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**To:** Mr. Dennis Walsh, Klein, Thorpe & Jenkins, Ltd.

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**From:** Tom Hahne

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**Date:** July 31, 2014

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**Subject:** *CONFIDENTIAL* – Wetland Reconnaissance – Tinley Park, IL

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Klein, Thorpe & Jenkins, Ltd. requested preliminary wetland reconnaissance of the property located at 7400-7600 West 183<sup>rd</sup> Street, Tinley Park, Illinois 60477. The 276-acre property is currently vacant but contains buildings, roads, parking lots, sidewalks, and landscaped areas associated with the former Tinley Park Mental Health Center. Other open space on the property could include wetland areas.

This memorandum presents the results of preliminary wetland reconnaissance, which will be used to evaluate the site based on practicality of development and the cost and complexity of obtaining necessary permits for development, as well as to determine the need for complete wetland delineation. Information accumulated for this assessment will be retained in your project file. This memorandum, as well as other information in your file, is considered confidential and will not be released without your authorization.

We appreciate the opportunity to perform these services for Klein, Thorpe & Jenkins, Ltd. and look forward to the next steps in the process.

### **Preliminary Reconnaissance**

On July 15, 2014, Tetra Tech staff met with Mr. Sergio Cappello, site engineer, and conducted a site visit to identify any potential wetlands on the site. Photographs are provided in Attachment A. Seven potential wetland areas were identified and are shown on Figure 1 and discussed further below. Tetra Tech did not conduct reconnaissance within the lime pit at Potential Wetland Area 2 because of safety concerns. This area is fenced and consists of excavated areas filled with lime. The stability of the ground is not known; therefore, Tetra Tech did not enter the fenced portion but assessed the area surrounding the fenced lime pit.

Prior to the site visit, Tetra Tech performed a desktop review of the project site. According to the National Wetland Inventory (NWI) Wetlands Mapper (provided in Attachment B) and the National Resources Conservation Services (NRCS) soils map (provided in Attachment C), wetlands are located at the project site. Soil categories 69A and 1903A shown in the NRCS soils map are associated with wetlands. Although NWI mapping provides valuable indicators of wetland presence, field verification is always necessary to confirm the extent of potentially jurisdictional resources.

Wetlands delineation methodology, as described in the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual (USACE 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region, Version 2.0 (USACE 2010), requires investigation of the following three wetland parameters: (1) hydrophytic vegetation, (2) hydric soils, and (3) hydrological characteristics at selected sampling points within a study area. Although a formal wetland delineation was not conducted, these three parameters were considered during the site visit as discussed below.

- Hydrophytic Vegetation. While conducting the site visit, Tetra Tech made qualitative observations of the dominant vegetation located throughout several open space portions of the property that are not currently landscaped. Tetra Tech staff identified the dominant hydrophytic plants in potential wetland areas, as described below.

Common reed (*Phragmites australis*) and cattails (*Typha* spp.) were present in each of the potential wetland areas identified and were often one of the dominant species in at least a portion of the potential wetland areas. Common reed is categorized by the USACE as a facultative wetland (FACW) species. FACW species usually occur in wetlands (estimated probability of 67-99%) but are occasionally found in non-wetlands. Cattails are categorized as an obligate (OBL) wetland species. OBL species almost always occur in wetlands (estimated probability of >99%), but may also rarely occur in non-wetlands (<1% probability).

Additional hydrophytic plants present in a majority of the potential wetland areas include OBL species such as hardstem bulrush (*Schoenoplectus acutus*), knotweeds (*Polygonum* spp.), which can range from FAC (occurring in wetlands or non-wetlands) to OBL, as well as FACW species such as riverbank grape (*Vitis riparia*), buckthorn (*Frangula alnus*), and goldenrod (*Solidago gigantea*). Tree species present generally include FACW species such as American elm (*Ulmus americana*), silver maple (*Acer saccharinum*), and sandbar willow (*Salix interior*), as well as FAC species such as cottonwood (*Populus deltoides*).

