Ohio | Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

OHIO E.P.A.
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ENTERED DIRECTOR'S JOURNAL

March 30, 2012

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

Date 3.30.2012

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

Re: All Counties, Cities and Townships in Ohio
Grant of Clean Water Act section 401 water quality certification
Authorization of discharge of dredged or fill material to various waters of the State for the following nationwide permits as published in the March 19, 2012, *Federal Register* (Volume 77, Number 34)
Ohio EPA ID Number 113742

Dear Stakeholder:

Pursuant to section 401 of the Federal Water Pollution Control Act, 33 U.S.C. section 1341; Ohio Revised Code chapters 119 and 6111; Ohio Administrative Code chapters 3745-1, 3745-32 and 3745-47; and, the proposed United States Army Corps of Engineers regional conditions public noticed on April 13, 2011, I hereby certify that the nationwide permits described herein as issued the March 19, 2012 *Federal Register* and as listed below will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act. These certifications are specifically limited to section 401 water quality certifications with respect to water pollution and do not relieve the applicant of further certifications or permits as may be necessary under applicable state and federal laws and/or local ordinances. Corps of Engineers Civil Works Projects in the State of Ohio are subject to the general and special limitations and conditions of this certification.

I have determined that any lowering of water quality in various waters of the state as authorized by these certifications is necessary. I have considered the technical, social and economic factors concerning these applications and their 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 the nationwide permits, as listed below, provided the specified certification conditions are satisfied.

Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance

4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Continental Shelf (Not Applicable in Ohio)
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects (Denied - Individual 401 WQC Required)
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs (Not Applicable in Ohio)
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities (Denied - Individual 401 WQC Required)

45. Repair of Uplands Damaged by Discrete Events
46. Discharges into Ditches (Denied - Individual 401 WQC Required)
47. [Reserved]
48. Existing Commercial Shellfish Aquaculture Activities (Denied - Individual 401 WQC Required)
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects (Denied - Individual 401 WQC Required)

This certification does not authorize Nationwide Permit 21- Surface Coal Mining Activities, Nationwide Permit 49 - Coal Remining Activities, or Nationwide Permit 50 – Underground Coal Mining Activities. Certification for these Nationwide Permits will be issued separately.

PART ONE: GENERAL LIMITATIONS AND CONDITIONS FOR ALL OHIO EPA CERTIFIED NATIONWIDE PERMITS

A. CULVERTS

For intermittent and perennial streams:

1. Bottomless or buried culverts are required when culvert size is greater than 36" diameter. This condition does not apply if the culverts will have a gradient of greater than 1% grade or is installed on bedrock. A buried culvert means that the bottom 10% by dimension shall be buried below the existing stream bed elevation.

2. 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.

3. When practicable, culverts shall be installed at the existing streambed slope, to allow for the natural movement of bedload and aquatic organisms.

4. The conditions in this section apply only to the installation of new culverts regardless of which NWP is used to authorize the activity.

B. BEST MANAGEMENT PRACTICES

1. All best management practices for storm water management shall be designed and implemented in accordance with the most current edition of the NPDES construction general permit available at:

http://www.epa.ohio.gov/dsw/storm/construction_index.aspx#Construction%20General%20Permit, or any watershed specific construction general permit.

2. All avoided water resources and associated buffers/riparian areas shall be demarcated in the field and protected with suitable materials (e.g., silt fencing, snow fencing, signage, etc.) prior to site disturbance. These materials shall remain in place and be maintained throughout the construction process.

3. Disturbance and removal of vegetation from the project construction area is to be avoided where possible and minimized when necessary. Entry to surface waters shall be through a single point of access whenever practicable to minimize disturbance to riparian habitat. Unavoidable temporary impacts to forested riparian habitat shall be restored as soon as practicable after in-water work is complete using tree and shrub species native to the specific ecoregion where the project is located.

4. 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.

5. Straw bales shall not be used as a form of erosion/sediment control unless used in conjunction with another structural control such as silt fencing.

6. Heavy equipment shall not be placed below the ordinary high water mark of any surface water, except when no other alternative is practicable.

