



U.S. Army Corps of Engineers
Chicago District

CHICAGO DISTRICT
REGIONAL PERMIT PROGRAM

Effective: April 1, 2007
Expiration: April 1, 2012

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344

A. Introduction

The U.S. Army Corps of Engineers, Chicago District hereby issues the Regional Permit Program (RPP) that includes a set of Regional Permits for activities with minimal individual and cumulative impacts on the aquatic environment in Cook, DuPage, Kane, Lake, McHenry and Will Counties, Illinois (see Regional Permits). Please note that projects in Will County that are located within the recharge zone for Lockport Prairie Nature Preserve, (an area that supports the Federally Endangered Hines Emerald Dragonfly), will not be reviewed under the RPP. Projects within the recharge zone will be reviewed under Individual Permit procedures only. Please visit our website for a copy of the following: location of the Lockport Prairie Recharge Zone; joint application form (NCR Form 426, Protecting Illinois Waters); draft deed restriction; Mitigation Requirements; sample tolling agreement and various other documents; and Frequently Asked Questions (FAQ's) regarding the RPP. The FAQ contains a comprehensive listing of frequently asked questions and answers that specifically pertain to the RPP. For instructions on submitting a complete application please reference the RPP checklist on the District website at: <http://www.lrc.usace.army.mil/co-r>.

The purpose of the RPP is to provide a simplified and expeditious means to review activities that meet the specified terms and conditions described herein. This program replaces portions of the Nationwide Permit Program and Regional Permits 3, 15, and 16 in the Chicago District.

Regional permits are a type of general permit, as defined in 33 CFR 322.2(f), 33 CFR 323.2(h) and 325.2(e) (2). A regional permit may be issued by a District Engineer for a category of activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts.

B. Applicability

The RPP authorizes activities that involve structures or work in or affecting navigable waters of the United States (U.S.) under Section 10 of the Rivers and Harbors Act of 1899 and/or discharges of dredged or fill material into waters of the U.S. under Section 404 of the Clean Water Act

For waters that meet the definition of Section 10, please reference the District's website for a listing of navigable waterways. Section 404 waters are defined at and determined in accordance with 33 C.F.R. §§328-329 and 40 C.F.R. §230.3.

C. Definitions

Definitions found at 33 CFR Parts 320-323 and 325-329 and 40 CFR Part 230 are applicable to the RPP and are incorporated by reference herein.

Applicant is the individual, organization or company requesting authorization under the RPP. Applicant shall be owner of the property in question as required in the joint application form

Authorization is written verification by the District that an activity qualifies for, and may proceed under, the RPP provided the terms and conditions of the program are followed. Authorization under the RPP is valid for a period of three (3) years.

Best Management Practices (BMPs) are policies, practices, procedures or structures implemented to mitigate the direct and indirect degradation of surface water quality from an activity. BMPs include non-structural elements such as the preservation of existing natural areas and drainageways, and structural elements such as vegetated swales, filter strips and infiltration trenches which are designed to remove pollutants, reduce runoff rates and velocity and protect aquatic resources.

Buffer is a protective strip of land along the edge of waters of the U. S., including wetlands, that is usually maintained in native vegetation. Buffers protect shorelines and banks from erosion, provide wildlife habitat, filter pollutants from the water, and protect environmentally sensitive areas from potential effects of development.

Compensatory wetland mitigation is the creation, restoration, enhancement or, in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Complete application is all required notification materials submitted by the applicant to the District. If all materials are not submitted, the application is considered incomplete and cannot be processed under the RPP.

Conservation area is any national park or forest, natural heritage landmark, State nature preserve or conservation area, Illinois Natural Area Inventory site (including proposed sites), county forest preserve, or land managed by a local government or organization for conservation purposes. Most, but not all conservation areas are depicted on the Northeastern Illinois Regional Greenways Plan (latest version), prepared by the Northeastern Illinois Planning Commission and OpenLands Project.

Currently serviceable means that a structure or fill is useable as is, or with some maintenance, but not so degraded as to require reconstruction.

High-quality aquatic resources (HQARs) are aquatic areas considered to be regionally critical due to their uniqueness, scarcity, and/or value, and other wetlands considered to perform functions important to the public interest, as defined in 33 CFR Part 320.4(b)(2). These resources include Advanced Identification (ADID) sites, bogs, ephemeral pools, fens, forested wetlands, sedge meadows, wet meadows, seeps, streams rated Class A or B in the Illinois Biological Stream Characterization study, wet prairies, wetlands supporting Federal or Illinois endangered or threatened species, and wetlands with a floristic quality index of 20 or greater or mean C value of 3.5 or greater. These areas are generally considered unsuitable for dredge or fill activities. Descriptions of high-quality aquatic resources are provided in APPENDIX A.

Impact is the direct and indirect loss of waters of the U.S., including wetlands, which results from implementation of a proposed activity. This includes waters of the U.S. that are adversely affected by filling, flooding, dredging, excavation, or drainage as a result of the activity.

Notification is the submission of materials by the applicant to the District for a complete application.

Modification is the revision of terms or conditions on the authorization to ensure that an activity has minimal impacts on aquatic resources.

Permittee is the individual, organization or company authorized to complete an activity under the RPP.

Pre-construction notice (PCN) is the notice provided to Federal and State agencies which requests comments concerning a proposed "Category II" activity.

Preservation is the protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands to ensure protection and/or enhancement of the overall aquatic ecosystem.

Project area is the land, including waters of the U.S. and uplands, utilized for a single and complete project. The acreage is determined by the amount of land cleared, graded, and/or filled to construct the single and complete project, including any buildings, utilities, stormwater management facilities, roads, yards, and other attendant features. The project area also includes other land and attendant features that are used in conjunction with the single and complete project, such as open space, roads and utilities. Roads constructed by State or local governments for general public use are not included in the project area.

Revocation is the permanent cancellation of the authorization.

Single and complete project is the total project proposed or accomplished by one owner, developer or partnership, or agency within a project area.

Single-family residence is a parcel of land owned by an individual and used by that individual as his/her primary personal habitation.

Special conditions are conditions added by the District for projects on a case-by-case basis to ensure an activity has minimal impacts on aquatic resources and complies with the RPP.

Suspension is the temporary cancellation of the authorization while a decision is made to either modify, revoke or reinstate the authorization.

Terms and conditions. The terms and conditions are the parameters, including thresholds, limitations and requirements, for completing an activity under the RPP. These parameters are described in each Regional Permit and in Section I (General Conditions) of this document. Case-specific conditions (called "special conditions") may also be added by the District on individual authorizations to ensure that an activity has minimal individual and cumulative impacts.

Utility line is any pipeline used to transport a gaseous, liquid, liquefiable or slurry substance for any purpose, and any cable, line or wire used to transmit electrical energy, telephone, radio signals, television signals or data communication. This definition does not include pipes or ditches which serve to drain a water of the United States, such as drainage tile; however, it does apply to pipes conveying drainage from another area.

D. Permit Expiration

The Regional Permit Program is valid for a period of five (5) years from the date of issuance (or reissuance). The District will issue a public notice (with an opportunity for comment) describing the reasons for reissuing the Regional Permits, reissuing the Regional Permits with modifications, or not reissuing the Regional Permits for another five (5) years, at least sixty (60) calendar days prior to the expiration date of the Regional Permits. If the District has not reissued the Regional Permits by the expiration date, the Regional Permits will no longer be valid.

A Regional Permit may also be modified, suspended or revoked by the District at any time deemed necessary. In such an instance, the District will issue a public notice (with an opportunity for comment) describing the proposed change at least sixty (60) calendar days prior to the date the change will go into effect.

E. Activity Categories

Activities to be covered under the RPP will fall under one of two categories:

Category I: Activities with minimal impacts requiring review by the District. Authorization may include special conditions to ensure compliance with the RPP. The District has the discretion to process a Category I activity under Category II where it has concerns for aquatic resources under the Section 404(b)(1) Guidelines or for any factor of the public interest.

Category II: Activities with minimal impacts requiring more rigorous review by the District and coordination with resource agencies. Authorization may include special conditions to ensure compliance with the RPP.

Activities that do not fall into one of the above categories by definition have more than minimal impacts and are therefore subject to the individual permit review process.

F. Discretionary Authority

The District has the discretion to suspend, modify, or revoke authorizations under this RPP. This discretionary authority may be used by the District to further condition or restrict the applicability of the Regional Permits for cases where it has concerns for aquatic resources under the Clean Water Act Section 404(b)(1) Guidelines or for any factor of the public interest. Because of the nature of most Category I activities, the District anticipates that it will not exert discretionary authority, except in extraordinary cases. For Category II activities, the District will thoroughly evaluate each proposed activity before issuing authorization. Should the District determine that a proposed activity might have more than minimal individual or cumulative adverse impacts to aquatic resources or otherwise be contrary to the public interest, the District will notify the applicant that the proposed activity is not authorized by the RPP and provide instructions on how to seek authorization under an individual permit. The District may restore authorization under the RPP at anytime it determines that the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information.

The District may also use its discretionary authority to modify, suspend, or revoke a Regional Permit for any specific geographic area, class of activities, or class of waters within the District's boundaries or individual authorizations where an activity is not in compliance with the RPP.

G. Authorization

Applicants seeking authorization under the RPP shall notify the District in accordance with the RPP General Condition number 21, prior to commencing a proposed activity. If the District determines that an activity does not comply with the RPP, it will notify the applicant in writing within forty-five (45) calendar days and provide instructions on the procedures to seek authorization under an individual permit. If the District does not provide a written response to the applicant within 45 calendar days following receipt of a complete application, the applicant may presume the proposed activity qualifies for the requested Regional Permit(s), provided the activity complies with the terms and conditions of the RPP, as determined by the District. If the District determines that a proposed activity complies with the terms and conditions of the RPP, it will notify the applicant within 45 calendar days of receipt of a complete application. If the District determines that an unauthorized activity complies with the terms and conditions of the RPP, it will notify the applicant once it is satisfied that the violation has been resolved.

The District may add special conditions to an authorization to ensure the activity complies with the terms and conditions of the RPP, and/or the adverse impacts on the aquatic environment or other aspects of the public interest are individually and cumulatively minimal.

Multiple Regional Permits may be combined to authorize a proposed single and complete project, except as indicated under specific Regional Permits. If multiple Regional Permits are used, the total impact may not exceed the maximum allowed by the Regional Permit with the greatest impact threshold. To use multiple Regional Permits, the applicant shall submit notification under General Condition 21 and indicate which Regional Permits are to be used for the project.

Any activity authorized by the District under the RPP shall be completed within three (3) years of the date it is authorized. The authorization date of a RP is the date the District confirms in writing that the activity meets the terms and conditions of the RPP, or 45 calendar days after the District receives a complete application and the District fails to contact the applicant in writing concerning whether the activity meets the terms and conditions of the RPP, provided the activity complies with the terms and conditions of the RPP, as determined by the District. A Request for a time extensions will be considered on a case by case basis by the District.