Some potential wetland areas, particularly Potential Wetland Areas 1 and 7 (see Figure 1) had higher plant species diversity. OBL species indicative of higher-quality wetland were also present, such as rattlesnake master (*Eryngium aquaticum*) and skunk cabbage (*Symplocarpus foetidus*).

- Hydric Soils. During the site visit, Tetra Tech dug four soil test pits in low-lying regions and also in areas of higher elevation in Potential Wetland Areas 1 and 2 to determine the presence of hydric soils. Soil test pits were not dug within the lime pit, but site photographs (see Attachment A) show the ground consisting of white lime, which would not constitute hydric soils. However, the area immediately adjacent to the lime pits included areas that indicate the presence of hydric soils, as discussed below. Potential Wetland Areas 3 through 7 had steep slopes down to areas of standing water, so test pits were not necessary.

In Potential Wetland Areas 1 and 2, soil test pits were advanced to a depth of 16 inches. In the higher elevation test pits, soils from 0 to 10 inches were observed to be very dark gray to gray clay loam, 10YR 3/1 or 5/1<sup>1</sup>. Soils taken from 10 to 16 inches were mottled gray to grayish-brown clay, 10 YR 6/1 or 5/2, with white chalky material present in some areas. In the test pits dug in low-lying areas, Tetra Tech observed soils from 0 to 8 inches that were dark grayish brown to black, 10 YR 2/1 or 4/2, wet clay or loam. Soils from 8 to 16 inches were mottled very dark gray, 10 YR 3/1, wet loam and light yellowish brown, 10YR 6/4, saturated sandy clay. Results from test pits indicate the presence of hydric soils, primarily due to gleying and mottling of the soils.

- Hydrological Characteristics. Tetra Tech observed standing water in numerous areas of the potential wetland areas, and also identified ordinary high water marks or evidence of standing water in numerous areas currently without standing water. These high water marks typically took the form of noticeable changes in plant community. There were also indications of matted-down vegetation (USDA 2010). In Potential Wetland Area 1, standing or flowing water was present throughout the area at a depth of approximately 2 inches, with tree staining up to 4 inches higher. In areas currently containing standing water, a sheen was noted on the water. Potential Wetland Area 2 included saturated soil and matted-down vegetation. Potential Wetland Areas 3 through 7 generally had steep slopes down to areas of standing water.

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<sup>1</sup> Note that these designations reflect Munsell chart classifications.

## Conclusions

Based on the wetland reconnaissance findings, Tetra Tech identified seven areas as potential wetlands (much larger than those indicated by NWI mapping). These seven areas contain hydrophytic vegetation, hydric soils, and wetland hydrology (see Figure 1). Tetra Tech staff identified the approximate boundary of these potential wetlands using a handheld global positioning system (GPS) unit, supplemented by the use of aerial images of the property. Potential wetland boundaries were primarily based on vegetation, supplemented by elevation observations and soil test pits. These areas include low-lying areas of the property, excavated areas for water retention, and drainage ditches. Approximate acreage of each potential wetland area is as follows:

| Potential Wetland Area | Approximate Acreage |
|------------------------|---------------------|
| 1                      | 6.8                 |
| 2                      | 0.6                 |
| 3                      | 6.3                 |
| 4                      | 0.3                 |
| 5                      | 0.5                 |
| 6                      | 5.7                 |
| 7                      | 1.1                 |

Tetra Tech recommends completion of a formal wetland delineation to define more accurately the boundaries of wetland areas, determine the quality of the wetland areas, and determine whether wetland areas are U.S. Army Corps of Engineers (USACE)-jurisdictional or isolated. Impacts to jurisdictional wetlands would require federal and state permits. Impacts to isolated wetlands may require a state permit, depending on the nature of the activity. After jurisdictional status is determined, the following regulations could apply:

- For jurisdictional wetlands, a Clean Water Act Section 404 permit would be required from USACE – Chicago District. A regional or individual permit may also be required, depending on the nature of the activity that impacts the wetland and the acreage of wetland impacted. Individual permits require the most time-intensive and rigorous review processes. The Regional Permit program establishes two categories of review: a Category I review is allowed for minimal impacts, while a Category II review applies for larger or more significant impacts.