7. Temporary fill shall consist of suitable non-erodible material and shall be stabilized to prevent erosion.

8. Cadmium chromium arsenate (CCA) and creosote treated lumber shall not be used in structures that come into contact with waters of the state.

C. MITIGATION

1. Compensatory mitigation is required for the discharge of dredged or fill material into wetlands, whether temporary or permanent, for impacts exceeding one-tenth acre.

2. When required, compensatory mitigation shall be provided in accordance with chapters 3745-1 and 3745-32 of the Ohio Administrative Code.

3. When compensatory mitigation will be provided wholly or in part at a mitigation bank, credit purchase shall only be authorized at those banks approved by the interagency review team and having an active instrument signed by the director of Ohio EPA.

4. Compensatory mitigation projects for stream impacts shall result in the preservation, restoration, or enhancement of stream habitat and/or biological functions.

5. Stream restoration 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 end point.

D. MISCELLANEOUS

1. Nationwide permits cannot be combined to increase any of the special or general limitations and conditions of this certification.

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.

3. In the event that the issuance of a nationwide permit by the Corps requires individual state water quality certification for an activity that constitutes an emergency as defined in 33 CFR 325.2(e)(4), the limitation and/or condition requiring the individual water quality certification is not applicable and the project may proceed upon approval by the Corps provided all other terms of this certification, including mitigation, have been met.

4. In nationwide permits where the district engineer has been granted authority to waive certain requirements, the corresponding general limitations and conditions of this certification as well as specific nationwide permit conditions shall apply unless written authorization from the director of Ohio EPA is obtained to authorize additional impacts.

5. For any project that does not meet one or more of the terms and conditions of this certification as they pertain to stream and lake shoreline length limitations, stream designated/existing aquatic life uses and stream antidegradation

categories, Ohio EPA may determine, on a case-by-case basis, that a project will have such a minimal impact on water quality that individual state water quality certification is not necessary provided all other terms and conditions of this certification, including mitigation, have been met.

To qualify for consideration, the applicant must provide to Ohio EPA the following information:

a. a copy of the pre-construction notification submitted to the Army Corps of Engineers including all attachments;

b. a copy of the provisional nationwide permit issued by the Army Corps of Engineers including all attachments and special conditions, if any;

c. a detailed description of the proposed mitigation or a copy of the mitigation plan as approved by the Army Corps of Engineers;

d. a rationale of how the applicant believes the project will minimally impact water quality; and

e. any other documentation as may be required under this certification.

Pending such a determination, all of the limitations and conditions of this certification shall apply unless written authorization from the director of Ohio EPA, stating otherwise, is obtained.

6. Representatives from Ohio EPA, Division of Surface Water will be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this 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.

PART TWO: SPECIAL LIMITATIONS AND CONDITIONS FOR OHIO EPA CERTIFIED NATIONWIDE PERMITS

Nationwide Permit 1 (Aids to Navigation)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 2 (Structures in Artificial Canals)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 3 (Maintenance):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are limited to less than 0.1 acres for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

4. This certification does 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.

5. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

6. Replacement vertical bulkheads shall not be placed more than an average of one foot waterward of the intersection of the ordinary high water mark of the waterbody and the existing shoreline.

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

8. Upon the cessation of earth moving activities, any hydric topsoil removed from a trench shall be separate and saved for later placement as the topmost backfill layer when the trench is refilled.

Nationwide Permit 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

Nationwide Permit 5 (Scientific Measurement Devices)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

Nationwide Permit 6 (Survey Activities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

Nationwide Permit 7 (Outfall Structures and Associated Intake Structures):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

4. Except for maintenance activities authorized under this nationwide permit, individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:
   a. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   b. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   c. state wild and scenic rivers;

   d. national wild and scenic rivers;

   e. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;

   f. all other streams and lake shorelines when impacts exceed 300 linear feet.

5. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

Nationwide Permit 8 (Oil and Gas Structures on the Outer Continental Shelf)
Not applicable.

Nationwide Permit 9 (Structures in Fleeting and Anchorage Areas)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands require individual state water quality certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 10 (Mooring Buoys)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 11 (Temporary Recreational Structures)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 12 (Utility activities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are limited to less than 0.1 acres for activities involving the repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need.