H. Unauthorized Activities

The District evaluates unauthorized activities for enforcement action under 33 CFR Part 326. After considering whether a violation was knowing or intentional, and consideration of the need for a penalty, the District can suspend enforcement proceedings and allow submittal of an application for after-the-fact authorization under the RPP, if all terms and conditions of the RPP have been satisfied, either before or after the activity has been completed. If the project is subject to an enforcement action, the mitigation ratio will generally be higher than the minimum requirement of 1.5. No after-the-fact applications will be accepted unless and until the applicant has furnished a signed "statute of limitations tolling agreement" to the District. Use of an after-the-fact RPP authorization shall be consistent with the Army/EPA Memorandum of Agreement on Enforcement. A knowing, intentional or willful violation will generally be the subject of an enforcement action leading to a penalty and/or restoration of the affected areas rather than an after-the-fact authorization.

I. General Conditions

The permittee shall comply with the terms and conditions of the Regional Permits and the following general conditions for all activities authorized under the RPP:

1. State 401 Water Quality Certification - Water quality certification under Section 401 of the Clean Water Act is required from the Illinois Environmental Protection Agency (IEPA). The District may consider water quality, among other factors, in determining whether to exercise discretionary authority and require an individual permit. Please note that Section 401 Water Quality Certification is a requirement for projects issued under Section 404 of the Clean Water Act. Projects issued under Section 10 of the Rivers and Harbors Act of 1899 do not require Section 401 Water Quality Certification (see APPENDIX B).

On January 31, 2007, the IEPA granted Section 401 certification, with conditions, for all Regional Permits, except for activities in certain waterways noted under RPs 4 and 8. The following conditions of the certification are hereby made conditions of the RPP:

1. The applicant shall not cause:
 - a) violation of applicable water quality standards of the Illinois Pollution Control Board Title 35, Subtitle C: Water Pollution Rules and Regulations;
 - b) water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - c) interference with water use practices near public recreation areas or water supply intakes.

2. The applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all State statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent soil erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be conducted during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Stormwater Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of (1) one or more acres, total land area. An NPDES Stormwater Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Illinois EPA's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the Illinois Urban Manual (IEPA/USDA, NRCS; 2002 latest version).
6. The applicant is advised that the following permits(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.
7. Backfill used in the stream-crossing trench shall be predominantly sand or larger size material, with <20% passing a #230 U.S. sieve.
8. Any channel relocation shall be constructed under dry conditions and stabilized to prevent erosion prior to the diversion of flow. [Applicable only to projects which propose to relocate stream channels.]
9. The proposed work shall be constructed with adequate erosion control measures (i.e., silt fences, straw bales, etc.) to prevent transport of sediment and materials to the adjoining wetlands and/or streams.
10. Backfill used within trenches passing through surface waters of the State, except wetland areas, shall be clean course aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
 - a) particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using #230 U.S. sieve; or
 - b) excavation and backfilling are done under dry conditions.
11. Backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.
12. Any applicant proposing activities in a mined area or previously mined area shall provide to the IEPA a written determination regarding the sediment and materials used which are considered "acid-producing material" as defined in 35 Il. Adm. Code, Subtitle D. If considered "acid-producing material," the applicant shall obtain a permit to construct pursuant to 35 Il. Adm. Code 404.101.

13. Asphalt, bituminous material and concrete with protruding material such as reinforcing bar or mesh shall not be 1) used for backfill, 2) placed on shorelines/stream banks, or 3) placed in waters of the State.
14. Applicants that use site dewatering techniques in order to perform work in perennial streams for construction activity approved under Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects), 7 (Temporary Construction Activities), Permit 9 (Maintenance) or 12 (Bridge Scour Protection) shall maintain flow in the stream during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.
15. In addition to any action required of the Regional Permit 13 (Cleanup of Toxic and Hazardous Materials Projects) applicant with respect to the "Notification" General Condition 21, the applicant shall notify the Illinois EPA Bureau of Water, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the Illinois EPA Bureau of Land (BOL) for all cleanup activities under BOL jurisdiction, or for which authorization or approval is sought from BOL for no further remediation. This Regional Permit is not valid for activities that do not require or will not receive authorization or approval from the BOL.
16. This Regional Permit is not valid for utility line projects under Regional Permits 1 (Residential, Commercial and Institutional Developments) and 2 (Recreation Projects) in the water bodies listed under Regional Permit 8 (Utility Line Projects).

2. Threatened and Endangered Species - If the District determines that the activity may affect Federally listed species or critical habitat, the District will initiate Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) in accordance with the ESA. Applicants may provide additional information that would enable the District to conclude that the proposed action is not likely to adversely affect a federally listed species. Applicants are encouraged to obtain information on threatened or endangered species and their critical habitats from the USFWS at the earliest stages of project planning

The application packet must include a letter from the USFWS indicating whether any species listed under the Endangered Species Act of 1973 may be present in areas affected (directly or indirectly). You may request such a letter by writing to:

Attention: Field Supervisor
Chicago Field Office
U.S. Fish and Wildlife Service
1250 South Grove Avenue, Suite 103
Barrington, Illinois 60010

The consultation process will involve the following procedures: After an applicant (or their agent) submits a written request to the USFWS for information on the presence of listed species within a project area, the USFWS will send a reply to the applicant (and/or their agent) and the District. If the USFWS indicates that listed species may be present or that suitable habitat for the species may be in the area, or the project may have adverse effects on the listed species, informal discussions to resolve concerns among the applicant, the District and the USFWS may begin. The applicant can submit additional information, which may allow the USFWS to conclude that the project is unlikely to adversely affect a listed species. If all issues pertaining to endangered and threatened species have been resolved through the consultation process and to the satisfaction of the District and the USFWS, the District may, at its discretion, authorize the activity under the RPP. The time frame for informal discussions will vary, but efforts will be made by all parties to keep a planned schedule. If issues are not resolved, the analysis of the situation is complicated, or impacts to listed species are found to be greater than minimal, the District shall consider reviewing the project under the Individual Permit process.

3. Historic Properties - No activity is authorized under the RPP if the activity will affect properties listed, or properties eligible for listing, in the National Register of Historic Places, in accordance with the provisions of 33 CFR Part 325,

Appendix C and Section 106 of the National Historic Preservation Act. Federal agencies should follow their own procedures for compliance with the requirements of the National Historic Preservation Act and other Federal historic preservation laws. Non-federal applicants should notify the District if the activity may affect historic properties which are listed, determined eligible for listing, or which the applicant has reason to believe may be eligible for listing, on the National Register of Historic Places in the project area. If the District determines that the activity may potentially affect a historic property, or a property eligible for listing, the activity shall not be authorized under the RPP and an individual permit will be required. The District will take into account the effects on such properties in accordance with 33 CFR Part 325, Appendix C. If all issues pertaining to historic properties have been resolved through the consultation process to the satisfaction of the District, Illinois Historic Preservation Agency (IHPA) and Advisory Council on Historic Preservation, the District may, at its discretion, authorize the activity under the RPP instead of an individual permit. Applicants are encouraged to obtain information on historic properties from the IHPA and the National Register of Historic Places at the earliest stages of project planning. For information, contact:

Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, Illinois 62701-1507
(217) 782-4836

4. Soil Erosion and Sediment Control - Measures shall be taken to control soil erosion and sedimentation at the project site to ensure that sediment is not transported to waters of the U.S. during construction. Soil erosion and sediment control measures shall be implemented before initiating any clearing, grading, excavating or filling activities. All temporary and permanent soil erosion and sediment control measures shall be maintained throughout the construction period and until the site is stabilized. All exposed soil and other fills, and any work below the ordinary high water mark shall be permanently stabilized at the earliest practicable date.

Applicants are required to prepare a soil erosion and sediment control (SESC) plan. The plan shall be designed in accordance with the Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control ("Green Book", latest version, except chapter 6). Practice standards and specifications for measures outlined in the soil erosion and sediment control plans will follow the latest edition of the "Illinois Urban Manual: A Technical Manual Designed for Urban Ecosystem Protection and Enhancement." Additional Soil Erosion and Sediment Control (SESC) measures not identified in the "Green Book" may also be utilized upon District approval.

At the District's discretion, an applicant may be required to submit the SESC plan to the local Soil and Water Conservation District (for activities in Cook, DuPage, Kane, McHenry and Will Counties), or the Stormwater Management Commission (for activities in Lake County) for review. When the District does require submission of an SESC plan, the following applies: An activity may not commence until the SESC plan for the project site has been reviewed; The SWCD/SMC will review the plan and provide a written evaluation of its adequacy; A SESC plan is considered acceptable when the SWCD/SMC has found it meets technical standards. Once this determination has been made, the authorized work may commence unless the SWCD/SMC has requested that they be notified prior to commencement of the approved plans. The SWCD/SMC may attend pre-construction meetings with the permittee and conduct inspections during construction to determine compliance with the plans. Applicants are encouraged to begin coordinating with the appropriate SWCD/SMC office at the earliest stages of project planning. For information, contact:

Kane/DuPage SWCD
2315 Dean Street, Ste. 100
St. Charles, IL 60174
(630) 584-7961

Will/South Cook SWCD
1201 Gougar Road
New Lenox, IL 60451
(815) 462-3106

McHenry County SWCD
1648 South Eastwood Dr.
Woodstock, IL 60098
(815) 338-0099

North Cook SWCD
899 Jay Street
Streamwood, IL 60120
(847) 468-0071

Lake County SMC
333-B Peterson Road
Libertyville, IL 60048
(847) 918-5260

5. Floodplain - Discharges of dredged or fill material into waters of the United States within the 100-year floodplain (as defined by the Federal Emergency Management Agency) resulting in permanent above-grade fills shall be avoided and minimized to the maximum extent practicable. When such an above-grade fill would occur, the applicant may need to obtain approval from the Illinois Department of Natural Resources, Office of Water Resources, (IDNR-OWR) which regulates activities affecting the floodway and local government (e.g., Village or County) with jurisdiction over activities in the floodplain. Compensatory storage may be required for fill within the floodplain. Applicants are encouraged to obtain information from the IDNR-OWR and local government with jurisdiction at the earliest stages of project planning. For information on floodway construction, contact:

IDNR/OWR
36 S. Wabash, Suite 1415
Chicago, Illinois 60603
(312) 793-3123

For information on floodplain construction, please contact the local government and/or the Federal Emergency Management Agency. Pursuant to 33 CFR 320.4 (j), the District will consider the likelihood of the applicant obtaining approval for above-ground permanent fills in floodplains in determining whether to issue authorization under the RPP.

6. Navigation - No activity may cause more than minimal adverse effects on navigation.

7. Proper Maintenance - Any authorized structure or fill shall be properly maintained, including that necessary to ensure public safety.

8. Aquatic Life Movements - No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including species that normally migrate through the area, unless the activity's primary purpose is to impound water.

9. Equipment - Heavy equipment working in wetlands shall be placed on mats or, other measures such as low-ground pressure equipment shall be taken to minimize soil disturbance.

10. Wild and Scenic Rivers - No activity may occur in a component of the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status. Information on Wild and Scenic Rivers may be obtained from the appropriate land management agency in the area, such as the National Park Service and the U.S. Forest Service.