For an Individual Permit and some Regional Permit categories, coordination with the Illinois Environmental Protection Agency (IEPA) is required to obtain CWA Section 401 Water Quality Certification (WQC). The Will-South Cook Soil and Water Conservation District (SWCD) may also participate in the review process.

- For jurisdictional or isolated wetlands, the Interagency Wetlands Policy Act requires coordination with the Illinois Department of Natural Resources for any state-funded activities that would impact wetlands.

Estimated costs for obtaining permits for jurisdictional wetland impacts can vary substantially depending on (1) the nature of the activity, (2) amount of wetlands being impacted, and (3) quality of wetlands being impacted. Preliminary planning level costs are included below to provide a preliminary estimate of potential costs to coordinate review with the USACE, IEPA, and SWCD.

The review timeline can require over a year to complete, particularly considering that the WQC process does not begin until the USACE has issued a provisional Section 404 permit. The WQC process itself requires about 6 to 9 months. If a proposed project qualifies for a Regional Permit, the category will determine how the process would be streamlined. For example, some Category I Regional Permits incorporate the WQC such that no specific IEPA review is required. The 401 Water Quality Certification cost would not apply, but other estimated costs would not substantially change.

| Task   | Estimated Cost        | Additional Fees       | Contingency (15%) | Total            |
|--|-----------------------|-----------------------|-------------------|------------------|
| Wetland Delineation                                | \$25,000              | --                    | \$3,750           | \$28,750         |
| Pre-application Meeting                            | \$6,500               | --                    | \$975             | \$7,475          |
| Federal and State Agency Consultation <sup>a</sup> | \$10,000              | --                    | \$1,500           | \$11,500         |
| Prepare Application Package                        | \$30,000              | --                    | \$4,500           | \$34,500         |
| 401 Water Quality Certification Support            | \$20,000              | \$10,000 <sup>b</sup> | \$4,500           | \$34,500         |
| Will-South Cook SWCD Support                       | \$6,500               | \$6,000 <sup>c</sup>  | \$1,875           | \$14,375         |
| Restoration Plan                                   | \$15,000              | --                    | \$2,250           | \$17,250         |
| Agency Coordination                                | \$15,000 <sup>d</sup> | --                    | \$2,250           | \$17,250         |
| <b>Totals</b>                                      | <b>\$128,000</b>      | <b>\$16,000</b>       | <b>\$21,600</b>   | <b>\$165,600</b> |

Notes:

- Agency consultation could result in the need for archaeological or species studies, the cost of which is not reflected here and could range from approximately \$10,000 to over \$75,000.
- Maximum fee is reflected; actual fee is based on the total cost of the construction project.
- Estimated fee for project review and inspection by SWCD.
- Cost reflects coordination and negotiation with wetland mitigation banks to purchase credits, but does not include the cost of the credits, which can range from approximately \$35,000 to \$65,000 per credit (generally per acre).

Initially, Tetra Tech recommends a formal wetland delineation prior to any proposed projects that could impact the identified potential wetland areas, in order to determine the jurisdictional status of potential wetlands and whether any permits would be required. Wetland delineations should be conducted during the growing season, which is generally mid-April to mid-October.

## References

U.S. Army Corps of Engineers. 1987. *USACE Wetland Delineation Manual*, Technical Report Y-87-1, U.S. Waterways Experiment Station, Vicksburg, MS. EPA Level IV Ecoregions Website. February 2007. ([http://www.epa.gov/wed/pages/ecoregions/il\\_eco.htm](http://www.epa.gov/wed/pages/ecoregions/il_eco.htm))

U.S. Army Corps of Engineers. 2010. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (Version 2.0)*, ed. J.S. Wakeley, R.W. Lichavar, and C.V. Noble. EDRC/EL TR-10-16. Vicksburg, MS: U.S. Army Engineer Research and Development Center.

