

FLOOD RECOVERY ACTIVITIES AND PERMITTING FOR STREAM ALTERATIONS

Governor Haslam and Commissioner Martineau of the Tennessee Department of Environment and Conservation have determined that a state of emergency exists in parts of Tennessee affected by the recent severe storms, high winds and torrential rain that resulted in flooding and damage to private property and public facilities that could threaten the safety and security of the citizens of the state. They have further determined that the disaster has created conditions that require immediate action to prevent irreparable damage to the environment and serious threats to life or safety throughout the emergency areas. Section 109 of the Tennessee Water Quality Control Act of 1977 gives the commissioner authority to order implementation of corrective measures in such an emergency when immediate action is required. The commissioner also has discretionary authority in determining whether enforcement is appropriate in situations where necessary corrective actions have been taken without permit approvals that may be required by the act and related rules.

In the immediate aftermath of the flooding and violent storms in parts of the state, Water Pollution Control personnel involved in reviewing or approving activities normally covered by state Aquatic Resource Alteration Permits have been instructed to use discretion and flexibility in working with local officials or landowners in implementing recovery activities. The measures that will be considered necessary and falling within the emergency authorization provisions are those that are required to protect utilities, roads, buildings, or other structures that are in immediate need of repair or replacement or are at risk of further damage if immediate action is not taken, as well as correction of any situation resulting from the current disaster that poses an imminent risk to human health or safety. These measures can be undertaken without prior approval by the division as might be required in non-emergency situations. Counties included in the current emergency situations are can be found at <http://www.fema.gov/news/disasters.fema>.

Additionally, some activities can be authorized by existing General Permits. Debris and unconsolidated bedload material can be removed from streams within one hundred feet up and downstream of bridges and culverts as necessary to protect the function and integrity of the structures and roadways. Downed trees or other debris can be removed from stream channels by dragging or winching without permits. Copies of all of the General Aquatic Resource Alteration Permits, application forms, and other information can be found on-line at: <http://tn.gov/environment/permits/arap.shtml>

Work under existing general permits can be authorized by personnel in TDEC's local Environmental Field Offices. Contact information for the department's Environmental Field Offices is at: <http://tn.gov/environment/efo>. The Environmental Field offices are the best point of contact if landowners or others need to consult or seek advice on implementation of corrective measures.

May 9, 2011

Tennessee Department of Environment and Conservation
Division of Water Pollution Control