize disturbance to buffer vegetation.
5. In-stream activities shall not result in the permanent destabilization of the stream banks or stream bed. The stream bed and substrates shall be restored to conditions that existed prior to work.
6. Culverts
- a. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet, and the individual culvert extension shall not exceed 250 linear feet if installed on an intermittent or perennial stream, or 500 linear feet if installed on an ephemeral stream.
  - b. For new road construction, flood plain culverts shall be installed where the flood prone area is greater than twice the width of the

stream at Ordinary High Water Mark (OHWM).

- c. New Culverts on Low Gradient Streams (<3% slope).
  - i. If appropriate, culverts shall be installed at the existing streambed slope, not exceeding three percent, to allow for the natural movement of bedload and aquatic organisms.
  - ii. The culvert base or invert for intermittent and perennial streams with bottom substrate shall be installed below the sediment to allow for a natural channel bottom to develop and to be retained. The channel bottom substrate shall be similar to and contiguous with the immediate upstream and downstream reaches of the stream. 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.
  - iii. For perennial and intermittent streams, culverts with less than three percent grade or not installed on bedrock shall have the lower 10 percent of all culvert bottoms buried below the existing stream grade. Hydraulic design shall be based upon the remaining open portion of the culvert.

- 7. Compensatory mitigation for linear projects (e.g., highways) in streams may be mitigated for by the following, in descending order of practicability:
  - a. Stream impacts associated with a linear project may be mitigated on-site, defined as within one mile of the linear project, and within the same 14-digit watershed as shown in OAC 3745-1-54(F)(2); or,
  - b. Stream impacts associated with a linear project may be mitigated at a single stream mitigation location or stream mitigation bank acceptable to the director, within each Ohio EPA 8-digit watershed in which such impacts occur; or,
  - c. If no stream mitigation bank, acceptable to the director, is located within one or more of the Ohio EPA 8-digit watersheds in which the impact occurs, then mitigation may occur in another Ohio EPA 8-digit watershed impacted by the linear project; at a single stream mitigation location, or a stream mitigation bank, acceptable to the director; or,
  - d. If no stream mitigation bank exists within any of the watersheds connected with the linear project, then mitigation should occur within the watershed in which the largest impacts (in terms of area)

occur.

## **WETLANDS**

1. Temporary or permanent impacts to Category 3 wetlands are prohibited.
2. Temporary or permanent impacts to Category 1 and 2 wetlands are limited to a maximum total of one-half acre.
3. Wetland Mitigation
  - a. Wetland mitigation shall adhere to the requirements set forth in Ohio EPA's Wetland Water Quality Standards (OAC 3745-1).

## **LAKE ERIE**

1. No Section of the RGP may be used to divert water from outside of the Lake Erie drainage basin.
2. Temporary or permanent impacts to Lake Erie coastal wetlands, including coastal wetlands located on Lake Erie Islands and Sandusky Bay are prohibited [except for RCP, Section B, Maintenance].

## **GENERAL**

1. The RGP Sections cannot be combined to increase any of the aforementioned limitations.
2. Authorization under this Certification does not relieve the permittee from the responsibility of obtaining any other federal, state or local permits, approvals or authorizations required by law, including without limitation, National Pollutant Discharge Elimination System (NPDES) permits including general or individual stormwater permits, or Permits to Install (PTIs).
3. In this RGP, where the district engineer has been granted authority to waive certain requirements, the corresponding limitations and conditions of this certification shall apply unless written authorization from the director of Ohio EPA is obtained to authorize additional impacts.
4. ODOT shall comply/adhere to all conditions of the State Wide General Storm Water Permit for Construction Activities, including any issued and future watershed specific General Storm Permit associated with

construction activities (e.g. Big Darby and Olentangy General Permits).

5. To the extent that this condition does not conflict with the Construction General Storm Water Permit in effect at the time of application, the Best Management Practices (BMPs) listed below shall be utilized with all Sections of the RGP when applicable.
  - a. Upon the cessation of temporary impacts authorized under the RGP, any hydric topsoil removed from a trench shall be separated and saved for later placement as the topmost back fill layer when the trench is refilled;
  - b. The stockpiling of side-cast dredged material in wetlands in excess of three months is not authorized;
  - c. The applicant shall comply with all final stabilization requirements contained in applicable NPDES construction stormwater permits for the site;
  - d. Construction equipment shall not be placed below the Ordinary High Water Mark (OHWM) of any surface water, except when no other alternative is practicable;
  - e. All dredged material placed at an upland site shall be controlled so that sediment runoff to adjacent surface waters is minimized to the maximum extent practicable; and,
  - f. BMPs shall be installed and maintained to minimize sediment runoff to adjacent surface waters.
6. Representatives from Ohio EPA, Division of Surface Water will be allowed to inspect the authorized activity at any time deemed necessary to insure that it is being or has been accomplished in accordance with the terms and conditions of this water quality certification. This includes, but is not limited to, access to and copies of any records that must be kept under the conditions of this certification; and, authorization to sample and/or monitor any discharge activity or mitigation site. Ohio EPA will make a reasonable attempt to notify the applicant of its intention to inspect the site in advance of that inspection.

