

Department of Army Assistance

The Corps does not conduct or fund emergency response or flood improvement/mitigation work unless it is conducted under an agreement with another federal agency, state agency, or local government. At this time, there are no agreements for the Corps to conduct this type of work in response to this storm event. I suggest folks to contact the NC Department of Public Safety-Floodplain Management Branch (919-715-5711) and/or their County emergency management agency.

Removing Debris From Streams/Rivers

If the work does not place fill below the ordinary high water mark (OHWM) of the stream, then no permit required. Removal of debris from a stream without placing fill below the OHWM can be conducted without a permit. Please cut the debris up, drag the debris from the stream, and place the debris onto high ground (not in a wetland or stream). It is ok to leave embedded root wads/balls in the bank or other material that has become embedded in the stream bed or banks. After the debris is removed, people may want to re-slope the stream bank and plant the bank. Again, if there is no fill placed below the OHWM, then no permit required. Let's say they want to add rock toe structures to hold the base of the slope or a log vane to help with stream bed grade control, then a permit may be required (see below).

Corps Exemptions for Stream Bank Stabilization and Stream Crossing Work

The Corps storm event exemptions can apply to repairing damage of stream banks during a storm event.

- If failure of the stream bank is threatening or caused damage to a living or work building/structure, then the stream bank stabilization work will be exempt from Corps permitting.
- If the stream bank failure is threatening or caused damage to a utility line (power, gas, water, sewer, septic field, water well, etc.), then the stream bank stabilization work will be exempt from Corps permitting.
- If the stream bank failure is threatening or caused damage to access (road or driveway) to a living or work building/structure, then the stream bank stabilization work will be exempt from Corps permitting [i.e., cannot get to their home, place of work, commercial/retail building (the only access and there is no other access), prevents first responder access].

Storm event exemptions also apply to stream crossings (culverts, fords, bridges, etc.) damaged during storm events. This applies to repair and replacement of these stream crossings, as long as, the new/repared crossing is within the same footprint (more or less) as the original crossing. This exemption does not apply to replacing a bridge with a culvert, this will require a permit. In repairing or replacing a stream crossing folks should keep in mind:

- All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of aquatic species.
- Culvert must be constructed to withstand expected high flows and must not restrict or impede the passage of normal or high flows.

These exemptions from Department of Army regulation are per CFR Part 323 - Permits For Discharges Of Dredged or Fill Material Into Waters of The United States, paragraph 323.4 - Discharges not requiring permits, (2) "Maintenance, including emergency reconstruction to recently damaged parts.....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 occur in order to qualify for this exemption." Our rule of thumb is the work should be done as soon as possible, but not more than 24 months after the storm

event. <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Permits/Exemptions/>

Please keep the following in mind, modifications that change "the character, scope, or size of the original fill design" include rebuilding a structure in a different location in a stream or wetland, putting fill material (including culverts/pipes) in a stream or wetland in a new location, significantly extending/adding to the original fill design, etc. If the work involves these kinds of activities, it will not qualify for an exemption and a permit will be required.

Corps Permitting

If the work to be conducted will place fill below the OHWM of a stream/river and does not meet the Corps exemptions, then a permit will be required. There are two routes to obtain the required Department of Army authorization, an after-the-fact Nationwide Permit (NWP) or permitting prior to conducting the work. Please contact me if permitting will be required and I'll discuss which route is best depending on the project.

- An after-the-fact NWP is a good route for projects that are immediately needed (putting a stream crossing in a new location, extending the length of a stream crossing, constructing temporary access to a site, etc.). The project may proceed as proposed provided it is accomplished in accordance with all the conditions of the applicable NWP. Submittal of a pre-construction notification (PCN) form/application and supporting documents for the work conducted will be required after the work is completed.
- Some project will require permitting prior to conducting the work (stream restoration; construction of new flood mitigation structures within the stream banks; stream bank stabilization that will be conducted away from access roads, living or work building/structures, utility lines, etc.). These project will follow our normal permitting requirements.

Some files are provided to help land owners plan/design their bank stabilization work and install culverts.

Please ensure to contact the North Carolina Division of Water Resources (Andrew Moore, andrew.w.moore@deq.nc.gov) to ensure work follows state requirements. This information does not supersede the requirements of federal, state or local laws/ regulations.

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