

GENERAL INFORMATION

**PERMITS, REGULATIONS AND LAWS APPLICABLE TO
WV ENGINEERING CONSERVATION PRACTICE STANDARDS**

_____ Land Owner _____ Service Center
_____ County _____ Date

This engineering general information document is intended to assist landowners and/or land operators by providing information regarding potential laws and requirements governing implementation of engineering conservation practices.

Practices planned, designed, and constructed must meet all federal, state and local laws and regulations governing structures and activities in or along streams, pollution abatement, health, and safety and ensure the projects will not violate the state's water quality standards or stream designated uses.

The owner or operator of the project, shall secure all permits and approvals and is responsible for performing all planned work in accordance with such laws and regulations.

NRCS employees shall not procure permits, rights, or approvals, nor shall they enforce laws and regulations.

NRCS may provide the landowner or operator with technical information needed by the owner or operator to obtain the required permits, rights or approvals to construct, operate, and maintain the practice.

FEDERAL, STATE and LOCAL PERMITS

Permits may be required from the following federal, state, and local agencies such as

❖ US Army Corps of Engineers (USACE).
Mission is to protect the Nation's aquatic resources while allowing reasonable development through permitting construction activities occurring in the Nation's waters which includes wetlands.

- Section 10 River and Harbors Act of 1899
 - Permit for work or structures in, over or under navigable waters of the US.
- Section 404 of the Clean Water Act of 1972
 - Permit for discharge of dredged or fill material into waters of the US.
- [Nationwide Permits for General Activities](#)

Frequently selected activities associated with Conservation Practices or watershed protection are

- 3. Maintenance
- 6. Surveying Activities
- 13. Bank Stabilization
- 18. Minor Discharges
- 19. Minor Dredging
- 27. Aquatic Habitat Restoration, Establishment and Enhancement Activities
- 30. Moist Soil Management for Wildlife
- 31. Maintenance of Existing Flood Control Facilities
- 33. Temporary Construction, Access and Dewatering
- 37. Emergency Watershed Protection

❖ US Environmental Protection Agency (USEPA)

Manages pollutants discharged into waters of the US through a man-made ditch, flushing system, or other similar man-made device or originate outside of and pass over, across or through the facility or otherwise waters that come into direct contact with confined animals.

➤ National Pollutant Discharge Elimination System (Clean Water Act Sect. 402)

- Animal Feeding Operations
 - Animals (other than aquatic) have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and
 - Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the holding area, lot or facility.
- Concentrated Animal Feeding Operations
 - Large or Medium CAFO's or designated as a CAFO's by WVDEP or USEPA.
 - Require a nutrient management plan for manure (animal manure, bedding, compost and raw materials or other commingled with manure or set aside for disposal).

❖ US Fish and Wildlife Service (USFWS)

Work near or in waters, where there is present or possible presence of endangered or threatened species, requires notification and collaboration with the USFWS prior to implementation and designated state agencies.

❖ WV Department of Environmental Protection (WVDEP)

Promotes compliance with WV's Solid Waste Management Act, Water Pollution Control Act, Groundwater protection Act, Hazardous Waste Management Act, Underground Storage Tank Act and Dam Safety Act by providing assistance, inspecting regulated sites and enforcing conditions required by these acts. The following divisions typically provide conservation practice design, implementation, guidance and permit requirements.

➤ Division of Air Quality

- Division of Land Restoration
- Division of Water and Waste Management (DWWM) programs
 - Inspection and Enforcement
 - Environmental Enforcement
 - ◆ Dam Safety (Non-Coal) Certificate required for approval of non – agricultural ponds and dams.
 - ◆ CPS Pond (378) constructed and used primarily for agricultural purposes including, but not limited to, livestock watering systems, retention of agricultural waste, or fish culture and having no potential for loss of human life (WV DEP Hazard Class 3 or Class 4) are typically exempt from the WV DEP - Dam Safety Section Certificate of Approval.
 - Permitting
 - NPDES (National Pollution Discharge Elimination System) Permits
 - Non-Stormwater General Permits
 - Individual NPDES Permits (point source discharge into surface waters)
 - Municipal – Domestic Waste Water Facilities
 - ◆ Sludge or Septage Disposal Form
 - ◆ Reference 33-2-3 Standards for Use, Disposal and Processing of Sewage Sludge, etc.
 - Concentrated Animal Feeding Operation (CAFO)
 - ◆ AFO - Animal feeding operations (AFO) are agricultural enterprises where animals are kept and or raised in confinement.
 - ◆ CAFO's are AFO's that meet the definition of a CAFO, or are designated a CAFO by the Director of the Division of Water and Waste Management (DWWM).
 - CAFO Permit Application Form and instructions
 - [Construction Stormwater General Permit](#)
 - No CSGP for construction activity less than one acre.
 - Construction Stormwater Notice of Intent
 - for construction activity on greater than one acre and less than three acres, required 15 days prior to start.
 - Site Registration Application Form
 - for construction activity on greater than three acres, required a minimum of 60 days prior to start.
 - ◆ Stream Disturbance Permit Guidance
 - Stream Activities Application coordinates with other agencies such as where work occurs in or adjacent to "Waters of the US"
 - WV Conservation Agency
 - Reference the WV Erosion and Sediment Control BMP Plan
 - WV Division of Natural Resources
 - Fish Biologist
 - Stream Design Specialist
 - [Division of Natural Resources Stream Activity Application](#) (WV Office of Land and Streams)