11. Tribal Rights - No activity or its operation may impair reserved tribal rights, such as reserved water rights, treaty fishing and hunting rights.

12. Water supply intakes - No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

13. Shellfish production - No discharge of dredged or fill material may occur in areas of concentrated shellfish production.

14. Suitable material - No discharge of dredged or fill material may consist of unsuitable material and material discharged shall be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). Unsuitable material includes trash, debris, car bodies, and asphalt.

15. Spawning areas - Discharges in spawning areas during spawning seasons shall be avoided to the maximum extent practicable.

16. Obstruction of high flows - Discharges shall not permanently restrict or impede the passage of normal or expected high flows. All crossings shall be culverted, bridged or otherwise designed to prevent the restriction of expected high water flows, and shall be designed so as not to impede low water flows or the movement of aquatic organisms.

17. Impacts from impoundments - If the discharge creates an impoundment of water adverse impacts on aquatic resources caused by the accelerated passage of water and/or the restriction of its flow shall be avoided to the maximum extent practicable.
18. Waterfowl breeding areas - Discharges into breeding areas for migratory waterfowl shall be avoided to the maximum extent practicable.
19. Removal of temporary fills - Any temporary fill material shall be removed in its entirety and the affected area returned to its pre-existing condition.
20. Mitigation - Impacts to waters of the U.S. shall be avoided and minimized to the maximum extent practicable at the project site. Avoidance and minimization shall be attempted before compensatory wetland mitigation is considered. Compensatory mitigation will be accomplished by establishing a minimum ratio of 1.5 acres of mitigation for every 1.0 acre of waters of the U.S. impacted by the project. Furthermore, the District has the discretion to require additional mitigation to ensure that the impacts are no more than minimal. Mitigation shall be consistent with the Memorandum of Agreement (MOA) between the Department of the Army and the Environmental Protection Agency Concerning the Determination of Mitigation under the Clean Water Act Section 404(b) (1) Guidelines. Mitigation may consist of the following, listed in order of preference: restoration of historic wetlands that are currently non-wetlands because of drainage or other alterations; enhancement of existing aquatic resources through various actions such as modification of hydrology, introduction of appropriate native species, invasive species removal, and other management measures; creation of aquatic resources in historically upland areas; and, preservation of existing aquatic resources through real estate acquisition strategies. Careful consideration shall be given to the likelihood of sustainability, practicability, availability, and reliability of compensatory mitigation. Off-site wetland mitigation may be considered where the long-term success of on-site mitigation is uncertain.
21. Notification - The applicant shall provide written notification (i.e., a complete application) for a proposed activity to be authorized under the RPP prior to commencing a proposed activity. The District's receipt of the complete application is the date when the District receives all required notification information from the applicant (see below). If the District does not provide a written response to the applicant within 45 calendar days following receipt of a complete application, the applicant may presume the proposed activity qualifies for the requested Regional Permit(s), provided the activity complies with the terms and conditions of the RPP. If the District informs the applicant within 45 calendar days that the notification is incomplete (i.e., not a complete application), the applicant shall submit to the District in writing, the requested information to be considered for review under the Regional Permit Program. A new 45-day review period will commence when the District receives the requested information. Applications that involve unauthorized activities that are completed or partially completed by the applicant are not subject to the 45-day review period.

For all activities, notification will include:

- a. A cover letter providing a detailed description of the proposed activity, a clear project purpose and need statement, the Regional Permit(s) to be used for the activity, the area (in acres) of waters of the U.S. to be impacted, and a statement that the terms and conditions of the RPP will be followed;
- b. A completed joint application form (NCR Form 426, Protecting Illinois Waters) signed by the applicant or agent. If the agent signs, notification shall include a signed, written statement from the applicant designating the agent as their representative;
- c. A delineation of waters of the U.S., including wetlands, for the project area, and for areas adjacent to the project site (off-site wetlands shall be identified through the use of reference materials including review of local wetland inventories, soil surveys and the most recent available photography), shall be prepared in accordance with the current Corps of Engineers methodology

and generally conducted during the growing season.* For sites supporting wetlands, the delineation shall include a Floristic Quality Assessment (Swink and Wilhelm. 1994, latest edition, Plants of the Chicago Region). The delineation shall also include information on the occurrence of any high-quality aquatic resources, and a listing of waterfowl and amphibian species observed while at the project area. The District will exercise their judgment when it comes to the submittal of wetland delineation. Flexibility of the requirements may be determined by the District on a case-by-case basis only.

- d. A map showing the location of the project area;
- e. Full-size preliminary engineering drawings (8 ½" x 11" reduced-sized for Category II projects only) showing all aspects of the proposed activity and the location of waters of the U.S. to be impacted and not impacted. The plans shall include grading contours and proposed and existing structures such as buildings footprints, roadways, road crossings, stormwater management facilities, utilities, construction access areas and details of water conveyance structures. The drawings shall also depict buffer areas, outlots or open space designations, best management practices, deed restricted areas, and restoration areas, if required under the specific RP;
- f. Submittal of soil erosion and sediment control (SESC) plans that identify all SESC measures to be instituted during construction of the project;
- g. The application must include a letter from the U.S. Fish and Wildlife Service (Service) indicating whether any species listed under the Endangered Species Act of 1973, as amended (Act), may be present within areas affected (directly or indirectly) by the proposed project. This letter should be dated within one year of the submission date of the application packet to the District. The District will use this and other available information to determine whether the proposed project may adversely affect a federally listed species. If the District believes that a listed species may be adversely affected we will begin discussions with the Service, and will include the applicant or their consultant in these discussions. If appropriate, the District will request formal consultation from the Service pursuant to section 7 of the Act on the proposed project. The District will not issue a permit to an applicant until the consultation process is completed;
- h. A signed statute of limitations tolling agreement (if application is after-the-fact);
- i. A discussion of measures taken to avoid and/or minimize impacts to aquatic resources on the project site;
- j. A compensatory mitigation plan for all impacts to waters of the U.S., (if compensatory mitigation is required under the specific RP); and
- k. Other items listed under the specific RP.

For Category II activities, the District will, upon receipt of a complete application, provide by facsimile transmission, email or other expeditious means), a pre-construction notice (PCN) which describes the proposed activity to the United States Fish & Wildlife Service (USFWS), United States Environmental Protection Agency (USEPA), Illinois Department of Natural Resources (IDNR), Illinois Department of Natural Resources/Office of Water Resources (IDNR/OWR) Illinois Environmental Protection Agency (IEPA), Illinois Historic Preservation Agency (IHPA), Illinois Nature Preserves Commission (INPC) and U.S. Coast Guard (Section 10 activities only). These agencies will then have ten (10) calendar days from the date the PCN is transmitted to contact the District if they intend to provide substantive, site-specific comments. If so contacted by an agency, the District will grant an

* If a wetland delineation is conducted outside the growing season, the District will determine on a case-by-case basis whether sufficient evidence is available to make an accurate determination. If the District finds that delineation lacks sufficient evidence, the application will not be considered complete until such time the information is provided. This may involve re-delineating the project site during the growing season.

extension, not to exceed fifteen (15) calendar days for agency written comments before making a decision on the notification. The District will fully consider agency comments received within the specified time frame. If the District determines the activity complies with the terms and conditions of the RPP and impacts on aquatic resources are minimal, the District will notify the applicant in writing and include any special conditions deemed necessary. If the District determines that the impacts of the proposed activity are more than minimal, the District will notify the applicant that the project does not qualify for authorization under the RPP and instruct the applicant on the procedures to seek authorization under an individual permit.

22. Compliance Certification - Every permittee who has received authorization under the RPP from the District will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the District with the authorization letter and will include: a) A statement that the authorized work was done in accordance with the District's authorization, including any general or specific conditions; b) A statement that any required mitigation was completed in accordance with the permit conditions and; c) The signature of the permittee certifying the completion of the work and mitigation.

23. Multiple use of Regional Permits - In any case where a Regional Permit is combined with any other Regional Permit to cover a single and complete project (except where prohibited under specific Regional Permits), the applicant shall notify the District in accordance with General Condition 21. If multiple Regional Permits are used, the total impact may not exceed the maximum allowed by the Regional Permit with the greatest impact threshold.

24. Other Restrictions - Authorization under the RPP does not obviate the need to obtain other Federal, State or local permits, approvals, or authorizations required by law nor does it grant any property rights or exclusive privileges, authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project.

Approved by:

_____/ORIGINAL SIGNED/_____
John D. Drolet
Colonel, U.S. Army
District Commander

1 March 2007

Date

REGIONAL PERMITS

1. RESIDENTIAL, COMMERCIAL AND INSTITUTIONAL DEVELOPMENTS

RP1 authorizes the construction of residential, commercial and institutional developments and associated infrastructure, such as roads, utilities, detention areas, and recreation areas, subject to the following requirements that shall be addressed in writing, and submitted with the notification:

- a. The impact to waters of the U.S. shall not exceed 1.0 acres. For projects that impact over 0.10 acres of waters of the U.S., the permittee is required to provide compensatory mitigation.
- b. Projects that impact no more than 0.5 acres of waters of the U.S., and do not impact any high-quality aquatic resources, shall be processed under Category I.
- c. Projects that impact over 0.5 acres up to 1.0 acres of waters of the U.S., or impacts high-quality aquatic resources shall be processed under Category II.
- d. The permittee shall establish and/or enhance an upland buffer of native plants (or other appropriate vegetation approved by the District) adjacent to all created, restored, enhanced or preserved waters of the U.S., including wetlands. Created buffers should be established on 6:1 or gentler slopes. The following buffer widths are required:
 - 1) For any waters of the U.S. determined to be a high-quality aquatic resource, the buffer shall be a minimum of 100 feet;
 - 2) For any waters of the U.S. that do not qualify as wetland (e.g. lakes, rivers, ponds, etc.), the buffer shall be a minimum of 50 feet from the Ordinary High Water Mark (OHWM);
 - 3) For any jurisdictional wetland from 0.25 acres up to 0.50 acres, the buffer shall be a minimum of 30 feet; and
 - 4) For any jurisdictional wetland over 0.50 acres, the buffer shall be a minimum of 50 feet.

The District may allow buffer widths below the above-required minimums. It shall be incumbent on the applicant to demonstrate that no practicable alternatives are available that would not impact the required buffer widths.

Stormwater retention/detention facilities and pervious nature trails may be located in the buffer. However, the facility shall be setback to a minimum distance of 50% of the required buffer and the trail shall be setback to a minimum distance of 10% of the required buffer, leaving the remaining buffer footage (adjacent to the regulated area) to consist of native vegetation only or other appropriate vegetation approved by the District. The District may allow Best Management Practices, small boat launches and boat houses, and piers/docks to be located in buffers.

