
Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Federal Register / Vol. 74, No. 134

Date: July 15, 2009

Public Notice No. 09-31

Closing Date: August 15, 2009

The purpose of this public notices is to inform you of the proposed suspension and modification of nationwide permit number 21 in the Appalachian region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia.

1. LOCATION: Appalachian Region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia.
2. PURPOSE AND DESCRIPTION OF WORK: In the July 15, 2009, issue of the Federal Register (copy enclosed), the U.S. Army Corps of Engineers (Corps) published a proposal to take two actions concerning Nationwide Permit (NWP) 21 which authorizes discharges of dredged or fill material into waters of the United States for surface coal mining activities. First, the Corps proposes to modify NWP 21 to prohibit its use to authorize discharges of dredged or fill material into waters of the United States for surface coal mining activities in the Appalachian region of the following states: Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. Second, the Corps is proposing to suspend NWP 21 to provide an interim means of requiring individual permit reviews in Appalachia, while we evaluate the longer-term measure of modifying NWP 21 to prohibit its use to authorize discharges of dredged or fill material into waters of the United States associated with surface coal mining activities in the Appalachian region of these six states. The suspension of NWP 21 will provide immediate environmental protection while the Corps evaluates the comments received in response to the proposal to modify NWP 21.

The application of NWP 21 to surface coal mining activities in the rest of the United States would not be affected by the proposed modification or suspension of this NWP.

On June 11, 2009, the Corps, the U.S. Department of the Interior, and the U.S. Environmental Protection Agency signed a Memorandum

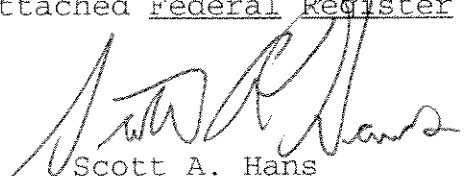
of Understanding (MOU) implementing an Interagency Action Plan on Appalachian surface coal mining. A copy of this MOU is available at: <http://www.usace.army.mil/CECW/Pages/moumoas.aspx>. The MOU includes an Interagency Action Plan (IAP) that was developed to reduce the adverse environmental impacts of surface coal mining activities in the Appalachian region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, while assuring that future mining remains consistent with the Clean Water Act and the Surface Mining Control and Reclamation Act. The IAP is intended to provide greater emphasis on protecting the aquatic and terrestrial environment of the Appalachian region. To accomplish this, the IAP lists several short-term actions to reduce the harmful environmental consequences of Appalachian surface coal mining in these six states. One of the short-term actions commits the Corps to issue a public notice proposing to modify NWP 21 to prohibit its use to authorize discharges of dredged or fill material into waters of the United States in conjunction with surface coal mining activities in the Appalachian region described above.

In accordance with the suspension and modification procedures provided in the NWP regulations, public comment is invited, and a public hearing may be requested. After evaluating all comments pertaining to the proposed suspension and modification that are received in response to this notice and any public hearings, the Corps expects to publish its decisions concerning the NWP 21 suspension and modification in separate Federal Register notices.

If the Corps decides to suspend NWP 21, the suspension cannot occur until the effective date, which would be specified in the Federal Register notice announcing the suspension decision. If NWP 21 is suspended, the suspension will remain in effect until NWP 21 is modified or expires, or until the suspension is lifted.

If NWP 21 is suspended for surface coal mining activities in the Appalachian region of Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, district engineers cannot issue NWP 21 verifications for those activities or accept NWP 21 PCNs for surface coal mining activities in the Appalachian region of those six states that are received after the effective date of the suspension. If the NWP 21 suspension goes into effect, requests for Department of the Army authorization for these activities will be processed through the individual permit process.

For more information, including instructions for submitting comments, please see the attached Federal Register notice.



Scott A. Hans
Chief, Regulatory Branch

Enclosure