3. Except for maintenance activities authorized under this nationwide permit, individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

b. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

c. state wild and scenic rivers;

d. national wild and scenic rivers;

e. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

4. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

5. Temporary or permanent impacts that result in the physical disturbance of more than 500 linear feet of forested wetland (containing woody vegetation six meters or taller) are not authorized under this certification.

6. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.

7. Temporary or permanent impacts from new buried utility lines that cross more than 1,500 linear feet (cumulative for the entire project) of surface waters, including wetlands, require individual state water quality certification.

8. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

9. Projects with temporary or permanent impacts (cumulative for the entire project) to surface waters, including wetlands, located in three or more 8-digit hydrologic units require individual state water quality certification.

10. All hydric soils up to 12 inches in depth within wetlands shall be stockpiled and replaced as the topmost backfill layer. Best management practices, such as silt fencing and soil stabilization, shall be implemented to reduce erosion and sediment run-off into adjacent wetlands.

11. The stockpiling of side cast dredged material in wetlands in excess of three months requires individual state water quality certification.

12. Buried utility lines shall be installed at a 90 degree angle to the stream bank to the maximum extent practicable. When a 90 degree angle is not possible, the length of any buried utility line within any single water body shall not exceed twice the width of that water body at the location of the crossing.

13. The total width of any excavation, grading or mechanized clearing of vegetation and soil shall not exceed 25 feet on either side of a utility line or a total width of 50 feet on both sides of a utility line.

Nationwide Permit 13 (Bank Stabilization)

1. Unless otherwise stated, the certification conditions listed below apply to all bank stabilization projects.

2. Ohio state certification general limitations and conditions apply to this nationwide permit.

3. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams and lake shorelines when impacts exceed 500 linear feet.

4. Bioengineering techniques shall be utilized, if practicable.

5. Material used for bank stabilization shall be free from toxic contaminants in other than trace quantities, free of exposed rebar, free of debris and may consist of rock, stone, vegetative erosion control measures, broken concrete rubble and clean soil. Asphalt and tires are explicitly excluded as materials suitable for bank stabilization.

6. Vertical bulkheads shall not be placed more than one foot waterward of the intersection of the ordinary high water mark of the water body and the existing shoreline. Toe stone shall be placed at the base of the vertical bulkhead except in areas where the original shoreline is composed of bedrock and slopes are predominantly greater than 75 percent or where the placement of toe stone will interfere with shipping activity. When required, toe stone shall be placed at an average rate of one-third the total height of the exposed face of the vertical bulkhead at a 2:1 slope.

Nationwide Permit 14 (Linear Transportation Projects):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. Temporary or permanent to category 3 wetlands are limited to less than 0.1 acres for activities involving repair, maintenance, replacement, or safety upgrades to existing infrastructure that meets the definition of public need;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

4. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.

Nationwide Permit 15 (U.S. Coast Guard Approved Bridges)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federal and/or state listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;
h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 16 (Return Water from Upland Contained Disposal Areas)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

   h. all other streams lake shorelines when impacts exceed 300 linear feet.

3. This nationwide permit shall be limited to the authorization of the disposal of materials dredged from sites where there are no known areas of contaminated sediments, provided best management practices are used to minimize adverse impacts to water quality.

Nationwide Permit 17 (Hydropower Projects)
Individual state water quality certification is required for the use of this nationwide permit.

Nationwide Permit 18 (Minor Discharges)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed 0.1 acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams lake shorelines when impacts exceed 300 linear feet.

3. This nationwide permit shall not authorize disposal of dredged material into Lake Erie where that is the primary project purpose.

Nationwide Permit 19 (Minor Dredging)
Ohio state certification general limitations and conditions apply to this nationwide permit.

Nationwide Permit 20 (Response Operations for Oil and Hazardous Substances)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. This certification does not authorize impacts, temporary or permanent, to wetlands for the purpose of spill response training exercises.

Nationwide Permit 22 (Removal of Vessels)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers; and

    g. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 23 (Approved Categorical Exclusions)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. This certification only authorizes activities described in 23 CFR Part 771.117 of the Federal Highway regulations.

3. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 24 (Indian Tribe or State Administered Section 404 Program)

Not Applicable.

Nationwide Permit 25 (Structural Discharges)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

a. category 3 wetlands;

b. category 1 and category 2 wetlands when impacts exceed one-half acre;

c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 26 (Reserved)

Nationwide Permit 27 (Aquatic Habitat Establishment, and Enhancement Activities):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. This certification does not authorize projects where the primary purpose of the project is not the restoration, enhancement and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters.

3. Bank stabilization activities authorized under this nationwide permit must utilize bioengineering techniques.

4. This certification does not authorize impacts to more than one-half acre of category 2 forested wetlands associated with the construction of a wetland mitigation bank unless Ohio EPA is a signatory to an Interagency Review Team (IRT) instrument which addresses the impact.

5. Temporary and permanent impacts to category 3 wetlands are not authorized under this certification except for impacts to Lake Erie coastal wetlands[1], which are category 3 wetlands for the following reasons:

    a. The wetland scores less than 60 on the Quantitative Rating of the Ohio Rapid Assessment Method for Wetlands (ORAM), are "hydrologically unrestricted" and contain a predominance of native species within vegetation communities (i.e., they are category 3 wetlands using the Narrative Rating of ORAM), but the wetland has been drained, farmed, or degraded and is unvegetated or sparsely vegetated with wetland annuals or is vegetated with one or several of the following species: *Butomus umbellatus, Lythrum salicaria, Myriophyllum spicatum, Najas minor, Phalaris arundinacea, Phragmites australis, Potamogeton crispus, and/or Typha angustifolia;* or

    b. The wetland is diked and managed ("hydrologically restricted"), scores less than 60 on the Quantitative Rating of ORAM, is a category 3 wetland using the Narrative Rating of ORAM because of the presence of state or federally threatened or endangered species, and/or because of the documented presence of significant breeding or non-breeding bird concentration areas, and the proposed activities will not destroy, jeopardize or adversely affect, either directly or indirectly, *the continued existence of the threatened or endangered species.*

6. Impacts to Lake Erie coastal wetlands described above that are authorized under this NWP are as follows (no other impacts to category 3 wetlands except those described below that occur at Lake Erie coastal wetlands are authorized by this certification):

    a. *Tile alteration.* Removing, altering, disabling drain tile or replacing perforated drain tile with non-perforated drain tile.

[1] "Lake Erie coastal wetland" means a wetland located at an elevation less than 575 feet on the USGS map, adjacent to this elevation or along a tributary to Lake Erie that is accessible to fish.

b. *De-leveling.* Re-grading for the purposes of microtopography to enhance hydrologic diversity, including the creation of shallow scrapes, channels, submerged islands and interconnected areas of deeper water is authorized. Final grade of any excavation, following topsoil replacement if applicable, shall not exceed 60-cm (approximately two feet). Replacement of the original excavated topsoil is required for all de-leveling activities except when the seed bank is dominated by invasive vegetation. In these cases the area must be seeded by using a seed mix of native Ohio vegetation indigenous to the area/region where the project is located and appropriate for the hydrological regime present in the area. Excess spoils that are not able to be incorporated into the regrading activities shall be deposited in adjacent non-wetland areas, used in other restoration activities listed in this paragraph or trucked to an upland area off-site.

c. *Ditch plugs and ditch fills.* Ditch plugs and water control structures: Disabling surface drains by filling lengths, provided that the surface drains originate on the property of the project sponsors and have no base flow or installing water control structures (e.g., riser structures, flap gates, fixed weirs, trickle tubes). Ditch plugs may include an emergency spillway to safely route flows back into the ditch below the plug.

d. *Earthen embankments.* Earthen fill structures that do not exceed 1.8 m (six feet) in height with side slopes of 3:1 or greater with less than 50 acre-feet of storage. The embankments may include rock or vegetated overflow structures to pass base-flow as needed.

e. *Interior dikes.* Earthen fill structures constructed within the interior of an existing diked and managed wetland for the purpose of improving management of hydrology in the diked wetland in order to facilitate control of invasive plant species, exclude or control invasive animal species, improve habitat features, etc.

