

# New York State Department of Environmental Conservation

## Division of Environmental Permits, 4<sup>th</sup> Floor

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[www.dec.ny.gov](http://www.dec.ny.gov)

### APPLICATION FOR COVERAGE UNDER THE GENERAL PERMIT FOR REPAIR OF DAMAGES RESULTING FROM LAKE ONTARIO HIGH WATER LEVEL OF APRIL-MAY, 2017.

**GP-0-17-006**

#### INSTRUCTIONS TO APPLICANTS

This application is to request authorization under the DEC General Permit for cleanup and repair work in and along the Lake Ontario and St. Lawrence River shoreline in the counties of Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, Saint Lawrence and Wayne, in DEC Regions 6, 7, 8 and 9; necessitated by the Lake Ontario high water level of April- May, 2017.

This General Permit authorizes specific types of repair and stabilization work while eliminating the usual application procedures and public notification requirements.

To obtain the required authorization under this General Permit:

1. Read the General Permit to ensure that you understand all terms and conditions.
2. Determine whether or not the work you propose to do is within the scope of the General Permit. (Refer to Description of Authorized Activities, Type of Projects, Nos. 1 through 7). If it is not, contact the Regional Permit Administrator to apply for an individual permit. If it is, proceed with Step 3 below.
3. Fill out the Application for General Permit GP-0-17-006. Make sure all asterisk (\*) entries are complete and legible. Provide drawings, plans, photos (if available), and a location map. Read the certification and sign and date the application.
4. Give the completed application to the DEC field representative (Habitat Biologist, Engineer or Environmental Analyst), or mail/email them to the Regional Permit Administrator (see next page for Agency Contact Information). If the project is approved, the authorized DEC representative will then countersign the Application/Authorization form and hand it to you or mail it with a copy of the General Permit.
5. Ensure that those doing the actual work understand and comply with all terms and conditions of the General Permit.
6. Contact the Regional Permit Administrator if you have questions or encounter unforeseen problems during the course of the work.

#### **Jurisdictions of Other Agencies - U.S. Army Corps of Engineers (USACE) - NYS Department of State**

Projects that qualify for the General Permit will also qualify for the U.S. Army Corps of Engineers (USACE) Nationwide Permit (NWP) No. 3 and/or 13 and have received a Coastal Consistency Certification from the NYSDOS. See the Nationwide 3 and 13 Excerpt for GP -0-17-001. Generally if you follow the conditions of the General Permit, no further coordination with the USACE is required. **However, for the following circumstances you must contact the USACE prior to starting work:** For NWP No. 13 if proposed work will exceed 500 linear feet you must contact the USACE at 716-879-4330 prior to proceeding with work.. **Continued on next page.**

Additionally, to ensure compliance with the Endangered Species Act the USACE must be contacted before proceeding with work:

1. Involving tree removal in any of the affected counties
2. For projects in federal jurisdictional wetlands in the Towns of Huron and Wolcott, Wayne County, and all Towns in Cayuga and Oswego County
3. For any work subject to this permit in the Towns of Sandy Creek and Richland, Oswego County, and the Towns of Henderson and Ellisburg, Jefferson County.

To ensure permit compliance please review the complete terms and conditions of the Corps Nationwide Permits at <http://www.lrb.usace.army.mil/Missions/Regulatory/Nationwide-Permits/District-Permit-Program/NWP-NY/>

**AGENCY CONTACT INFORMATION**  
**NYS Department of Environmental Conservation**  
[www.dec.ny.gov](http://www.dec.ny.gov)

<Counties/Areas served by the DEC Regional Sub-Office are listed below their contact information. For all other Counties/Areas, contact the DEC Regional Office.

