



**U.S. Army Corps
of Engineers**

Public Notice

**In Reply Refer To CENAP-OPR
PUBLIC INFORMATION ANNOUNCEMENT TROPICAL
STORM/HURRICANE IDA STORM DAMAGE REPAIR**

Philadelphia District
Special Public Notice

Date: 7 September 2021

The purpose of this notice is to inform the public that repairs of damage to public and private property caused by Tropical Storm/Hurricane Ida and associated flooding and weather conditions, may be authorized, subject to the procedures described below in New Jersey and Delaware.

Winds, storm surge, and flooding from Tropical Storm/Hurricane Ida have resulted in severe flooding and other storm related damage. It is anticipated that owners of damaged property caused by Ida will want to conduct repair activities soon. This advisory is intended to inform property owners of the U.S. Army Corps of Engineers (Corps) permit requirements for storm damage repairs proposed in the States of New Jersey and Delaware.

The Corps has federal jurisdiction over activities that include dredging or construction in, over, under, or affecting navigable waters of the United States, certain excavation activities, and the placement of dredged or fill material into waters of the United States (including wetlands). Such activities may require a Department of the Army permit, in accordance with Title 33 of the Code of Federal Regulations, Parts 320-332. Please note that waters of the United States include all navigable waters, rivers, perennial and intermittent streams, tributaries, drainage courses, lakes, ponds, impoundments, and wetlands, which meet applicable federal criteria, regardless of their size.

It is expected that most proposed activities to remediate storm damage would be authorized under an existing general permit. A general permit is an authorization for construction in waters of the United States, including navigable waters, that substantially reduces the time needed by the Corps to process applications for a category of activities that cause only minimal individual and cumulative environmental impact, when those activities are substantially similar in nature. General permits are issued on a nationwide or regional basis and include Nationwide Permits and Regional General Permits that apply to a specific geographic area. These activities would be accomplished under the authorities of Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

For projects proposed within the State of New Jersey, the New Jersey State Programmatic General Permit-17 and 19 (NJSPGP-17 and NJSPGP-19) may be applicable in order to authorize certain repair and maintenance activities. NJSPGP-17 specifically authorizes the construction of structures; performance of work and the discharge of dredged and fill material in substantially developed artificial tidal lagoons and their access channel. The terms "structure" and "work" are defined in Federal regulations contained in 33 CFR 322.2[b] & [c]. The terms "discharge of dredged material", "fill material" and "discharge of fill material" are defined in Federal regulations contained in 33 CFR 323.2[d], [e] & [f]. "Substantially developed" artificial tidal lagoons are those where the surrounding lands are uplands and do not support wetlands other than a narrow band of fringe wetlands along the waterline. Lagoons are defined as artificially created linear waterways sometimes branched, ending in a dead end with no significant upland drainage. A natural waterway, which is altered by activities including, but not

limited to, filling, channelizing, or bulkheading shall not be considered a lagoon. A bulkheaded boat slip shall not be considered a lagoon. NJSPGP-19 specifically authorizes the construction of proposed and maintenance of existing non-commercial piers, docks, gangway/ramps, stairs/ladders, mooring piles, boat lifts, breakwaters, the replacement of existing serviceable bulkheads and minor maintenance dredging of mooring slips. This general permit also authorizes the discharge of fill material between existing and proposed bulkheads as well as legalization of previously existing structures provided the structures meet all terms and conditions of this permit.

For projects proposed within the State of Delaware, the Delaware State Programmatic General Permit-18 and 20 (DESPGP-18 and DESPGP-20) may be applicable in order to authorize certain repair and maintenance activities. DESPGP-18 authorizes the construction of structures, performance of work, and the discharge of dredged and fill material in substantially developed artificial tidal lagoons, and their access channels. The terms "structure" and "work" are defined in Federal regulations contained in 33 CFR 322.2[b] & [c]. The terms "discharge of dredged material", "fill material" and "discharge of fill material" are defined in Federal regulations contained in 33 CFR 323.2[d], [e] & [f]. "Substantially developed" artificial tidal lagoons are those artificial tidal lagoons at which the surrounding lands are uplands and do not support wetlands other than a narrow band of fringe wetlands along the waterline. Lagoons are defined as artificially created linear waterways, sometimes branched, terminating in a dead end with no significant upland drainage. A natural waterway, which is altered by activities including, but not limited to filling, channelizing, or bulkheading shall not be considered a lagoon. A bulkheaded boat slip shall not be considered a lagoon. DESPGP-20 authorizes the maintenance or replacement of existing and the construction of new piers, decks, mooring piles, boat lifts, modular floating platforms for jet skis and larger vessels, structural breakwaters and replacement of existing serviceable bulkheads provided the structures meet all terms and conditions of this permit.

Repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill, destroyed or damaged by storms, floods, fire, or other discrete events that do not fall under the scope of the SPGPs described above may be eligible for authorization under nationwide permit (NWP) 3, provided the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification and the conditions are complied with. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Currently serviceable means that prior to damage that occurs as a result of Ida, the structure or fill was useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. NWP 3 does not authorize channelization or the restoration or re-establishment of a stream channel. The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, must be commenced, or under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

For the repair of uplands damaged by Tropical Storm Ida, NWP 45 authorizes discharges of dredged or fill material, including dredging or excavation, into all waters of the United States for activities associated with the restoration of those upland areas. This NWP authorizes bank stabilization to protect the restored uplands. The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or ordinary high water mark, that existed before the damage occurred. The Corps retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this NWP. The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the Corps. This NWP cannot be used to reclaim lands lost to normal erosion processes over an extended period. This NWP does not authorize beach restoration or nourishment. Minor dredging is limited to the amount necessary to restore the damaged upland area and should not significantly alter the pre-existing bottom contours of the waterbody.

Please thoroughly review the terms and conditions of the NJSPGP-17 and 19, the DESPGP-18 and 20, and NWP 3 and 45 and the applicable NWP regional conditions and note that some activities require written authorization prior to commencement of work. It is imperative that the conditions and the management practices be followed explicitly. If you are uncertain that the activity you propose qualifies for the NJSPGP-17 and 19, the DESPGP-18 and 20, or NWP 3 and #you are advised to contact the appropriate Corps District office prior to the commencement of work.

Information regarding the NJSPGP-17 and 19, the DESPGP-18 and 20, and the NWPs are available via the internet at:

<https://www.nap.usace.army.mil/Missions/Regulatory.aspx> (Philadelphia District)

<https://www.nan.usace.army.mil/Missions/Regulatory/Obtaining-a-Permit/> (New York District)

Please send all new Department of the Army permit applications (except where an applicable State Programmatic General Permit applies) and other correspondence via email to one of the addresses provided below based on the state in which the work is proposed:

cenan-r-permit-app@usace.army.mil (New Jersey north of the Manasquan River)

philadelphiadistrictregulatory@usace.army.mil (New Jersey south of the Manasquan River)

doverregulatoryfieldoffice@usace.army.mil (Delaware)

To assist with this effort and to help expedite the processing of your request, please provide the following information in the body of your email for ALL new requests, and attach the appropriate application information:

- a. Applicant/requestor/client contact information (name, address, phone, email):
- b. Detailed narrative describing the project purpose:
- c. Location description of the project area (address or lat/long, city, county, state):
- d. Type of Request (pre-application, jurisdictional determination, self-verification, general permit, individual permit, no permit required, dredge sampling plan, etc.).

If you are already working with a project manager on a specific project, please continue to coordinate directly with them via their email.

Upon receipt of a new application, request, or inquiry we will confirm receipt. A Regulatory project manager will contact you after the project has been assigned. Questions regarding active projects should be directed to the project manager assigned to process the request. As stated above, email is the preferred method of contact at this time.

Attachments over 20MB may be rejected due to size limitations. There are three ways to overcome size limitations when sending and receiving large emails:

- a. Divide attachments among multiple emails (preferred method);
- b. Request a link via email that will allow you to send large files. We are only able to use government-approved file transfer programs (one example is the DoD Secure Access File Exchange (SAFE)). Please send the request to the appropriate email box listed above or a specific project manager if one has been assigned; or
- c. Save the documents on a CD/DVD and mail it to one of our Regulatory offices. We are currently able to access mail in the office, but this is subject to change and retrieving this information may be delayed due to the current COVID-19 situation.

If it is necessary to provide a paper copy of any submittal, please also provide a digital copy to enable us to evaluate your application as efficiently as possible. Please communicate with our staff if you are unable to provide a digital copy, as allowances will be made. If determined necessary, please mail paper copies to the following addresses and include the project manager's name (if assigned) on the first line:

U.S. Army Corps of Engineers, NY District (New Jersey north of the Manasquan River)
Attn: Regulatory Branch, Room 16-406
26 Federal Plaza
New York, NY 10278-0090

U.S. Army Corps of Engineers (New Jersey south of the Manasquan River)
Regulatory Branch
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107

U.S. Army Corps of Engineers (Delaware)
Dover Field Office
1203 College Park Drive, Suite 103
Dover, DE 19904

Digital documents must have sufficient resolution to depict project details. In order to have the highest quality documents, please convert original digital documents to PDF. All forms that require signature must be digitally signed or signed manually, scanned and then transmitted electronically.

If telephone is the preferred method of communication, you may call a project manager directly if you are working with them on a particular project or our general phone numbers:

Philadelphia District Office	(215) 656-6728
Dover Field Office	(302) 736-9764

Please consult our Regulatory websites (<https://www.nap.usace.army.mil/Missions/Regulatory>) or <https://www.nan.usace.army.mil/Missions/Regulatory/Obtaining-a-Permit/> for additional information and operational updates. If you have any questions, please contact me at todd.a.schaible@usace.army.mil or (215) 327-1261.

Todd A. Schaible
Chief, Regulatory Branch
Philadelphia District