USDA, NRCS, 2010. Field Indicators of Hydric Soils in the United States. A Guide for Identifying and Delineating Hydric Soils, Version 7.0, 2010. Washington, D.C.

## Attachments

- Figure 1 – Potential Wetland Location Map
- Attachment A – Site Photographs
- Attachment B – NWI Map
- Attachment C – Soils Mapping
- Attachment D – Federal and State Wetland Laws and Regulations







## ATTACHMENT A – SITE PHOTOGRAPHS

Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 1**

**Description:**

Representative view of  
Potential Wetland Area 1

**Orientation:**

Facing Southwest



**Photo: 2**

**Description:**

View of representative  
area of standing water  
within Potential Wetland  
Area 1

**Orientation:**

Facing Southwest





Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 3**

**Description:**

View of higher quality vegetation within Potential Wetland Area 1, including rattlesnake master

**Orientation:**

Facing West



**Photo: 4**

**Description:**

View of sheen on water in Potential Wetland Area 1

**Orientation:**

Overview





Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 5**

**Description:**

Representative view of  
eastern edge of Potential  
Wetland Area 2

**Orientation:**

Facing Northwest



**Photo: 6**

**Description:**

View of lime pit at  
Potential Wetland Area 2  
with common reed around  
boundary

**Orientation:**

Facing North



Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 7**

**Description:**

Representative view of  
Potential Wetland Area 3

**Orientation:**

Facing West



**Photo: 8**

**Description:**

Representative view of  
Potential Wetland Area 4

**Orientation:**

Facing Northeast





Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 9**

**Description:**

Representative view of  
Potential Wetland Area 5

**Orientation:**

Facing Northeast



**Photo: 10**

**Description:**

Representative view of  
Potential Wetland Area 6  
at northeast end of  
property

**Orientation:**

Facing East



Photographic Documentation  
Former Tinley Mental Health Center  
Tinley Park, Illinois



**Photo: 11**

**Description:**

Representative view of  
Potential Wetland Area 6  
along south edge of  
property