<p><b>NYS DEC REGION 6</b> Regional Permit Administrator Dulles State Office Building 317 Washington Street Watertown, NY 13601-3787 phone: 315-785-2245 fax: 315-785-2242 email: <a href="mailto:dep.r6@dec.ny.gov">dep.r6@dec.ny.gov</a> Ø For, Jefferson, and St. Lawrence Counties</p>	<p><b>NYS DEC REGION 8</b> Regional Permit Administrator 6274 East Avon - Lima Road Avon, NY 14414-9519 phone: 585- 226-5400 fax: 585-226-2830 email: <a href="mailto:dep.r8@dec.ny.gov">dep.r8@dec.ny.gov</a> Ø For Monroe, Orleans, and Wayne Counties</p>
<p><b>NYS DEC REGION 7</b> Regional Permit Administrator 615 Erie Blvd West, Room 206 Syracuse, NY 13204-2400 phone: 315-426-7438 fax: 315-426-7425 email: <a href="mailto:dep.r7@dec.ny.gov">dep.r7@dec.ny.gov</a> Ø For Cayuga, and Oswego Counties</p>	<p><b>NYS DEC REGION 9</b> Regional Permit Administrator 270 Michigan Avenue Buffalo, NY 14203-2915 phone: 716-851-7165 fax: 716-851-7168 email: <a href="mailto:dep.r9@dec.ny.gov">dep.r9@dec.ny.gov</a> Ø For Niagara County</p>



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**ACTIVITIES AUTHORIZED BY 2017 NATIONWIDE PERMIT  
WITHIN THE STATE OF NEW YORK  
Expiration March 18, 2022**

**B. Nationwide Permits**

**3. Maintenance.** (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that 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. 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. This NWP also authorizes the removal of previously authorized structures or fills. 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. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is 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.

(b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization.

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

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

**Notification:** For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (Sections 10 and 404))

**Note:** This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act section 404(f) exemption for maintenance.

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**13. Bank Stabilization.** Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

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

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects;

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

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

(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

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

**Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.)  
**(Authorities:** Sections 10 and 404)

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**REMINDER TO APPLICANT:** For projects involving culvert maintenance or replacement, please take particular note of the requirements of General Regional Conditions G-B.1 and B.2. below. For projects involving aerial transmission lines, note clearance requirements as outlined in 33 CFR 322.5(i) (See NWP #12).

**Section 401 Water Quality Certification:** The NYSDEC has issued blanket WQC for activities authorized by GP-0-17-0006. Please refer to GP.

**New York State Department of State Coastal Zone Management Consistency Determination:** The NYS Department of State has modified the NWP consistency determination to provide concurrence for the following activities, consistent with work authorized by the GP-0-17-0006:

[1] Nationwide Permit 3 is inclusive of repair and maintenance of existing structures and fills.

[2] Nationwide Permit 13 activities:

- \* Minor grading back of scarped bluffs to a stable slope. Project must include an approved vegetation plan. Toe stone for stabilization may be allowed in specific circumstances.
- \* Temporary installation of sand bags for flood protection above Mean High Water within the Coastal Erosion Hazard Area.

**C. Nationwide Permit General Conditions:** (Please refer to full version of the NWP.)

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects From Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains.
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Birds and Bald and Golden Eagles
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters.
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-By-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification



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**D. District Engineer's Decision:** (Please refer to full version of the NWP.)

**E. Further Information:** (Please refer to full version of the NWP.)

**F. Definitions:** (Please refer to full version of the NWP.)

**G. Buffalo and New York District General Regional Conditions**

**These conditions apply to ALL Nationwide Permits.**

**G-A. Construction Best Management Practices (BMP's):** Unless specifically approved otherwise through issuance of a variance by the District Engineer, the following BMP's must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts. Note that at a minimum, all erosion and sediment control and stormwater management practices must be designed, installed and maintained throughout the entire construction project in accordance with the latest version of the "*New York Standards and Specifications for Erosion and Sediment Control*" and the "*New York State Stormwater Management Design Manual*". These documents are available at: <http://www.dec.ny.gov/chemical/29066.html> and <http://www.dec.ny.gov/chemical/29072.html>, respectively. Prior to the discharge of any dredged or fill material into waters of the United States, including wetlands, authorized by NWP, the permittee must install and maintain erosion and sedimentation controls in and/or adjacent to wetlands or other waters of the United States.