- WVDEP 401 Water Quality Certification (protects WV water quality and stream designated uses).
 - USACE Individual Section 404 Permit
 - USFWS (when endangered or threatened species are impacted).
 - WV State Division of Culture and History
 - Coordinate with local floodplain managers, WV Division of Homeland Security and Emergency Management or other local organizations.
 - National Environmental Policy Act (NEPA)
 - WVDEP's Anti-Degradation Policy
 - ◆ West Virginia State Water Quality Standards including the Antidegradation Implementation Rule
 - Tier 1- existing water uses and water quality needed to protect existing uses shall be maintained and protected.
 - Tier 2 – default level of protection applied to all waters whose quality is better than the established criteria.
 - Tier 3 – highest level of protection and applies to waters within WV's five Wilderness Areas
 - Other
- ❖ WV Department of Health and Human Resources (DHHR)
 - Bureau for Public Health (BPH)
 - Office of Environmental Health Services OEHS)
 - Public Health and Sanitation
 - ◆ Individual Water Supplies (Wells, Cisterns and Springs)
 - Water Well Rules
 - Water Well Regulations (Legislative Rules 64CSR19)
 - Water Well Standards (Legislative Rules 64CSR46)
 - Potable Water Analysis (SW-253)
 - Permit to Construct, Modify or Abandon Water Well (SW-256)
 - Water Well Completion Report (SW-258)
 - Water Well Abandonment Report (SW-261)
 - Water Well Pump Installation Report (SW-262)
 - ◆ Sewage
 - Environmental Engineering Division
 - Source Water Assessment and Wellhead Protection Program
 - Training and Certification
 - ◆ WV Waterwell Certification Program
 - Certified Well Driller
 - Certified Pump Driller

Note: When planning WV Conservation Practice Waste Storage Facilities (313) (solid or liquid) contact the local Health Department and provide them the latitude and longitude coordinates and type of storage facility

❖ WV Department of Natural Resources (WVDNR)

Committed to preserve, protect and enhance the State's title to its recreation lands.

- Office of Land and Streams
 - Trout Water and Waters of Special Concern Designations (Trout Waters List (B2 list))
 - [Interactive Trout Stream Map](#)
- Division of Natural Resources Stream Activity Application
 - Not required when
 - floating woody debris or trash (tree limbs, branches, etc). is removed that may constrict/ block culvert or bridge openings
 - and work completely performed from streambank and does not disturb streambed.
 - Required when
 - disposing of dredged materials,
 - working within stream/bank or stream bed.
 - Coordinate with WVDEP as needed

❖ WV Department of Agriculture (WVDA)

- WV Conservation Agency
 - Programs
 - Emergency Watershed Protection
 - ◆ State or Federal Emergency Declaration in response to sudden disaster.
 - Stream Protection and Restoration Program (SPRP)
 - Non-Point Source Program
 - ◆ Assesses, develops and manages the federal Clean Water Act, Section 319 relating to agriculture, construction and urban storm water management.
 - Operation, Maintenance and Repair Program
 - ◆ Responsible for inspection, operation, maintenance and repairs on 170 watershed dams and 21 channels throughout WV
- Regulatory and Environmental Affairs Division
 - Fertilizer
 - Ag Liming Materials
 - Soil Amendments, Compost and Horticultural Growing Media
 - Pesticides
 - Certification Compliance Assistance Program
 - Enforcement Section
- Environmental Programs
 - Nutrient Management Program
 - Poultry Program
 - Biosecurity
 - CAFO
 - Litter Transport

❖ WV Division of Forestry (WVDOF)

- ❖ All Permits, Notices and Approvals
 - The owner or operator is responsible for securing all permits or approvals and for performing in accordance with such laws and regulations. NRCS employees do not procure permits, rights, or approvals, or enforce laws and regulations. NRCS may provide the landowner or operator with technical information needed to obtain the required rights (or approvals) to construct, operate, and maintain the practice.
 - ***THE LANDOWNER/OPERATOR SHALL OBTAIN ALL REQUIRED PERMITS BEFORE STARTING CONSTRUCTION.***