**Orientation:**

Facing South



**Photo: 12**

**Description:**

Representative view of  
Potential Wetland Area 7

**Orientation:**

Facing Northwest





## ATTACHMENT B – NWI MAP

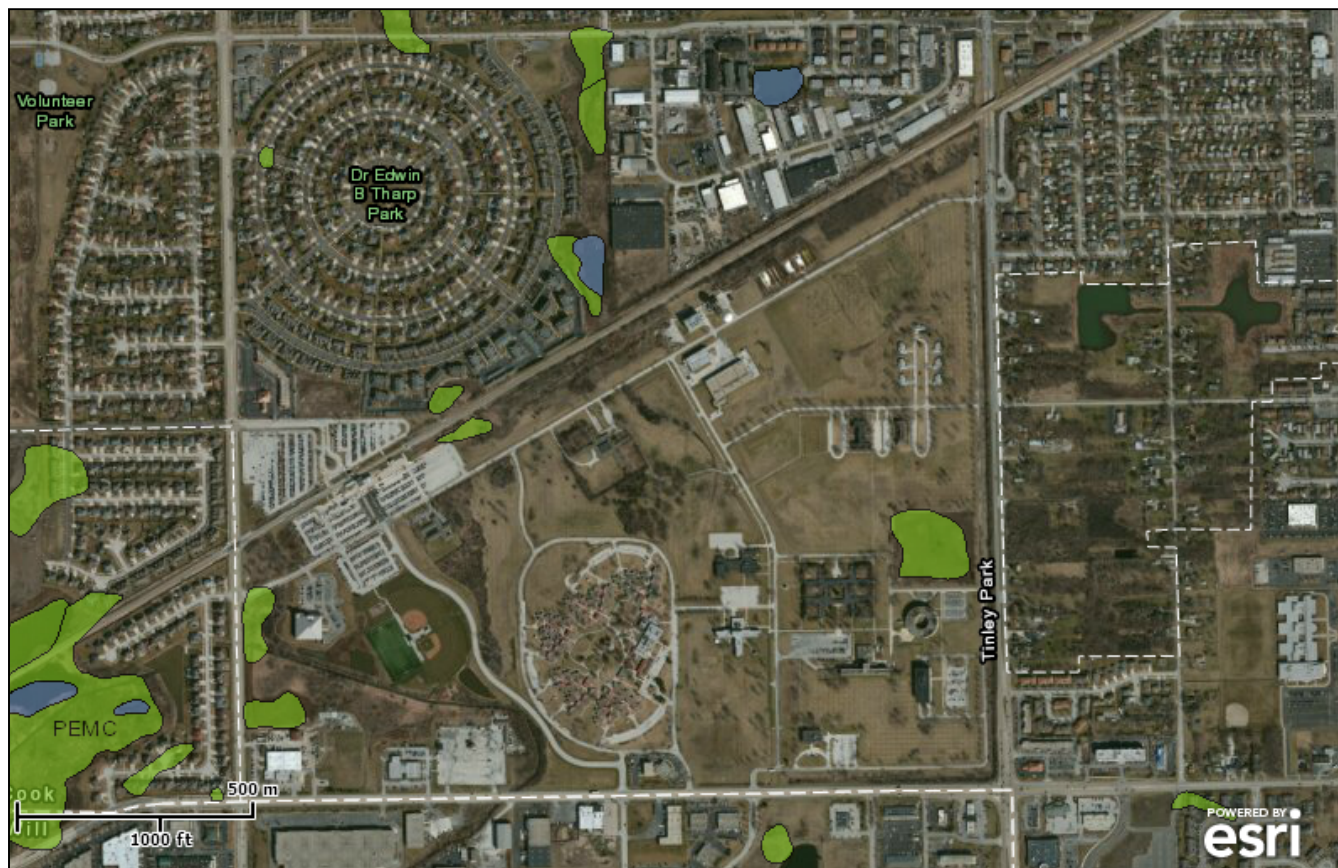


U.S. Fish and Wildlife Service

# National Wetlands Inventory

Tinley Park, IL

Jul 22, 2014



## Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

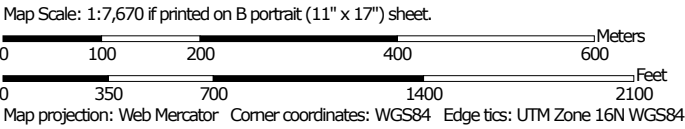
User Remarks:



## ATTACHMENT C – SOILS MAPPING



Soil Map—Cook County, Illinois, and Will County, Illinois  
(Tinley Park, IL)






Soil Map—Cook County, Illinois, and Will County, Illinois  
(Tinley Park, IL)

## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

### Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

### Water Features



Streams and Canals

### Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

### Background



Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Cook County, Illinois

Survey Area Data: Version 7, Dec 8, 2013

Soil Survey Area: Will County, Illinois

Survey Area Data: Version 8, Dec 8, 2013

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Mar 13, 2012—Mar 28, 2012

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

| Cook County, Illinois (IL031)         |  |              |                |
|---------------------------------------|--|--------------|----------------|
| Map Unit Symbol                       | Map Unit Name  | Acres in AOI | Percent of AOI |
| 69A                                   | Milford silty clay loam, 0 to 2 percent slopes               | 122.7        | 34.3%          |
| 146A                                  | Elliott silt loam, 0 to 2 percent slopes                     | 81.0         | 22.6%          |
| 189A                                  | Martinton silt loam, 0 to 2 percent slopes                   | 3.5          | 1.0%           |
| 228B                                  | Nappanee silt loam, 2 to 4 percent slopes                    | 6.6          | 1.8%           |
| 228C2                                 | Nappanee silty clay loam, 4 to 6 percent slopes, eroded      | 4.6          | 1.3%           |
| 235A                                  | Bryce silty clay, 0 to 2 percent slopes                      | 36.8         | 10.3%          |
| 294B                                  | Symerton silt loam, 2 to 5 percent slopes                    | 12.3         | 3.4%           |
| 295A                                  | Mokena silt loam, 0 to 2 percent slopes                      | 4.1          | 1.1%           |
| 320B                                  | Frankfort silt loam, 2 to 4 percent slopes                   | 50.2         | 14.0%          |
| 805B                                  | Orthents, clayey, undulating                                 | 26.6         | 7.4%           |
| 1903A                                 | Muskego and Houghton mucks, undrained, 0 to 2 percent slopes | 4.3          | 1.2%           |
| <b>Subtotals for Soil Survey Area</b> |  | <b>352.7</b> | <b>98.5%</b>   |
| <b>Totals for Area of Interest</b>    |  | <b>357.9</b> | <b>100.0%</b>  |