- e. All remaining, created, restored or enhanced waters of the U.S. and adjacent buffers on the project site shall be permanently preserved and protected through deed restriction (or conservation easement). A draft deed restriction (or conservation easement) shall be provided with notification.
- f. No lot lines shall occur in created, restored, enhanced or preserved waters of the U.S. and adjacent buffer areas on the project site. In instances where there is a demonstrated conflict between this lot line restriction and a local ordinance or state law, the District may accept physical measures such as the installation of split-rail fencing or other means of separating the protected

area, posting of signs marking the limits of the protected areas, and establishing a party responsible for the long-term management of the protected areas in lieu of recording such areas as separate outlot property deeds.

- g. The project shall employ Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts of development on aquatic resources. BMPs shall be considered at the earliest planning stages of the project.

The applicant shall design the project to include the preservation of natural resource features such as floodplains, streams, lakes, steep slopes, significant wildlife areas, wetlands, natural depressions and drainageways, prairies, woodlands, sensitive aquifers and their recharge areas and native soils. In addition, the design elements utilized by the applicant shall include an appropriate combination of those provided on the list below:

- 1) Minimize mass grading and disturbance of soils;
- 2) Lay out streets and lots to conform to the natural topography of the site;
- 3) Minimize new impervious surfaces by clustering of neighborhoods and homes, minimizing street widths and parking lots, and reducing lot sizes and building setbacks;
- 4) Preserve and create natural landscaping, buffers and filter strips
- 5) Utilize permeable areas to maximize infiltration of runoff into the ground through the use of biofilters, filter strips, swales, infiltration trenches, permeable pavement and native vegetated open spaces;
- 6) Direct runoff to permeable areas and/or utilize stormwater for reuse by:
 - a. Directing roof runoff towards permeable surfaces, drywells, French drains, vegetated swales, or other BMPs instead of driveways or other non-permeable surfaces;
 - b. Grading impervious surfaces to direct runoff to permeable areas, utilizing level spreaders or other methods to distribute the impervious runoff onto pervious surfaces;
 - c. Using cisterns, retention structures or rooftops to store precipitation or runoff for reuse; and
 - d. Removing berms and designing pavement edges (e.g., curb cuts) in order to direct water to permeable landscaped areas.
- 7) Improve water quality of stormwater leaving the site through the use of a naturalized detention basin designed to maximize the removal and transformation of runoff pollutants. Design should include:
 - a. Emergent vegetation in the bottoms of the wetland basins and along the periphery of wet bottom basins, and side slopes vegetated in native prairie (traditional dry bottom basins are not approved BMPs);
 - b. Stilling basins at major detention basin inlets and maximizing the distance between major inlets and the basin outlet;
 - c. Installation of pre-settlement or mechanical stormwater treatment units prior to discharge of stormwater into primary detention basins; and
 - d. In locations where detention basin discharge to adjacent/downstream wetlands, designing detention basin outlet structures to spread and infiltrate runoff through the use of level spreader devices.

A written narrative shall be included with notification, which describes how the BMP hierarchy above was used in determining the water quality protection practices selected for the project site. BMP(s) may be located in upland

buffers adjacent to wetlands and other waters of the U.S. The narrative shall describe in detail the BMPs that will be utilized and permanently maintained, and the entity responsible for maintenance of the BMPs. A management and monitoring plan will be required for all approved BMPs. The plan shall be designed on a case-by-case basis and shall include performance standards such as the BMPs ability to function as designed, percent coverage of vegetation, stabilized soils, and corrective measures to bring areas into compliance, etc.

Applicants who protect water quality and minimize run-off by designing and implementing a comprehensive and coordinated use of BMPs throughout the project site may receive partial compensatory wetland mitigation credit. The District may, at its discretion and on a case-by-case basis, reduce the required mitigation ratio as low as 1:1, following a request from the applicant for such a credit. In order to qualify for the credit, the applicant shall prepare a water quality management plan for the entire project site that identifies priority watershed resources to be protected, water quality goals, the natural and proposed drainage system and details of the projected runoff quality and quantity. Each BMP selected shall be part of a coordinated system ("treatment train"), which provides multiple layers of treatment.

- h. Stormwater management facilities shall generally not be constructed in a linear body of water such as a river, or perennial, intermittent or ephemeral stream or creek, unless there is substantial evidence that the project will provide a benefit to the aquatic system.
- i. The project shall be designed such that stormwater does not directly discharge into waters of the U.S. All water shall be infiltrated or detained and treated prior to discharging into waters of the U.S. In addition, stormwater shall be discharged using methods that promote infiltration and water quality treatment, such as level spreaders, infiltration trenches and vegetated swales.
- j. This permit does not authorize the underground piping of a linear waterbody.
- k. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the conservation area, which recommends measures to protect the area from potential impacts that may result from the development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- l. The project shall be a single and complete project. For example, if construction of a residential development involves phases, the sum of all impacted areas would be the basis for deciding whether or not the project will be covered under this Regional Permit.
- m. All roads shall adhere to items e through o, as listed in under Regional Permit 3, "Transportation Projects", which shall be addressed in writing and submitted with the notification.
- n. All utility lines shall adhere to items d through q, as listed in under Regional Permit 8, "Utility Line Projects", and shall be addressed in writing and submitted with the notification. Utility Line Projects are subject to individual water quality certification under Section 401 of the Clean Water Act for certain water bodies as listed under RP 8 condition d.
- o. All temporary construction activities which adhere to items c through i, as listed in under Regional Permit 7, "Temporary Construction Activities" which shall be addressed in writing and submitted with the notification.
- p. This permit shall not be used in conjunction with any other regional permit except RP10.

2. RECREATION PROJECTS

RP2 authorizes the construction of recreation projects, including golf courses, sports fields, playgrounds, parks and multi-use trails, and associated infrastructure, such as roads, utilities, and detention areas, subject to the following requirements, that shall be addressed in writing and submitted with the notification:

- a. The impact to waters of the U.S. shall not exceed 1.0 acres. For projects that impact over 0.10 acres of waters of the U.S., the permittee is required to provide compensatory mitigation.
- b. Projects that impact no more than 0.5 acres of waters of the U.S., and do not impact any high-quality aquatic resources, shall be processed under Category I.
- c. Projects that impact over 0.5 acres up to 1.0 acres of waters of the U.S., or impacts high-quality aquatic resources shall be processed under Category II.
- d. The permittee shall establish and/or enhance an upland buffer of native plants (or other appropriate vegetation approved by the District) adjacent to all created, restored, enhanced or preserved waters of the U.S., including wetlands. Created buffers should be established on 6:1 or gentler slopes. The following buffer widths are required:
 - 1) For any waters of the U.S. determined to be a high-quality aquatic resource, the buffer shall be a minimum of 100 feet;
 - 2) For any waters of the U.S. that do not qualify as wetland (e.g. lakes, rivers, ponds, etc.), the buffer shall be a minimum of 50 feet from the Ordinary High Water Mark (OHWM);
 - 3) For any jurisdictional wetland from 0.25 acres up to 0.50 acres, the buffer shall be a minimum of 30 feet; and
 - 4) For any jurisdictional wetland over 0.50 acres, the buffer shall be a minimum of 50 feet.

The District may allow buffer widths below the above-required minimums. It shall be incumbent on the applicant to demonstrate that no practicable alternatives are available that would not impact the required buffer widths

Stormwater retention/detention facilities and pervious nature trails may be located in the buffer. However, the facility shall be setback to a minimum distance of 50% of the required buffer and the trail shall be setback to a minimum distance of 10% of the required buffer, leaving the remaining buffer footage (adjacent to the regulated area) to consist of native vegetation only or other appropriate vegetation approved by the District. The District may allow Best Management Practices, small boat launches and boat houses, and piers/docks to be located in buffers.

- e. All remaining, created, restored or enhanced waters of the U.S. and adjacent buffers on the project site shall be permanently preserved and protected through deed restriction (or conservation easement). A draft deed restriction (or conservation easement) shall be provided with notification.
- f. No lot lines shall occur in created, restored, enhanced or preserved waters of the U.S. and adjacent buffer areas on the project site. In instances where there is a demonstrated conflict between this lot line restriction and a local ordinance or state law, the District may accept physical measures such as the installation of split-rail fencing or other means of separating the protected

area, posting of signs marking the limits of the protected areas, and establishing a party responsible for the long-term management of the protected areas in lieu of recording such areas as separate outlot property deeds.

- g. The project shall employ Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts of development on aquatic resources. BMPs shall be considered at the earliest planning stages of the project.

The applicant shall design the project to include the preservation of natural resource features such as floodplains, streams, lakes, steep slopes, significant wildlife areas, wetlands, natural depressions and drainageways, prairies, woodlands, sensitive aquifers and their recharge areas and native soils. In addition, the design elements utilized by the applicant shall include an appropriate combination of those provided on the list below:

- 1) Minimize mass grading and disturbance of soils;
- 2) Lay out streets and lots to conform to the natural topography of the site;
- 3) Minimize new impervious surfaces by clustering of neighborhoods and homes, minimizing street widths and parking lots, and reducing lot sizes and building setbacks;
- 4) Preserve and create natural landscaping, buffers and filter strips;
- 5) Utilize permeable areas to maximize infiltration of runoff into the ground through the use of biofilters, filter strips, swales, infiltration trenches, permeable pavement and native vegetated open spaces;
- 6) Direct runoff to permeable areas and/or utilize stormwater for reuse by:
 - a. Directing roof runoff towards permeable surfaces, drywells, French drains, vegetated swales, or other BMPs instead of driveways or other non-permeable surfaces;
 - b. Grading impervious surfaces to direct runoff to permeable areas, utilizing level spreaders or other methods to distribute the impervious runoff onto pervious surfaces;
 - c. Using cisterns, retention structures or rooftops to store precipitation or runoff for reuse; and
 - d. Removing berms and designing pavement edges (e.g., curb cuts) in order to direct water to permeable landscaped areas.
- 7) Improve water quality of stormwater leaving the site through the use of a naturalized detention basin designed to maximize the removal and transformation of runoff pollutants. Design should include:
 - a. Emergent vegetation in the bottoms of the wetland basins and along the periphery of wet bottom basins, and side slopes vegetated in native prairie (traditional dry bottom basins are not approved BMPs);
 - b. Stilling basins at major detention basin inlets and maximizing the distance between major inlets and the basin outlet;
 - c. Installation of pre-settlement or mechanical stormwater treatment units prior to discharge of stormwater into primary detention basins; and
 - d. In locations where detention basin discharge to adjacent/downstream wetlands, designing detention basin outlet structures to spread and infiltrate runoff through the use of level spreader devices.

A written narrative shall be included with notification, which describes how the BMP hierarchy above was used in determining the water quality protection practices selected for the project site. BMP(s) may be located in upland buffers adjacent to wetlands and other waters of the U.S. The narrative shall describe in detail the BMPs that will be utilized and permanently maintained, and the entity responsible for maintenance of the BMPs. A management and monitoring plan will be required for all approved BMPs. The plan shall be designed on a case-by-case basis and shall include performance standards such as the BMPs ability to function as designed, percent coverage of vegetation, stabilized soils, and corrective measures to bring areas into compliance, etc.