7. Prior to the undertaking of any of the above-listed activities, Ohio EPA shall be provided with advance written notice and an opportunity to discuss the proposed activities. If Ohio EPA determines that the proposed activity does not meet the applicability requirements of this paragraph or might otherwise result in a degradation of waters of the state, the applicant shall apply for an individual section 401 water quality certification.

Nationwide Permit 28 (Modifications of Existing Marinas)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

4. Non-floating boat docks shall be constructed in a manner which will minimize obstructions to flow.

Nationwide Permit 29 (Residential Developments)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

Nationwide Permit 30 (Moist Soil Management for Wildlife)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

   h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 31 (Maintenance of Existing Flood Control Facilities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. This nationwide permit shall only authorize projects constructed by the Corps of Engineers and maintained by the Corps or transferred by the Corps to a local sponsor.

3. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:
    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies, which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 32 (Completed Enforcement Actions)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. This certification does not authorize any project with impacts to category 3 wetlands; impacts to category 1 and category 2 wetlands that exceed three acres; or impacts to any stream in excess of 500 linear feet unless Ohio EPA has been informed, in writing, of each specific project that exceeds these criteria and, based on this information, has chosen not to issue a State Administrative Order or Consent Order resulting from a State enforcement action.

Nationwide Permit 33 (Temporary Construction, Access and Dewatering)

1. The Ohio State Certification General Limitations and Conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

4. Temporary shall be defined as less than one year in duration.

5. This certification does not authorize construction or maintenance or modification of marina basins;

6. This nationwide permit shall not authorize temporary construction access and dewatering associated with mining activities.

Nationwide Permit 34 (Cranberry Production Activities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 35 (Maintenance Dredging of Existing Basins)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Temporary or permanent impacts to category 3 wetlands are not authorized under this certification.

3. Temporary or permanent impacts to category 1 and category 2 wetlands are limited to one-half acre.

Nationwide Permit 36 (Boat Ramps)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. This nationwide permit shall not authorize boat ramps where dredging is required to establish and maintain water depths necessary for boat launching.

Nationwide Permit 37 (Emergency Watershed Protection and Rehabilitation)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Unless authorized under procedures established in Part One: General Conditions D.3, above, individual state water quality certification is required for use of this

nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

a. category 3 wetlands;

b. category 1 and category 2 wetlands when impacts exceed one-half acre;

c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;

Nationwide Permit 38 (Cleanup of Hazardous and Toxic Waste)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;

3. This nationwide permit shall only authorize projects that are performed, ordered or sponsored by state or federal government agency with established legal or regulatory authority.

Nationwide Permit 39 (Commercial and Institutional Activities):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 300 linear feet. New and replacement culverts shall be installed as required under part one, general condition B.

Nationwide Permit 40 (Agricultural Activities):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;

   h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

4. This certification shall be used only once per farm. For the purposes of this condition, farm shall be defined to include all individual farm tracts, whether or not such tracts are contiguous, that are owned by the applicant.

5. This certification does not authorize the construction of farm ponds in streams or wetlands (i.e., non-tidal waters of the United States).

Nationwide Permit 41 (Reshaping Existing Drainage Ditches):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

    h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. This certification only authorizes impacts to existing maintained and channelized water conveyances that have been created or previously modified and

maintained for the purpose of draining abutting existing agricultural land or existing roadways and meet the following criteria:

a. The ditch was man-made and is existing; or

b. The stream/ditch has existing entrenchment ratios that are less than 1.4 and the proposed dredging impacts do not reduce the sinuosity of the stream/ditch channel.

4. Prior to the commencement of the project, all drainage ditch reshaping projects must be certified in writing by either the Natural Resources Conservation Service or Soil and Water Conservation District or County Engineer in the County where the project occurs, or by a certified professional engineer, that the project complies with the above criteria. In order to be authorized under this paragraph, such certification shall be maintained by the person or entity engaged in the project and a copy shall be sent to: Ohio EPA, Division of Surface Water, Section 401 Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

Nationwide Permit 42 (Recreational Facilities):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

a. category 3 wetlands;

b. category 1 and category 2 wetlands when impacts exceed one-half acre;

c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

e. state wild and scenic rivers;

f. national wild and scenic rivers;

g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

h. all other streams when stream impacts exceed 300 linear feet.