## **RGP, Part 2 - Special Limitations and Conditions**

The Ohio State Certification General Limitations and Conditions apply to this Regional General Permit (RGP) except as modified below:

### ***Section A (linear transportation projects):***

1. Stream crossings shall not exceed a total of three per stream mile per stream.

**Section B (Maintenance):**

**1. Bridge Replacement:**

- a. This Certification shall only authorize minor deviations from the existing structure's centerline, unless these deviations are necessary to follow current safety standards.
- b. Bridge replacements shall not result in additional lanes unless necessary to follow current safety standards.

**3. Maintenance or repair of existing fills (stabilization projects):**

- a. Minor Deviations from the original filled area are authorized provided these minor deviations are necessary to accommodate safety standards and/or new construction practices/methods/techniques and/or new materials available which are necessary for the rehabilitation/replacement/repair; and,
- b. This RGP shall not authorize the replacement of existing structures that are open to the flow of water with structures that are not open to the flow of water.

**4. Replacement vertical bulkheads:**

- a. For ship channels and harbors adjacent to federal navigation channels within the following harbors: Sandusky Harbor, Huron Harbor, Vermilion Harbor, Lorain Harbor, Conneaut Harbor, Port Clinton Harbor, Rocky River Harbor, Cleveland Harbor, Fairport Harbor, Ashtabula Harbor, and Toledo Harbor, 1,000 feet of existing vertical bulkheads may be replaced if recessed areas for aquatic habitat, or other aquatic habitat improvements, are incorporated within the design and construction of the replacement vertical bulkhead;
- b. For all other areas, except Lake Erie, Lake Erie Islands, or Sandusky Bay, up to 1,000 feet of existing vertical bulkheads may be replaced. Toe stone shall be placed at the base of these replacement vertical bulkheads except in areas where the shoreline is composed of bedrock and slopes are predominately greater than 75 percent;
- c. Replacement vertical bulkheads are not to be placed more than an average of one foot waterward of the intersection of the ordinary high water level of the waterbody and the existing shoreline;

- d. Minor dredging necessary for the installation of the replacement vertical bulkhead is authorized;
- e. Placement of fill between the replacement vertical bulkhead and existing shoreline is authorized; and
- f. Toe stone shall be placed at the base of these replacement vertical bulkheads except in areas where the original shoreline is composed of bedrock and slopes are predominately greater than 75 percent or where the placement of toe stone would interfere with shipping activity. When required, toe stone shall be placed at an average rate of one-third the total height of the replacement vertical bulkhead at a 2:1 slope.

**5. Removal of accumulated sediment:**

- a. Removal of accumulated sediment shall occur only once per year, except in cases of emergency situations that threaten life or property.
- b. Removal of accumulated sediments shall be limited to low-flow conditions whenever practicable, except in cases of emergency situations that threaten life or property.

***Section C (Temporary Construction, Access and Dewatering)***

- I. Temporary shall be defined as less than two years in duration;
- II. This regional general permit does not authorize construction, or maintenance, or modification of marina basins;
- III. This regional general permit activity does not authorize activities in special aquatic sites as defined in 40 CFR 230.3(q-1).

You are hereby notified that this action of the director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

**Environmental Review Appeals Commission**  
309 South Fourth Street, Room 222  
Columbus, OH 43215

Sincerely,

Chris Korleski  
Director

cc: District Engineers, U.S. Army Corps of Engineers - Buffalo District  
District Engineers, U.S. Army Corps of Engineers - Huntington District  
District Engineers, U.S. Army Corps of Engineers - Louisville District  
District Engineers, U.S. Army Corps of Engineers - Pittsburgh District  
Kevin Pierard, U.S. EPA, Region V  
Mary Knapp, U.S. Fish & Wildlife Service  
Vicki Deisner, ODNR, Office of Real Estate & Land Management  
Timothy M. Hill, Administrator, Office of Environmental Services  
Deborah Wegmann, USACE, Huntington District (Columbus Transportation  
Office)  
George Elmaraghy, Chief, Ohio EPA, DSW