Applicants who protect water quality and minimize run-off by designing and implementing a comprehensive and coordinated use of BMPs throughout the project site may receive partial compensatory wetland mitigation credit. The District may, at its discretion and on a case-by-case basis, reduce the required mitigation ratio as low as 1:1, following a request from the applicant for such a credit. In order to qualify for the credit, the applicant shall prepare a water quality management plan for the entire project site that identifies priority watershed resources to be protected, water quality goals, the natural and proposed drainage system and details of the projected runoff quality and quantity. Each BMP selected shall be part of a coordinated system ("treatment train"), which provides multiple layers of treatment.

- h. Stormwater management facilities shall generally not be constructed in a linear body of water such as a river, or perennial, intermittent or ephemeral stream or creek, unless there is substantial evidence that the project will provide a benefit to the aquatic system.
- i. The project shall be designed such that stormwater does not directly discharge into waters of the U.S. All water shall be infiltrated or detained and treated prior to discharging into waters of the U.S. In addition, stormwater shall be discharged using methods that promote infiltration and water quality treatment, such as level spreaders, infiltration trenches and vegetated swales.
- j. This permit does not authorize the underground piping of a linear waterbody.
- k. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the conservation area, which recommends measures to protect the area from potential impacts that may result from the development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- l. The project shall be a single and complete project. For example, if construction of a golf course involves phases, the sum of all impacted areas would be the basis for deciding whether or not the project will be covered under this Regional Permit.
- m. All roads shall adhere to items e through o, as listed in under Regional Permit 3, "Transportation Projects", which shall be addressed in writing and submitted with the notification.
- n. All utility lines shall adhere to items d through q, as listed in under Regional Permit 8, "Utility Line Projects", and shall be addressed in writing and submitted with the notification. Utility Line Projects are subject to individual water quality certification under Section 401 of the Clean Water Act for certain water bodies as listed under RP 8 condition d.
- o. All temporary construction activities which adhere to items c through i, as listed in under Regional Permit 7, "Temporary Construction Activities" which shall be addressed in writing and submitted with the notification.
- p. This permit shall not be used in conjunction with any other regional permit except RP10.

3. TRANSPORTATION PROJECTS

RP3 authorizes the construction or replacement of public transportation projects, including roads, bridges, runways and taxiways, and railroads. Subject to the following requirements, that shall be addressed in writing, and submitted with the notification:

- a. The impact to waters of the U.S. shall not exceed 0.25 acres for any single crossing. For projects that involve multiple crossings of waters of the U.S., the cumulative impact cannot exceed 1.0 acres. For purposes of this RP only, a single crossing is defined as an act or instance of crossing over, or an activity that facilitates transportation from one side to the other.
- b. For projects that cause the loss of greater than 0.10 acre of waters of the U.S., the permittee is required to provide compensatory mitigation.
- c. Projects that impact no more than 0.5 acres of waters of the U.S. and do not impact any high-quality aquatic resources will be processed under Category I.
- d. Projects that impact over 0.5 acres up to 1.0 acres of waters of the U.S. and/or impacts a high-quality aquatic resources shall be processed under Category II.
- e. The discharge shall be limited to the minimum width necessary to complete the authorized work.
- f. Crossings of waterways and/or wetlands shall be culverted, bridged or otherwise designed to prevent the restriction of expected high water flows, and shall be designed so as not to impede low water flows or the movement of aquatic organisms. For example, the bottom of the opening for box culverts shall be installed 6 to 12 inches below streambed elevation to maintain a more natural type streambed. The addition of rock or other suitable material may be required in the culvert to prevent erosion of the existing streambed. Additional guidance for the planning and installation of stream crossings can be found at <http://www.fws.gov/midwest/Fisheries/StreamCrossings/index.htm>
- g. The permittee shall clearly label the construction drawings to include existing and proposed grading contours, all structures associated with the installation of the crossing such as wing walls, and/or rock and concrete protection measures, and existing and proposed utilities lines and associated structures. A detailed narrative shall accompany the construction plans and describe all work to be performed as indicated on the plans.
- h. All in-stream work, such as the removal of accumulated sediments, and demolition work, such as the removal of existing structures, shall be clearly labeled on the construction drawings and included in project narrative.
- i. Crossings over waterways and/or wetlands shall adhere to the requirements of RP7 c through i, "Temporary Construction Activities". All items of RP7 shall be addressed in writing and submitted with notification.
- j. This permit shall not be used to authorize structural bank stabilization methods such as retaining walls, gabion baskets, etc., other than those structures necessary to assure the integrity of the stream and stream bank immediately adjacent to the crossing only.
- k. The permittee shall establish and maintain an upland buffer of native plants (or other appropriate vegetation approved by the District) within the right-of-way adjacent to all wetlands.
- l. To the greatest extent possible, the activity should be designed such that surface water does not directly discharge into waters of the U.S. All water should be infiltrated or detained and treated prior to discharging into waters of the U.S.

- m. If dewatering of the site is required in order to perform work in waterways, the site shall be dewatered for work in the dry and dewatering will be temporary only. No in-stream work shall be authorized unless soil erosion and sediment control measures are acceptable by the District.
- n. This permit specifically excludes discharges into jurisdictional areas used to construct associated building pads or equipment storage areas.
- o. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the conservation area that recommends measures to protect the area from potential impacts that may result from development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- p. This permit cannot be used to authorize the installation of road crossings associated with residential, commercial or institutional developments.

4. Minor Discharges and Dredging

RP4 authorizations may consist of the following types of activities:

1. The discharge of up to 25 cubic yards of dredged or fill material, including the discharge of materials such as concrete, sand, rock or stone into tightly sealed cells, where such cells will be used as a structural member for a pile-supported structure (such as a bridge, walkway or mooring cell), and the dredging of up to 25 cubic yards of material. The activity, including discharges and/or dredging, shall not exceed 25 cubic yards or impact more than 0.25 acres of waters of the U.S. and shall not impact high-quality aquatic resources.
2. Single Family Residence: The discharge of dredged or fill material for construction or expansion of elements of a single-family residence (including house, garage and driveway) provided the activity is a single and complete project, this RP is used only once per residence, and sufficient vegetated buffers are maintained adjacent to all open water, streams and wetlands. An individual may use this RP only for a single-family home to be used as a personal residence. The term "individual" refers to natural person and/or married couple and does not include a corporation, partnership or similar entity. Projects that impact no more than 0.25 acres of waters of the U.S. and do not impact any high-quality aquatic resources will be processed under Category I. Projects that impact no more than 0.25 acres of waters of the U.S. and impacts high-quality aquatic resources, shall be processed under Category II and compensatory mitigation will be required. There is no volumetric limitation for activities processed under this item.

Authorization under RP4 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. This RP does not authorize stream diversions or construction of new channels connected to navigable waters.
- b. This RP does not authorize pile-supported structures used for houses, decks, buildings, parking lots or equipment
- c. Septic fields may not be constructed in waters of the United States.
- d. This RP does not authorize residential, commercial and institutional developments.
- e. This permit does not authorize temporary construction activities.
- f. This RP shall not be used for the placement of fill in boat slips.

g. Individual water quality certification under Section 401 of the Clean Water Act is required in the following waters:

- 1) Chicago Sanitary and Ship Canal
- 2) Calumet-Sag Channel
- 3) Little Calumet River
- 4) Grand Calumet River
- 5) Calumet River
- 6) Chicago River (main stem)
- 7) South Branch of the Chicago River (including South Fork)
- 8) North Branch of the Chicago River (including East and West Forks and Skokie Lagoons)
- 9) Lake Calumet
- 10) Des Plaines River
- 11) Fox River (including the Fox Chain of Lakes)
- 12) Lake Michigan
- 13) Pettibone Creek
- 14) All Public and Food Processing Water Supplies with surface intake facilities (as specified in the IEPA's List of Public and Food Processing Water Supplies Utilizing Surface Water)

5. WETLAND AND STREAM RESTORATION AND ENHANCEMENT

RP5 authorizes the restoration, creation and enhancement of wetlands and riparian areas, and the restoration and enhancement of rivers, creeks and streams, and open water areas on any public or private land. Wetland and stream restoration and enhancement activities include the removal of accumulated sediments; installation, removal and maintenance of small water control structures, dikes and berms; installation of current deflectors; enhancement, restoration, or creation of riffle and pool structures; placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or create stream meanders; backfilling of artificial channels and drainage ditches; removal of existing drainage structures; construction of open water areas; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation; mechanized land-clearing to remove undesirable vegetation; and other related activities. This RP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions and values. Authorization under RP5 is subject to the following requirements, that shall be addressed in writing and submitted with the notification:

- a. All projects shall be processed under Category I.
- b. This permit does not authorize activities to relocate or channelize a linear waterbody such as a river, stream, creek, etc.
- c. This permit cannot be used for the conversion of a stream or creek to another aquatic use, such as the creation of an impoundment for waterfowl habitat.
- d. This permit cannot be used to authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed.

- e. A management and monitoring plan shall be required for the restoration, creation or enhancement of aquatic resources. Upon the District's approval, the management and monitoring plan may be designed to be site specific, with the duration of the plan determined on a case-by-case basis.
- f. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the conservation area, that recommends measures to protect the area from potential impacts that may result from the development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.

6. COMPLETED ENFORCEMENT ACTIONS

RP6 authorizes any structure, work or discharge of dredged and fill material, remaining in place, or undertaken for mitigation, restoration or environmental benefit in compliance with:

- 1. The terms of a final written non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, or the terms of an EPA 309(a) order or consent decrees resolving a violation of Section 404 of the Clean Water Act. Projects shall be processed under Category I; or
- 2. The terms of a final Federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. Projects shall be processed under Category I.

7. TEMPORARY CONSTRUCTION ACTIVITIES

RP7 authorizes temporary structures and discharges necessary for construction activities, access fills and dewatering of construction sites. Authorization under RP7 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. All projects will be processed under Category I.
- b. The temporary impact to waters of the U.S. shall not exceed 0.25 acres.
- c. Fills will be of non-erodible materials and shall be constructed to withstand expected high flows.
- d. This permit does not authorize the use of earthfill cofferdams, or any practices that would result in a release of sediment into waters of the U.S. Cofferdams shall be constructed of non-erodible materials. Acceptable practices include pre-fabricated rigid cofferdams, sheet piling, inflatable bladders, sandbags and fabric-lined basins.
- e. For projects that require installation of a cofferdam, the method or practice to be utilized shall be specified in the project narrative, and clearly labeled on the construction plans.
- f. Low ground-pressure equipment is recommended for work in wetlands. If after careful consideration, the District accepts a proposal to use heavy equipment to accomplish the work, the placement of timber mats or other protective measures shall be utilized used to minimize soil disturbance.
- g. If dewatering of the site is required in order to perform work in perennial streams, the site shall be dewatered for work in the dry and shall only be temporary. No in-stream work shall be authorized unless soil erosion and sediment control measures are acceptable.
- h. All materials used for temporary construction activities will be removed to upland areas immediately following completion of the construction activity.