| Will County, Illinois (IL197)         |  |              |                |
|---------------------------------------|--|--------------|----------------|
| Map Unit Symbol                       | Map Unit Name                                  | Acres in AOI | Percent of AOI |
| 69A                                   | Milford silty clay loam, 0 to 2 percent slopes | 0.2          | 0.1%           |
| 235A                                  | Bryce silty clay, 0 to 2 percent slopes        | 0.8          | 0.2%           |
| 320B                                  | Frankfort silt loam, 2 to 4 percent slopes     | 4.2          | 1.2%           |
| <b>Subtotals for Soil Survey Area</b> |  | <b>5.3</b>   | <b>1.5%</b>    |
| <b>Totals for Area of Interest</b>    |  | <b>357.9</b> | <b>100.0%</b>  |



## **ATTACHMENT D – FEDERAL AND STATE WETLAND LAWS AND REGULATIONS**

Section 404 of the Clean Water Act

Illinois Code 13-18-22: State Regulated Wetlands

USACE-Chicago District Regional Permit Program

## SECTION 404 OF THE CLEAN WATER ACT

- A. The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.
- B. Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary
  - 1. through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and
  - 2. in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.
- C. The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.
- D. The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.
- E.
  - 1. In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice of opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. Any general permit issued under this subsection shall
    - a. be based on the guidelines described in subsection (b)(1) of this section, and
    - b. set forth the requirements and standards which shall apply to any activity authorized by such general permit.
  - 2. No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for



public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

F.

1. Except as provided in paragraph (2) of this subsection, the discharge of dredge or fill material -
  - a. from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
  - b. for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;
  - c. for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;
  - d. for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;
  - e. for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;
  - f. resulting from any activity with respect to which a State has an approved program, under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under this section or section 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307).
2. Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

G.

1. The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce

shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto), within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

2. Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.
3. No later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

H.

1. Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:
  - a. To issue permits which -
    - i. apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 307 and 403 of this Act;
    - ii. are for fixed terms not exceeding five years; and
    - iii. can be terminated or modified for cause including, but not limited to, the following:
      - I. violation of any condition of the permit;
      - II. obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;
      - III. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.



- b. To issue permits which apply, and assure compliance with, all applicable requirements of section 308 of this Act, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act.
  - c. To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.
  - d. To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.
  - e. To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.
  - f. To assure that no permit will be issued if, in the judgement of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.
  - g. To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.
  - h. To assure continued coordination with Federal and Federal-State water-related planning and review processes.
2. If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State -
- A. has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State, and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsections (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or
  - B. does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.
3. If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g)(1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of

this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

4. After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.
  5. Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.
- I. Whenever the Administrator determines after public hearing that a State is not administering a program approved under section (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall:
1. withdraw approval of such program until the Administrator determines such corrective action has been taken, and
  2. notify the Secretary that the Secretary shall resume the programs for the issuance of permits under subsection (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.
- J. Each State which is administering a permit program pursuant to this section shall transmit to the Administrator
1. a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and
  2. a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he



shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E), or (B) to the issuance of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modified such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the cause may be, for such source in accordance with the guidelines and requirements of this Act.

