

BUILDING STRONG®

The following information is intended to aid in determining what may/may not require a permit from the U.S. Army Corps of Engineers (USACE) following the recent storm damage in Vermont. We strongly advise the public to contact us with any questions regarding permitting:

- Michael Adams by email Michael.S.Adams@usace.army.mil, cell phone (802) 881-8930, or office phone (978) 318-8485 and (802) 872-2893
- Angela Repella by email Angela.C.Repella@usace.army.mil, cell phone (802) 881-9565, or office phone (978) 318-8639 and (802) 872-2893
- General email box: cenae-r-vt@usace.army.mil

A majority of work within waters of the U.S. following the recent storm events is expected to qualify for verification under one or more activities authorized by the Vermont General Permits (GPs), unless otherwise exempt. Waters of the U.S. include, but are not limited to, lakes/ponds, rivers, streams, intermittent streams, natural drainage courses, and wetlands. The Vermont GPs are available at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Vermont-General-Permit/>. Additional information regarding the New England District Regulatory Program and submittal of a permit application (as applicable) can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/>.

Regarding work in waters of the U.S., the following apply:

- The discharge of fill material into waters of the U.S. requires a permit under Section 404 of the Clean Water Act (CWA), unless otherwise exempt. Many activities to remediate storm damage may be exempt from permitting under the CWA if they involve returning sites to pre-disaster conditions (for example, replacing rip rap within areas that were previously stabilized with rip rap). *In accordance with 33 CFR 323.4(a)(2), any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404 of the CWA: "Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage has occurred in order to qualify for this exemption."*

This exemption does not apply to the following navigable waterways in Vermont, which are also regulated under Section 10 of the Rivers and Harbors Act. **However, if working in these navigable waterways, repair/replacement in-kind and debris removal may qualify for the maintenance general permit (General Permit #2) or debris removal general permit**

(General Permit #7) outlined on pages 7 and 12 of the GPs: the Connecticut River, Lake Champlain, Lake Memphremagog, Wallace Pond, Ompompanoosuc River (to mile 3.8), Waits River (to mile 0.9), the Black River (mouth to mile 25 in Craftsbury), the Battenkill River (to mile 50 in Manchester), the Lamoille River (mouth to mile 79 in Greensboro), the Missisquoi River (including the North Branch, from the mouth to mile 88.5 in Lowell), Otter Creek (mouth to mile 63.8 in Procter), Winooski River (mouth to Marshfield), Moose River (from Passumpsic River to the Victory Town Line), Nulhegan River (mouth to its source including the East Branch, the Black Branch and the Yellow Branch), Paul Stream (mouth to the source), East Branch of the Passumpsic River (from the confluence with the Passumpsic River to East Haven), Passumpsic River (mouth to confluence with the East Branch), White River (mouth to its source), Wells River (mouth to Groton Pond).

- New impacts to waters of the U.S. up to 5,000 square feet, <200 linear feet of rip rap, and upsizing and embedding culverts may be allowed under Self-Verification of the GPs (i.e., an application is not required). All terms and conditions of the GPs starting on page 27 must be followed. We highly advise the public to **document** your records. Taking before/after photos and sketching existing/proposed conditions is highly recommended. Please note the before/after footprint of fill, document the length or rip rap/stabilization and the pre- and post-size of structures replaced.
- Sediment and debris removal to restore sites to pre-flood conditions may not require a permit if there is **no** associated discharge of fill material and the work does not occur within the above listed navigable waterways. Debris removal from these navigable waterways may be authorized under General Permits #2 and #7 and may be eligible for Self-Verification of the GPs.
- For anything other than replacement in-kind and/or restoring pre-existing fills to pre-flood conditions, a permit will likely be required. In these cases, we advise the public to call or email USACE (contacts above) to determine whether an application is required.
- In cases where proposed work does not qualify for the exemption or the GPs, and the situation would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action is not undertaken within a time period less than the normal time needed to process a permit application under standard procedures, the District can process an application for a permit under emergency procedures, as stated in 33 CFR 325.2(e)(4). The public should contact us if they feel the work qualifies for the emergency procedures.

The Vermont Permits Section team remains poised to assist you with your permitting needs or questions. Please do not hesitate to contact us.