- i. The permittee is required to restore the construction area to pre-construction conditions, including grading to original contours and revegetating disturbed areas with native vegetation (or other vegetation approved by the District) immediately upon completion of the project. A restoration plan that includes a 1-foot contour topographic map, shall be submitted with the notification.

8. UTILITY LINE PROJECTS

RP8 authorizes the construction, maintenance and repair of utility line activities and associated facilities in waters of the United States. This includes trenching and backfilling activities for utility lines and fill activities for construction of substations and related appurtenances (temporary and permanent access roads, construction pads, stormwater management facilities, fencing, parking lots, etc.), poles, pads, anchors, outfall structures, and foundations for overhead utility line towers, utility lines under (e.g., through directional drilling) or over navigable waters (regulated under Section 10 waters only), and outfalls and associated intakes which are authorized, conditionally authorized, specifically exempted, or are otherwise in compliance with the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act). Authorization under RP8 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. Projects that impact no more than 0.5 acres of waters of the U.S., and do not impact any high-quality aquatic resources, will be processed under Category I.
- b. Projects that impact over 0.5 acres and up to 1.0 acres of waters of the U.S., and/or impacts high-quality aquatic resources, will be process under Category II.
- c. The impact to waters of the U.S. shall not exceed 1.0 acres. For projects that impact over 0.10 acres of waters of the U.S., the permittee is required to provide compensatory mitigation.
- d. Authorization under RP8 is subject to Individual water quality certification under Section 401 of the Clean Water Act in the following waters:
 - 1) Chicago Sanitary and Ship Canal
 - 2) Calumet-Sag Channel
 - 3) Little Calumet River
 - 4) Grand Calumet River
 - 5) Calumet River
 - 6) Chicago River (main stem)
 - 7) South Branch of the Chicago River (including South Fork)
 - 8) North Branch of the Chicago River (including East and West Forks and Skokie Lagoons)
 - 9) Lake Calumet
 - 10) Des Plaines River
 - 11) Fox River (including the Fox Chain of Lakes)
 - 12) Lake Michigan
 - 13) Pettibone Creek
 - 14) All Public and Food Processing Water Supplies with surface intake facilities (as specified in the IEPA's List of Public and Food Processing Water Supplies Utilizing Surface Water)

- e. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the conservation area, which recommends measures to protect the area from potential impacts that may result from construction activities. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- f. Stormwater management facilities shall generally not be constructed in a linear body of water such as a river, or perennial, intermittent or ephemeral stream or creek.
- g. The project should be designed such that stormwater does not directly discharge into waters of the U.S. All water shall be infiltrated or detained and treated prior to discharging into waters of the U.S. In addition, stormwater should be discharged using methods that promote infiltration and water quality treatment, such as level spreaders, infiltration trenches and vegetated swales.
- h. The permittee shall establish and/or enhance an upland buffer of native plants (or other appropriate vegetation approved by the District) adjacent to all created, restored, enhanced or preserved waters of the US., including wetlands, rivers, streams, creeks, ponds and lakes etc. However, the installation of underground and/or overhead utility line towers, poles, footings and anchors are exempt from the buffer requirement.
- i. The permittee is required to restore the construction area to pre-construction conditions, including grading the disturbed areas to original contours and revegetating (with native vegetation or other appropriate vegetation approved by the District) all disturbed areas immediately upon completion of the project. The restoration plan, along with a 1-foot contour topographic map of the project area, shall be submitted with the notification.
- j. The waters of the U.S. to be impacted shall be limited to the minimum necessary to construct the utility line.
- k. The construction area for linear utility line projects shall be limited to a width of 50 feet, except in farmed wetlands where there is an established Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. All designated work area(s), including construction staging areas, shall be drawn onto the submitted construction plans and clearly labeled.
- l. Any mechanized clearing of vegetation in the utility corridor shall be scheduled no more than seven (7) calendar days preceding installation of the utility line in that segment of the corridor. In no case shall vegetation in the entire corridor be cleared prior to installation of the utility line.
- m. For utility line projects, directional drilling (regulated in Section 10 waters only) or dry crossing techniques, such as fluming, shall be used if the waterbody to be crossed contains perennial flow. The construction drawings and project narrative shall depict the location of all construction access areas, dewatering pit(s), jacking and receiving pits, and shall discuss the potential need for "utility checks within the regulated area, and for the removal and disposal of bentonite slurry (by-product).
- n. If the project involves the use of directional drilling in navigable waters (Section 10 waters only) notification shall include a contingency plan. The contingency plan shall discuss actions to stabilize the work area, to employ alternative construction methods, and the process to obtain additional permits necessary to complete the project.
- o. Material resulting from trench excavation may be temporarily (up to 30 days) sidecast into waters of the U.S. provided that the material is not placed in such a manner that is dispersed by currents or other forces and is contained using approved soil erosion and sediment control measures.

- p. Utility lines shall not adversely alter existing hydrology of waters of the U.S., including wetlands. In wetland areas, utility line trenches shall be lined with clay, or other impervious materials or structures (such as cut-off walls) to ensure that the trench through which the utility line is installed does not drain waters of the U.S. In order to prevent a french drain effect; gravel bedding cannot be used as backfill material in the trench. The method chosen to prevent the draining of wetlands shall be drawn onto the constructions plans and clearly labeled.
- q. In wetland areas, the trench shall be backfilled with topsoil excavated from the trench in the same stratification in which it was removed.
- r. All temporary construction activities shall be constructed in accordance with the requirements of RP7, which adhere to items c through i, as listed in under Regional Permit 7, "Temporary Construction Activities" which shall be addressed in writing and submitted with the notification.
- s. All disturbed areas of the project (utility corridor, construction access and storage areas, disturbed slopes and streambanks, etc.) shall be stabilized (e.g., blanketed and seeded) immediately upon completion of construction activities in any one segment of the project. In no case shall soil stabilization be delayed until the project is completed.

Note: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit (except for pipes or pipelines used to transport gaseous, liquid, or liquefiable slurry substances over navigable waters of the United States, which are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899). Any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

9. MAINTENANCE

RP9 authorizes:

1. Repair or rehabilitation of any previously authorized, currently serviceable, structure or fill, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or footprint including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair or rehabilitation are permitted, provided the environmental impacts resulting from such repair or rehabilitation are minimal. This permit authorizes the repair, rehabilitation, or replacement of those structures destroyed by storms, floods, fire or other discrete events, provided the repair or rehabilitation is commenced or under contract to commence within three years of the date of their destruction or damage. Maintenance dredging and beach restoration are not authorized by this permit. All projects meeting these requirements shall be processed under Category I.
2. Maintenance of existing flood control facilities, retention/detention basins, and channels that were constructed by the Corps and transferred to a local sponsor for operation and maintenance. Maintenance is limited to that approved in a maintenance baseline determination made by the District. This determination will be based on the approved plans, the facility actually constructed, maintenance history, present versus original flood control needs, and presence of sensitive/unique functions and values of aquatic resources that may be adversely affected. Applicants are encouraged to meet with the District to establish the maintenance baseline prior to notification. This RP does not authorize the removal of sediment and associated vegetation from natural watercourses. All projects meeting these requirements shall be processed under Category II.

Authorization under RP9 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. In-stream work, such as the repair of scour holes or fill to stabilize structures, etc., will be processed under Category II.
- b. In the event that in-stream work is required, the area shall be dewatered so that all work is performed in the dry. All designated work area(s), including construction staging areas, shall be drawn onto the submitted construction plans and clearly labeled. No in-stream work shall be authorized unless soil erosion and sediment control measures are acceptable by the District.
- c. In the event of equipment leaks, all in-stream work shall require the installation of a boom. The boom shall be specified in the soil erosion and sediment control plan notes.
- d. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.

10. BANK STABILIZATION

RP10 authorizes bank stabilization activities in all waters of the U.S., except Lake Michigan, subject to the following, which shall be addressed in writing and submitted with the notification:

1. Projects that involve the use of vegetative and biotechnical practices will be processed under Category I, and are not subject to length restrictions. Biotechnical practices are defined as bank stabilization practices incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation. Examples of biotechnical practices include, but are not limited to: a) adequately sized riprap or A-Jack structures keyed into the toe of the slope with native plantings on the banks above; b) vegetated geogrids; c) coconut fiber (coir) logs; d) live, woody vegetative cuttings, fascines or stumps; e) brush layering; and f) soil lifts.
2. Projects that involve the use of structural bank stabilization practices, such as riprap, gabions, lunger boxes, steel sheet piling, or fabric-formed concrete will be processed under Category II (with the exception of projects meeting items a & b below) and shall not exceed a total length of 500 feet. Riprap materials shall not be placed at a steeper slope than 2:1 (2 horizontal to 1 vertical) for dumped riprap, and 1.5:1 for hand-placed riprap. Should broken concrete be used as riprap, all reinforcing rods shall be cut flush with the surface of the concrete. [Please note that in Lake County, evidence of compliance with the Lake County Watershed Development Ordinance, (WDO) shall preclude General Notification Requirements 21 items j and k].

The following items apply to all authorizations under RP10:

- a. Projects that involve the installation of rip-rap less than 250 feet in length on the non-ADID portions of the Fox Chain of Lakes, will be processed under Category I.
- b. Projects that involve the installation of a new seawall that is: 1) less than 250 feet in length, 2) located on the non-ADID portions of the Fox Chain of Lakes system, and 3) constructed to connect two existing seawalls or constructed along an excavated channel leading into a non-ADID portion of the Fox Chain of Lakes system, shall be processed under Category I.
- c. Projects that involve replacement of currently functional bank stabilization structures or practices shall be processed under Category I, provided that the new practice includes only minor deviations in the structure's configuration or footprint including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair.
- d. Structural and vegetative/biotechnical practices may be combined, but in no case shall structural practices exceed 500 feet in total length.

- e. Bioengineering practices may be constructed in HQARs under Category II.
- f. Structural practices may not be installed in HQARs under the Regional Permit Program.
- g. Bank stabilization shall conform to the existing shoreline and may not be used to reclaim land lost to erosion.
- h. No more than one (1) cubic yard per running foot of material shall be used as backfill.
- i. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.
- j. In-stream work to be performed below the toe of the slope is not authorized under this Regional Permit.
- k. This RP shall not be used for fill in boat slips.

11. Marine Structures and Activities

RP11 authorizes the installation, repair and modification of piers, boat docks (non-commercial only), boat ramps, boat hoists and lifts (including roof coverings), navigational and mooring aids, and temporary recreational structures. This RP also authorizes temporary structures or minor discharges of dredged or fill material necessary for the removal of vessels (wrecked, abandoned or disabled) or for the removal of man-made obstructions to navigation. In addition, this RP authorizes the installation, repair and modification of shore protection along Lake Michigan.

