

EMERGENCY STREAM BANK RESTORATION & STABILIZATION

Kentucky Division of Water

Permits and Approvals

The DOW's Water Quality Certification (WQC) Section issues approvals in the form of certifications. The approvals issued by WQC certify that the federally generated U.S. Army Corps of Engineers (USACE) permits meet Kentucky's water quality standards. These federal permits and water quality certifications allow work within streams and wetlands that involve the placement of any form of fill material (common examples of fill include rip rap, culverts, bridge supports, and utility lines). The WQC Section also provides free technical assistance to improve public comprehension of stream behavior and how modifications may improve or worsen problem areas. As anticipated, with most severe weather cleanup practices, work will need to be conducted in and around stream channels to remove accumulated debris, repair steeply eroding stream banks, and replace or repair structures such as roadways, bridges, and culverts.

Certifications for Flood Cleanup and Repair

For placement of fill material or dredging within a stream channel or wetland, a USACE permit may be required. If a USACE permit is required, then a water quality certification (WQC) is also required. There are two kinds of USACE permits: general (also called nationwide) and individual. Typically, repair work due to flooding is covered under a nationwide or general permit. Each nationwide permit is different and is geared toward the form of the proposed project.

The following nationwide permits are commonly used for projects related to flood cleanup and repair:

NW 13: Bank Stabilization

NW 3: Maintenance of Existing Structures

NW 14: Linear Transportation projects

NW 37: Emergency Watershed Protection and Rehabilitation

The DOW has placed limits (or conditions) on each USACE nationwide permit which determines whether the work can proceed without the further scrutiny of an individual certification. Typical limits include the amount of linear feet of stream to be impacted, the type of fill material to be placed, and the quality of the stream.

DOW Review Process

When the WQC Section reviews a proposed project, one of the following results may be expected:

1. If a project is proposed to occur within an ephemeral stream or if the work proposed within the project is to be conducted above the ordinary high water mark (OHWM) of the stream, then the project is exempt and does not require a water quality certification. Please note that a usage permit may be required even if a certification is not.
2. If the proposed project will occur below the OHWM of an intermittent stream OR will occur below the OHWM of a perennial stream OR will occur within a wetland, AND there is a possibility of fill material being placed within the stream channel or wetland, AND the work is not being done in a Special Use Water, AND the proposed project will stay within the limits of the DOW's general guidelines and conditions associated with flood cleanup and repair procedures, then the project may be certified under DOW WQC
3. If the proposed project will occur below the OHWM of an intermittent stream or a perennial stream, OR will occur in greater than one acre of wetland, AND there is a possibility of fill material being placed within the stream channel or wetland, AND/OR the work is being done in a Special Use Water, AND the project proposes to exceed the guidelines and conditions listed within the KDOW WQC General Certifications, it will require an Individual Section 401 WQC

NOTE: USACE determines if a stream is ephemeral, intermittent, or perennial. They also determine the location of the OHWM. If you are uncertain about these determinations, please contact USACE <http://www.lrd.usace.army.mil/>