3. This certification does not authorize the construction, modification or expansion of golf courses or ski areas.

Nationwide Permit 43 (Stormwater Management Facilities):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

   h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 300 linear feet. New and replacement culverts shall be installed as required under part one, general condition B.

Nationwide Permit 44 (Mining Activities)

Individual State Water Quality Certification is required for the use of this nationwide permit.

Nationwide Permit 45 (Repair of Uplands Damaged by Discrete Events):

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

   a. category 3 wetlands;

   b. category 1 and category 2 wetlands when impacts exceed one-half acre;

   c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

   d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

   e. state wild and scenic rivers;

   f. national wild and scenic rivers;

   g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County; and

   h. all other streams and lake shorelines when impacts exceed 300 linear feet.

Nationwide Permit 46 (Discharges into Ditches):

Individual State Water Quality Certification is required for the use of this nationwide permit.

Nationwide Permit 47 [Reserved]

Nationwide Permit 48 (Existing Commercial Shellfish Aquaculture Activities):

Individual State Water Quality Certification is required for the use of this nationwide permit.

Nationwide Permit 51 (Land-Based Renewable Energy Generation Facilities)

1. Ohio state certification general limitations and conditions apply to this nationwide permit.

2. Individual state water quality certification is required for use of this nationwide permit when temporary or permanent impacts are proposed on or in the following waters:

    a. category 3 wetlands;

    b. category 1 and category 2 wetlands when impacts exceed one-half acre;

    c. streams with the aquatic life use designation of exceptional warmwater habitat, cold water habitat, seasonal salmonid or any equivalent designation and/or performance;

    d. streams with an antidegradation category of superior high quality water, outstanding national resource water or outstanding state water;

    e. state wild and scenic rivers;

    f. national wild and scenic rivers;

    g. general high quality water bodies which harbor federally listed threatened and/or endangered mussel species, such as Killbuck Creek in Coshocton County and Pymatuning Creek in Ashtabula County;

h. all other streams and lake shorelines when impacts exceed 300 linear feet.

3. For an individual stream, the combined length of an existing culvert and culvert extension shall not exceed 500 linear feet of which no more than 300 linear may be new culvert.

4. Temporary or permanent impacts as a result of stream crossings shall not exceed a total of three per stream mile per stream.

5. All hydric soils up to 12 inches in depth within wetlands shall be stockpiled and replaced as the topmost backfill layer. Best management practices, such as silt fencing and soil stabilization, shall be implemented to reduce erosion and sediment run-off into adjacent wetlands.

6. The stockpiling of side cast dredged material in excess of three months requires individual state water quality certification.

7. Buried utility lines shall be installed at a 90 degree angle to the stream bank to the maximum extent practicable. When a 90 degree angle is not possible, the length of any buried utility line within any single water body shall not exceed twice the width of that water body at the location of the crossing.

Nationwide Permit 52 (Water-Based Renewable Energy Generation Facilities)
Individual State Water Quality Certification is required for the use of this nationwide permit.

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, made payable to "Ohio Treasurer Josh Mandel," 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
77 South High Street, 17th Floor
Columbus, OH 43215

Sincerely,

Scott J. Nally
Director

cc: Jean Siedel, Department of the Army, Huntington District, USACE
Mark Scalabrino, Department of the Army, Buffalo District, USACE
Keith Sendziak, Department of the Army, Buffalo District, USACE
Nancy Mullen, Department of the Army, Pittsburgh District, USACE
Mike Fodse, Department of the Army, Pittsburgh District, USACE
James Townsend, Department of the Army, Louisville District, USACE
Norma Condra, Department of the Army, Louisville District, USACE
Peter Swenson, United States Environmental Protection Agency, Region V
Mary Knapp, Department of the Interior, United States Fish & Wildlife Service
Brian Mitch, ODNR, Office of Real Estate & Land Management
Dave Snyder, Ohio Historical Preservation Office
George Elmaraghy, Ohio EPA, DSW