



NEWS RELEASE

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Contact:
Carol Labashosky
carol.j.labashosky@usace.army.mil
Office: (502) 315-6769
Cell: (502) 741-7263

Army Corps of Engineers announces decision to suspend Nationwide Permit 21 in the Appalachian Region

WASHINGTON – The U.S. Army Corps of Engineers announced today it has suspended the use of Nationwide Permit 21 (NWP 21) in the Appalachian region of six states. NWP 21 is used to authorize discharges of dredged or fill material into waters of the United States for surface coal mining activities. The suspension is effective immediately and applies to the Appalachian region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. NWP 21 continues to be available in other regions of the country.

The suspension in Appalachia will remain in effect until the Corps takes further action on NWP 21 or until NWP 21 expires on March 18, 2012. While the suspension is in effect, individuals who propose surface coal mining projects that involve discharges of dredged or fill material into waters of the United States will have to obtain Department of the Army authorization under the Clean Water Act, through the Individual Permit process. The individual permit evaluation procedure provides increased public involvement in the permit evaluation process, including an opportunity for public comment on individual projects.

On June 11, 2009, the U.S. Department of the Army, U.S. Department of the Interior and the U.S. Environmental Protection Agency signed a Memorandum of Understanding with each agency agreeing to work together to reduce the adverse environmental impacts of surface coal mining activities in the Appalachian region. As a part of the MOU, the Corps agreed to issue a public notice to seek comment on the proposed action to modify NWP 21 to preclude its use in the Appalachian region.

On July 15, 2009, a Federal Register notice was published soliciting public comment on the Corps' proposal to modify NWP 21. The notice also proposed to suspend NWP 21 in order to provide more immediate environmental protection while the longer-term process of modification is fully evaluated. The comment period was extended in response to many requests, and public hearings were conducted in October 2009 in each of the six affected states. Approximately 6,000 individuals attended the public hearings and about 400 individuals provided oral testimony. The Corps received approximately 23,000 comments during the comment period that concluded on October 26, 2009, of which 1,750 were substantive comments that were nearly evenly divided for and against the proposed modification and suspension actions.

The Corps determined after a thorough review and consideration of comments that continuing use of NWP 21 in this region may result in more than minimal impacts to aquatic resources. Activities that result in more than minimal impacts to the aquatic environment must be evaluated in accordance with individual permit procedures. Therefore, NWP 21 has been suspended in this region and coal mining activities impacting waters of the U.S. in this region will be evaluated in accordance with individual permit procedures.

NWP 21 verifications provided in writing by the Corps to mining companies before today's suspension will continue to be valid until the NWP expires on March 18, 2012. Modification of NWP 21 will continue to be evaluated and a decision on this proposal will be made before NWP 21 expires.

Five pending NWP 21 requests are currently being processed in the Appalachian region affected by suspension of NWP 21. Corps districts will contact these applicants to discuss the process to submit individual permit applications for these activities. If applicants submit individual permit requests for these activities, the Corps districts will prioritize the evaluation of these applications. The Corps will work with the applicants and other interested parties to address and resolve substantive concerns and make final permit decisions as expeditiously as possible.

The Corps' decision will be published in the June 18, 2010, edition of the Federal Register. A copy of the notice, FAQs and the decision document will be posted on the Corps' Web site at <http://www.usace.army.mil/CECW/Pages/npi.aspx>.

****Editor's Note: Today at 1 p.m. (Eastern Time), Meg Gaffney-Smith, chief of the Corps' Regulatory Program, will address questions related to the decision. Members of the media with questions should call 1-800-288-8975.**