Certain limitations exist for the use of this RP within the Fox River Chain of Lakes waterway system, in accordance with the May 12, 2000 Fox River Chain of Lakes Boat Pier and Boat Ramp Application Review Policy. Authorization under RP11 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. All marine structures and activities, except the installation of boat ramps and shore protection along Lake Michigan, will be processed under Category I.
- b. The installation of boat ramps and shore protection along Lake Michigan will be processed under Category II.
- c. Boat docks shall be constructed in accordance with the following conditions and limitations:
 - 1) The dock shall not project more the 50 feet into a waterway, (up to 100 feet if located in a shallow water area of the Fox Chain-of-Lakes system). The dock shall be the minimum length necessary to reach suitable water depth, and in no instance greater than one quarter of the width of the waterway, and shall not extend beyond the navigation limits established by the Illinois Department of Natural Resources, Office of Water Resources (IDNR/OWR) and the District;
 - 2) The width of the dock shall not be greater than 10 feet;
 - 3) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline shall not exceed 50 percent of the landowner's shoreline frontage, nor 50 feet;
 - 4) Docks shall be aligned so as not to cross the projection of property lines into the waterway or come within 10 feet of the projection of the property line.
 - 5) Dock posts shall be marked with reflective devices. If the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the U.S. Coast Guard shall be installed and maintained by and at the

expense of the permittee;

- 6) The boat dock shall be securely anchored to prevent its detachment and becoming a floating hazard during times of high water or winds;
 - 7) Boat mooring buoys and dock flotation units shall be constructed of material that are clean and free of pollutants and will not become waterlogged or sink when punctured. Flotation units and devices shall be composed of low-density, closed cell, rigid plastic foam. Foam bead flotation will not be allowed unless commercially encapsulated and designed specifically for flotation purposes. Reconditioned plastic drums and metal barrels are allowed if they are first cleaned and filled with flotation foam. Barrel, drums or containers that previously contained pesticide, herbicide or other hazardous substances are not allowed;
 - 8) Non-floating boat docks shall be constructed in a manner which will minimize obstruction to flow; and
 - 9) If, at any future date, the IDNR/OWR or District determines that the dock facility obstructs or impairs navigation, or in any way infringes on the rights or interests of the public or any individual party, the permittee agrees to make necessary modification to the dock, as determined by IDNR/OWR or the District.
- d. Boat ramps shall not exceed 60 feet in width and shall be made of crushed stone, concrete, gravel or other suitable material. Boat ramps made of asphalt are not authorized under this Regional Permit.
- e. Shore protection in Lake Michigan includes seawalls, revetments, and bulkheads (constructed of wood, concrete, riprap, gabions, steel or fabric-formed concrete) constructed at the existing water line, parallel to the shoreline orientation. Shore protection projects shall include the following additional information:
- 1) Submittal of photographs representing the existing site conditions. The District may waive, on a case-by-case basis, the requirement to provide a complete wetland delineation;
 - 2) A detailed narrative defining a clear purpose and need for the proposed work;
 - 3) Baseline surveys of the existing shoreline;
 - 4) Plan views and cross-sections of all proposed work drawn to detail and provided on 8 1/2 X 11 sheets;
 - 5) Ordinary High Water Mark (OHWM) clearly marked on the plans;
 - 6) The amount of fill (in cubic yards) to be placed below the Ordinary High Water Mark (OHWM 585.1') of the Lake (IGLD 1985);
 - 7) Shoreline structures shall be designed to withstand the expected wave forces of the Lake. Steepening of stone structure faces that include a stone toe construction shall be allowed on a case-by-case basis; and
 - 8) Temporary construction activities to access the site, are limited to the use of barges in order to transport heavy equipment are authorized under this permit. If temporary dig-in of the substrate from the barge is necessary in order to transport equipment to the work site, you shall provide this information in the narrative.

Shore protection projects on Lake Michigan shall not:

- 1) Exceed 300 feet in length and 10 feet in width below the OHWM except in those instances where additional materials may be required in order to maintain the structural integrity of the proposed design;

- 2) Occur within 200 feet of the mouth of any waterway that flows into or out of Lake Michigan;
 - 3) Be used to reclaim land lost to erosion;
 - 4) Extend no further than existing structures on adjacent land, except in those instances where additional materials may be required in order to maintain the structural integrity of the proposed design;
 - 5) Involve dredging or filling beyond that required to install the shore protection; and
 - 6) Impede public access to the shoreline.
- f. For repair and/or modification of a marine structure, the date the structure was originally constructed and a copy of the Department of the Army permit for the structure, if one was granted, shall be provided. If the construction of the structure was not authorized by the Corps of Engineers, after-the-fact authorization shall be sought.
- g. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.

12. BRIDGE SCOUR PROTECTION

RP12 authorizes the construction and installation of protective armoring at existing bridge foundations, abutments and/or around bridge piers of **Scour Critical Bridges only** as defined in [Item 113 codes 0 through 4, Scour Critical Bridges, of the Federal Highway Administration (FHWA) document "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide)] based on the following criteria: bridge owners (State highway agencies, local and Federal agencies) are guided in their evaluation of the bridges by the FHWA Hydraulics Engineering Circulars 18 and 20, titled "Evaluating Scour at Bridges" and "Stream Stability at Highway Structures." Item 113 of the Coding Guide is used by the bridge owner to categorize the scour vulnerability of these bridges. Impacts to only those waterways that contain "Scour Critical Bridges" as designated by the FHWA shall be authorized under RP12. Authorization under RP12 is subject to the following, which shall be addressed in writing and submitted with the notification:

- a. All projects will be processed under Category II.
- b. Protective armoring may include riprap, broken concrete, formed concrete pieces, concrete filled fabric mats, gabions, or other engineered designs consistent with reasonable engineering standards. Should broken concrete be used, all reinforcing rods shall be cut flush with the surface of the concrete. The protective armoring may extend riverward of the adjacent shoreline or any adjacent existing seawalls, gabion structures, or riprap covered banks; and may extend above the existing streambed up to the Ordinary High Water Mark (OHWM) of the River. Material excavated for the construction of the protective armoring shall be disposed of in accordance with Federal, State and local laws and ordinances, and shall not be placed in a floodway or in any waters of the U.S., including wetlands.
- c. Temporary construction access may be obtained over the side of the bridge, by use of temporary roads or pads constructed of clean fill, by use of mats, or from barges or floating platforms. All material used for temporary access shall be removed from the site concurrent with completion of work in any segment of the project. All portions of the site shall be restored to preconstruction conditions.
- d. This permit does not authorize the discharge of fill material into wetlands, except as may be necessary for temporary construction access. Temporary construction activities shall be conducted in accordance with the requirements of RP 7.
- e. Cofferdams are limited to the following practices: pre-fabricated rigid cofferdams, sheet piling, inflatable bladders and fabric lined basins. This

regional permit does not authorize the use of earthfill cofferdams, or any practices that would result in a release of sediment into waters of the U.S.

- f. For in-stream work, the area shall be dewatered so that all work is performed in the dry. All designated work area(s), including construction staging areas, shall be drawn onto the submitted construction plans and clearly labeled. No in-stream work shall be authorized unless soil erosion and sediment control measures are acceptable
- g. Projects in special aquatic sites (e.g., wetlands, mud flats, vegetated shallows, and riffle and pool complexes, etc.) shall be conducted with no more than minimal adverse environmental effects.
- h. All designated work area(s) shall be drawn onto the submitted construction plans and clearly labeled.
- i. If, in the determination of the District, the protective armoring may constitute an undue hazard, obstruction to navigation, or if it is deemed that the project may not be in the public interest, an individual permit may be required for the work.

13. Cleanup of Toxic and Hazardous Materials

RP13 authorizes specific activities required to effect the containment, stabilization and removal of toxic and hazardous materials and petroleum products that are performed, ordered or sponsored by a government agency with established legal or regulatory authority, or through court-ordered remedial action plans or related settlements. RP13 is subject to the following conditions, which shall be addressed in writing and submitted with the notification:

- a. All projects will be processed under Category II.
- b. This permit does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
- c. Activities undertaken entirely on a site by authority of CERCLA as approved or required by EPA do not require authorization from the U.S. Army Corps of Engineers.
- d. Evidence that an activity is performed, ordered or sponsored by a government agency with established legal or regulatory authority, or through court-ordered remedial action plans or related settlements shall be included with notification.
- e. Compensatory mitigation is required for any cleanup that adversely impacts more than 0.10 acres of waters of the U.S.
- f. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.
- g. Section 401 water quality certification is authorized for RP13 subject to the following condition:

In addition to any action required of the Regional Permit 13 (Cleanup of Toxic and Hazardous Materials Projects) with respect to the "Notification" General Condition 21, the applicant shall notify the Illinois EPA Bureau of Water, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the Illinois EPA Bureau of Land (BOL) for all cleanup activities under BOL jurisdiction, or for which authorization or approval is sought from BOL for no further remediation. This Regional Permit is not valid for activities that do not require or will not receive authorization or approval from the BOL.

REGIONAL PERMIT PROGRAM ACTIVITY CATEGORIES

	CATEGORY I	CATEGORY II *
1. Residential, Commercial and Institutional Developments	Activity impacts no more than 0.5 acres of waters of the U.S., and does not impact a high-quality aquatic resource.	Activity impacts over 0.5 and up to 1.0 acres of waters of the U.S. including impacts to a high-quality aquatic resource.
2. Recreation Projects	Activity impacts no more than 0.5 acres of waters of the U.S., and does not impact a high-quality aquatic resource.	Activity impacts over 0.5 and up to 1.0 acres of waters of the U.S. including impacts to a high-quality aquatic resource.
3. Transportation Projects	Activity impacts no more than 0.25 acres for any single crossing. For projects that involve multiple crossings of waters of the U.S., the cumulative impact cannot exceed 0.5 acres of the U.S., and does not impact a high-quality aquatic resource.	Activity impacts no more than 0.25 acres for any single crossing. For projects that involve multiple crossings of waters of the U.S., the cumulative impact cannot exceed 1.0 acre of waters of the U.S. including impacts to a high-quality aquatic resource.
4. Minor Discharges & Minor Dredging	Activities including discharges and/or dredging shall not exceed 25 cubic yards and impact no more than 0.25 acres of waters of the U.S. and does not impact a high-quality resource.	Activity impacts no more than 0.25 acres of waters of the U.S. including impacts to a high-quality aquatic resource.
5. Wetland/Stream Restoration & Enhancement	All Activities.	N/A
6. Completed Enforcement Actions	All Judicial and Non-judicial settlements.	N/A
7. Temporary Construction Activities	All activities.	N/A
8. Utility Line Projects	Activities that impact no more than 0.5 acres of waters of the U.S. and do not impact a high-quality aquatic resource.	Activities for below-ground utility lines and associated facilities that impact between 0.5 acres and 1.0 acres of waters of the U.S. including impacts to a high-quality aquatic resource.
9. Maintenance	Repair or rehabilitation of any previously authorized, currently serviceable, structure or fill.	Maintenance of existing flood control facilities, retention/detention basins, and channels that were either previously authorized by the District or constructed by the Corps and transferred to a local sponsor for operation and maintenance.
10. Bank Stabilization	Activity involves use of vegetative or biotechnical practices.	Activity involves use of structural practices.
11. Marine Structures & Activities	All activities except installation of boat ramps and Lake Michigan shoreline protection.	Installation of boat ramps and Lake Michigan shoreline protection.
12. Bridge Scour Protection	N/A	All Activities
13. Cleanup of Toxic/Hazardous Materials	N/A	All Activities

* N/A; The District has the discretion to process any activity under Category II or under individual permit procedures where it has concerns for the aquatic resource.