- K. In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section or any category (including any class, type, or size within such category) of discharge within the State submitting such program.
- L. The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.
- M. Not later than the ninetieth day after the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that
  1. an application for a permit under subsection (a) of this section has been received by the Secretary, or
  2. the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the

United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

- N. Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.
- O. A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.
- P. Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.
- Q. Not later than the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice of such application is published under subsection (a) of this section.
- R. The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for each construction.
- S.
  - 1. Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.
  - 2. A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of



the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

3. The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.
4.
  - . Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.
  - A. For the purposes of this paragraph, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.
5. Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.
- T. Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

## **IC 13-18-22**

### **Chapter 22. State Regulated Wetlands**

#### **IC 13-18-22-1**

##### **Permit for wetland activity; exceptions; goal of permitting**

Sec. 1. (a) Except as provided in subsection (b), a person proposing a wetland activity in a state regulated wetland must obtain a permit under this chapter to authorize the wetland activity.

(b) A permit is not required for the following wetland activities:

(1) The discharge of dirt, sand, rock, stone, concrete, or other inert fill materials in a de minimis amount.

(2) A wetland activity at a surface coal mine for which the department of natural resources has approved a plan to:

(A) minimize, to the extent practical using best technology currently available, disturbances and adverse effects on fish and wildlife;

(B) otherwise effectuate environmental values; and

(C) enhance those values where practicable.

(3) Any activity listed under Section 404(f) of the Clean Water Act, including:

(A) normal farming, silviculture, and ranching activities, such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) construction of temporary sedimentation basins on a construction site that does not include placement of fill material into the navigable waters; and

(E) construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where the roads are constructed and maintained, in accordance with best management practices, to assure that:

(i) flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired;

(ii) the reach of the navigable waters is not reduced; and

(iii) any adverse effect on the aquatic environment will be otherwise minimized.

(c) The goal of the permitting program for wetland activities in state regulated wetlands is to:

(1) promote a net gain in high quality isolated wetlands; and

(2) assure that compensatory mitigation will offset the loss of isolated wetlands allowed by the permitting program.

*As added by P.L.282-2003, SEC.38.*



### **IC 13-18-22-2**

#### **Wetland rules; improving classification of isolated wetland**

Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2005, to implement the part of the definition of Class I wetland under IC 13-11-2-25.8(a)(1)(B).

(b) Before the adoption of rules by the board under subsection (a), the department shall determine the class of a wetland in a manner consistent with the definitions of Class I, II, and III wetlands in IC 13-11-2-25.8.

(c) The classification of an isolated wetland that is based on the level of disturbance of the wetland by human activity or development may be improved to a higher numeric class if an action is taken to restore the isolated wetland, in full or in part, to the conditions that existed on the isolated wetland before the disturbance occurred.

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.5; P.L.2-2005, SEC.55.*

### **IC 13-18-22-3**

#### **Individual permits for wetland activity; adoption of rules**

Sec. 3. (a) An individual permit is required to authorize a wetland activity in a Class III wetland.

(b) Except as provided in section 4(a) of this chapter, an individual permit is required to authorize a wetland activity in a Class II wetland.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than June 1, 2005, to govern the issuance of individual permits by the department under subsections (a) and (b).

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.6.*

### **IC 13-18-22-4**

#### **General permits for wetland activities; adoption of rules**

Sec. 4. (a) Wetland activities with minimal impact in Class I wetlands and Class II wetlands, including the activities analogous to those allowed under the nationwide permit program (as published in 67 Fed. Reg. 2077-2089 (2002)), shall be authorized by a general permit rule.

(b) Wetland activities in Class I wetlands shall be authorized by a general permit rule.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2005, to establish and implement the general permits described in subsections (a) and (b).

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.7.*

### **IC 13-18-22-5**

#### **Contents of wetland rules**

Sec. 5. (a) The rules adopted under section 3 of this chapter:

(1) must require that the applicant demonstrate, as a prerequisite to the issuance of the permit, that wetland activity:

(A) is:

- (i) without reasonable alternative; and
- (ii) reasonably necessary or appropriate;

to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; and

(B) for a Class III wetland, is without practical alternative and will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland;

(2) except as provided in subsection (c), must establish that compensatory mitigation will be provided as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the permits; and

(3) may prescribe additional conditions that are reasonable and necessary to carry out the purposes of this chapter.