1. All synthetic erosion control features (e.g., silt fencing, netting, mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.
2. Materials resulting from trench excavation for utility line installation or ditch reshaping activities which are temporarily sidecast or stockpiled into waters of the United States must be backfilled or removed to an upland area within 30 days of the date of deposition. Note: upland options shall be utilized prior to temporary placement within waters of the U.S., unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment.
3. For trenching activities in wetlands the applicant shall install impermeable trench dams or trench breakers at the wetland boundaries and every 100 feet within wetland areas to prevent inadvertent drainage of wetlands or other waters of the United States.
4. Dry stream crossing methods (e.g., diversion, dam and pump, flume, bore) shall be utilized for culvert or other pipe, or utility installations to reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams.
5. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams or causeways.
6. Construction access and staging areas shall be by means that avoid or minimize impacts to aquatic sites (e.g. use of upland areas for access & staging, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads, staging areas and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions, including cover type. All vegetation utilized in the restoration activity shall consist of native species.
7. All return flow from dredged material disposal areas shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions. (See NWP #16)



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8. For activities involving the placement of concrete into waters of the U.S., the permittee must employ watertight forms. The forms shall be dewatered prior to the placement of the concrete. The use of tremie concrete is allowed, provided that it complies with New York State water quality standards.

9. New stormwater management facilities shall be located outside of waters of the U.S. A variance of this requirement may be requested with the submission of a PCN. The PCN must include justification which demonstrates that avoidance and minimization efforts have been met.

10. To the maximum extent practicable, the placement of fill in wetlands must be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Furthermore, the activity must not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).

**G-B. CULVERTS:** (Please refer to full version of the NWP.)

1. **ALL NEW OR REPLACEMENT CULVERTS:** (Please refer to full version of the NWP.)

2. **ALL CULVERT REHABILITATION PROJECTS:** (Please refer to full version of the NWP.)

**G-C. Bogs and Fens:** (Please refer to full version of the NWP.)

**G-D. National Wild and Scenic Rivers (NWSR):** (Please refer to full version of the NWP.)

**G-E. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 32, the applicant shall also include: (Note: the application will not be considered complete until all of the applicable information is received).** (Please refer to full version of the NWP.)

1. New York State/USACE Joint Application Form:
2. Drawings:
3. Color photographs:
4. Avoidance and Minimization:
5. Mitigation

6. Nationwide Rivers Inventory:
7. Historic or Cultural Resources:
8. Endangered Species and Essential Fish Habitat:
9. 100 Year Floodplain:
10. Submission of Multiple Copies of PCN:

**G-F. CRITICAL RESOURCE WATERS** (Please refer to full version of the NWP.)

**H. NYSDEC General Water Quality Certification (WQC) Conditions applicable to all NWP's for which WQC has been provided are as follows:** Note: Water Quality Certification has been granted for all projects which qualify for GP-0-17-006

**I. New York State Department of State (NYS DOS) Coastal Zone Management Consistency Determination Additional Information (applicable to all NWP's located within or affecting the NYS Coastal Zone):** Note: The New York State Department of State has temporarily modified their Coastal Consistency determination to align with activities authorized by GP-0-17-006.

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#### **J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION**

Verification of the applicability of these Nationwide Permits is valid until March 18, 2022 unless the Nationwide Permit is modified, suspended revoked, or the activity complies with any subsequent permit modification.

It is the applicant's responsibility to remain informed of changes to the Nationwide Permit program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>.

Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

Possession of this permit does not obviate you of the need to contact all appropriate state and/or local governmental officials to insure that the project complies with their requirements.