NOTE: THIS TABLE IS A SUMMARY, DO NOT RELY ON THIS TABLE ALONE, PLEASE REFER TO THE FULL REGIONAL PERMIT PROGRAM DOCUMENT FOR DETAILED INFORMATION ON EACH REGIONAL PERMIT.

APPENDIX A: HIGH-QUALITY AQUATIC RESOURCES

The following descriptions of high-quality aquatic resources apply to the Chicago District only. This list is to be used as a guideline for identifying high quality resources in the six county regions. High quality aquatic resources are reviewed on a case-by-case basis and may include species not found in this list.

Advanced Identification (ADID) Sites: Aquatic sites that have been identified by the District and U.S. Environmental Protection Agency, in advance of specific permit requests, as areas generally unsuitable for disposal of dredged or fill material. ADID sites include various waters of the U.S., including wetlands, identified in Kane, Lake and McHenry Counties.

Bog: A low nutrient peatland, usually in a glacial depression, that is acidic in the surface stratum and often dominated at least in part by the genus *Sphagnum*. P.

Ephemeral Pool: A seasonally inundated depression within a forested wetland or upland community, usually located on a moraine, glacial outwash plain, or in an area shallow to bedrock; also known locally as a "vernal pool." These areas may not be permanently vegetated.

Dune and Swale Complex: Areas usually parallel to the Lake Michigan shoreline and typified by sandy, linear, upland ridges alternating with low-relief wetland created over time during changes in the Lake Michigan's water levels.

Fen: A peatland, herbaceous (including calcareous floating mats) or wooded, with calcareous groundwater flow.

Forested Wetland: A wetland dominated by native woody vegetation with at least one of the following species or genera present: *Carya* spp., *Cephalanthus occidentalis*, *Cornus alternifolia*, *Fraxinus nigra*, *Juglans cinerea*, *Nyssa sylvatica*, *Quercus* spp., *Thuja occidentalis*, *Betula nigra*, *Betula alleghaniensis*, *Betula papyrifera*, *Fagus grandifolia*

Sedge meadow: A wetland dominated by at least one of the following genera: *Carex*, *Calamagrostis*, *Cladium*, *Deschampsia*, *Eleocharis*, *Rhynchospora*, *Scleria*, or *Eriophorum*.

Seep: A wetland, herbaceous or wooded, with saturated soil or inundation resulting from the diffuse flow of groundwater to the surface stratum.

Streams rated A or B in the Illinois Biological Stream Characterization Study: Reference Illinois Environmental Protection Agency's Biological Stream Characterization (BSC): Biological Assessment of Illinois Stream Quality (latest edition) for a current listing.

Wet Prairie: A wetland dominated by native graminoid species with a diverse indigenous forb component that is seasonally saturated and/or temporarily inundated and may be resemble a fen in its best development. Species found in a high quality wet prairie include at least one of the following: *Calamagrostis Canadensis*, *Spartina pectinata*, *Aster puniceus firmus*, *Beckmannia syzigachne*, *Chelone glabra*, *Eleocharis wolfii*, *Lysimachia quadrifolia*, *Oenothera perennis*, *Oenothera pilosella*, *Pedicularis lanceolata*, and *Solidago ohioensis*.

Wetlands Supporting Federal or Illinois Endangered or Threatened Species: For current state-listed species, reference Illinois Endangered Species Protection Board's "Checklist of Endangered and Threatened Animals and Plants of Illinois" and/or contact the Illinois Department of Natural Resources. For Federally-listed species, reference the U.S. Fish and Wildlife Service's "Endangered and Threatened Wildlife and Plants" list (latest edition) and/or contact the U.S. Fish and Wildlife Service.

Wetlands with a Floristic Quality Index of 20 or greater or a Mean C-Value of 3.5 or greater: Reference Plants of the Chicago Region (F. Swink and G. Wilhelm, 4th edition, Indianapolis: Indiana Academy of Science, 1994).

Further information on the areas described above can be found in the U.S. Environmental Protection Agency's Advanced Identification studies for Kane, Lake and McHenry Counties, the Chicago Wilderness' Biodiversity Recovery Plan, the Forest Preserve District of Cook County's The Natural Communities of Cook County: An Ecological Classification System for Terrestrial Communities, Swink and Wilhelm's Plants of the Chicago Region, and the Illinois Environmental Protection Agency's Biological Stream Characterization (BSC): Biological Assessment of Illinois Stream Quality (latest edition).



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

217/782-3362

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

JAN 31 2007

Chicago District
Corps of Engineers
111 North Canal Street, 6th Floor
Chicago, IL 60606

Re: Regional Permits and Conditions for Proposed Regional Permits:

- | | |
|--|--------------------------------------|
| 1. Residential, Commercial, and Institutional Developments | 8. Utility Line Projects |
| 2. Recreation Projects | 9. Maintenance |
| 3. Transportation Projects | 10. Bank Stabilization |
| 4. Minor Discharge And Minor Dredging | 11. Marine Structures And Activities |
| 5. Wetland And Stream Restoration And Enhancement | 12. Bridge Scour Protection |
| 6. Completed Enforcement Actions | 13. Cleanup Of Toxic And Hazardous |
| 7. Temporary Construction Activities | Materials Projects |

Gentlemen:

The Agency has reviewed the proposed Regional Permits and Conditions for the above referenced projects submitted by the Chicago District in 2006 and 2007. The following comments are provided for your use and information.

The Agency hereby issues Section 401 water quality certification for the proposed regional permits subject to the attached conditions. Water quality certification continues to be denied for those waterbodies listed for Regional Permits 4 and 8 as identified in the Proposed Modification To Regional Permit Program Request For Comments Public Notice dated March 20, 2006. In addition, the utility line projects under Regional Permits 1 (Residential, Commercial and Institutional Developments) and 2 (Recreation Projects) in water bodies listed under Regional Permit 8 (Utility Line Projects) are denied Section 401 water quality certification as specified in condition 16.

The use of site dewatering techniques has been restricted for Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects) and 8 (Utility Line Projects) by adding these to condition 14 as follows:


Applicants that use site dewatering techniques in order to perform work in perennial streams for construction activity approved under Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects), 7 (Temporary Construction Activities), 8 (Utility Line Projects), 9 (Maintenance) or 12 (Bridge Scour

Protection) shall maintain flow in the stream during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.

The determination to include the attached conditions was made with respect to the cause of water pollution as defined in the Illinois Environmental Protection Act. These comments are directed at the effect on water quality of the construction procedures involved in the project and are not an approval of any discharge resulting from the completed facility, nor an approval of the design of the facility. These comments do not supplant any permit responsibilities of the applicant towards the Agency.

If you have any questions concerning this letter, please contact me at the above referenced number and address.

Sincerely,



Bruce J. Yurdin
Manager, Watershed Management Section
Bureau of Water

cc: IEPA, Records Unit
IDNR, OWR, Bartlett
USEPA, Region 5
CoE, Louisville District
CoE, Memphis District
CoE, Rock Island District
CoE, St. Louis District
CoE, Newburgh Regulatory Office

Illinois Environmental Protection Agency
January 29, 2007
Section 401 Water Quality Certification Conditions
For Regional Permits on

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|--|--------------------------------------|
| 1. Residential, Commercial, and Institutional Developments | 8. Utility Line Projects |
| 2. Recreation Projects | 9. Maintenance |
| 3. Transportation Projects | 10. Bank Stabilization |
| 4. Minor Discharge And Minor Dredging | 11. Marine Structures And Activities |
| 5. Wetland And Stream Restoration And Enhancement | 12. Bridge Scour Protection |
| 6. Completed Enforcement Actions | 13. Cleanup Of Toxic And Hazardous |
| 7. Temporary Construction Activities | Materials Projects |

1. The applicant shall not cause:
 - a. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulations;
 - b. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
 - c. interference with water use practices near public recreation areas or water supply intakes.
2. The applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be constructed during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Illinois EPA's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 2002).
6. The applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains and related facilities prior to construction.

Section 401 Water Quality Certification Conditions
Chicago District Corps of Engineers
Regional Permit Program
January 29, 2007

7. The backfill used in the stream crossing trench shall be predominantly sand or larger size material, with <20% passing a #230 U. S. sieve.
8. Any channel relocation shall be constructed under dry conditions and stabilized to prevent erosion prior to the diversion of flow. [Applicable only to projects which propose to relocate stream channels.]
9. The proposed work shall be constructed with adequate erosion control measures (i.e., silt fences, straw bales, etc.) to prevent transport of sediment and materials to the adjoining wetlands and/or downstream.
10. Backfill used within trenches passing through surface waters of the State, except wetland areas, shall be clean course aggregate, gravel or other material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material may be used only if:
 - a. Particle size analysis is conducted and demonstrates the material to be at least 80% sand or larger size material, using a #230 U.S. sieve; or
 - b. Excavation and backfilling are done under dry conditions.
11. Backfill used within trenches passing through wetland areas shall consist of clean material which will not cause siltation, pipe damage during placement, or chemical corrosion in place. Excavated material shall be used to the extent practicable, with the upper six (6) to twelve (12) inches backfilled with the topsoil obtained during trench excavation.
12. Any applicant that is proposing activities in a mined area or previously mined area shall provide to the Illinois EPA specifications on sediment and materials used that are considered "acid-producing material" as defined in 35 Ill. Adm. Code, Subtitle D. If considered "acid-producing material," the applicant shall obtain a permit to construct pursuant to 35 Ill. Adm. Code 404.101.
13. Asphalt, bituminous material and concrete with protruding material such as reinforcing bar or mesh shall not be 1) used for backfill, 2) placed on shorelines/streambanks, or 3) placed in waters of the State.
14. Applicants that use site dewatering techniques in order to perform work in perennial streams for construction activity approved under Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects), 7 (Temporary Construction Activities), 8 (Utility Line Projects), 9 (Maintenance) or 12 (Bridge Scour Protection) shall maintain flow in the stream during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.
15. In addition to any action required of the Regional Permit 13 (Cleanup Of Toxic And Hazardous) Materials Projects) applicant with respect to the "Notification" General Condition 21, the applicant shall notify the Illinois EPA, Bureau of Water, of the specific activity. This notification shall include information concerning the orders and approvals that have been or will be obtained from the Illinois EPA Bureau of Land (BOL), for all cleanup activities under BOL jurisdiction or for which authorization or approval is sought from BOL for no further remediation. This Regional Permit is not valid for activities that do not require or will not receive authorization or approval from the BOL.

**Section 401 Water Quality Certification Conditions
Chicago District Corps of Engineers
Regional Permit Program
January 29, 2007**

- 16. This Regional Permit is not valid for utility line projects under Regional Permits 1 (Residential, Commercial and Institutional Developments) and 2 (Recreation Projects) in the water bodies listed under Regional Permit 8 (Utility Line Projects).**