(b) The rules adopted under section 4 of this chapter must require, as a prerequisite to the applicability of the general permit by rule to a specific wetland activity, that the person proposing the discharge submit to the department a notice of intent to be covered by the general permit by rule that:

(1) identifies the wetlands to be affected by the wetland activity; and

(2) except as provided in subsection (c), provides a compensatory mitigation plan as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the general permit.

(c) Under subsections (a) and (b), the rules adopted under sections 3 and 4 of this chapter may provide for exceptions to compensatory mitigation in specific, limited circumstances.

(d) For purposes of subsection (a)(1)(A):

(1) a resolution of the executive of the county or municipality in which the wetland is located; or

(2) a permit or other approval from a local government entity having authority over the proposed use of the property on which the wetland is located;

that includes a specific finding that the wetland activity is as described in subsection (a)(1)(A) is considered conclusive evidence of that fact.

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.8.*

#### **IC 13-18-22-6**

##### **Standards for compensatory mitigation**

Sec. 6. (a) Except as otherwise specified in subsections (b) and (c), compensatory mitigation shall be provided in accordance with the following table:

| Wetland | Replacement     | On-site  | Off-site |
|---------|-----------------|----------|----------|
| Class   | Class           | Ratio    | Ratio    |
| Class I | Class II or III | 1 to 1   | 1 to 1   |
| Class I | Class I         | 1.5 to 1 | 1.5 to 1 |

|           |                 |             |             |
|-----------|-----------------|-------------|-------------|
| Class II  | Class II or III | 1.5 to 1    | 2 to 1      |
|           |                 | Nonforested | Nonforested |
|           |                 | 2 to 1      | 2.5 to 1    |
| Class III | Class III       | Forested    | Forested    |
|           |                 | 2 to 1      | 2.5 to 1    |
|           |                 | Nonforested | Nonforested |
|           |                 | 2.5 to 1    | 3 to 1      |
|           |                 | Forested    | Forested    |

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) A wetland that is created or restored as a water of the United States may be used, as an alternative to the creation or restoration of an isolated wetland, as compensatory mitigation for purposes of this section. The replacement class of a wetland that is a water of the United States shall be determined by applying the characteristics of a Class I, Class II, or Class III wetland, as appropriate, to the replacement wetland as if it were an isolated wetland.

(d) The off-site location of compensatory mitigation must be within:

- (1) the same eight (8) digit U.S. Geological Service hydrologic unit code; or
- (2) the same county;

as the isolated wetlands subject to the authorized wetland activity.

(e) Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in state regulated wetlands. An exempt isolated wetland that is used to provide compensatory mitigation becomes a state regulated wetland.

*As added by P.L.282-2003, SEC.38. Amended by P.L.241-2005, SEC.4.*

### **IC 13-18-22-7**

#### **Department action on wetland permits; department action before adoption of wetland rules; forms**

Sec. 7. (a) The department shall:

- (1) administer the permit programs established by this chapter; and
- (2) review and issue decisions on applications for permits to undertake wetland activities in state regulated wetlands in accordance with the rules issued by the board under this chapter.

(b) Before the adoption of rules by the board under this chapter, the department shall:

- (1) issue individual permits under this chapter consistent with the general purpose of this chapter; and
- (2) for wetland activities in Class I wetlands, issue permits under this subsection:
  - (A) that are simple, streamlined, and uniform;
  - (B) that do not require development of site specific provisions; and
  - (C) promptly upon submission by the applicant to the



department of a notice of registration for a permit.

(c) Not later than June 1, 2004, the department shall make available to the public:

- (1) a form for use in applying for a permit under subsection (b)(1); and
- (2) a form for use in submitting a notice of registration for a permit to undertake a wetland activity in a Class I wetland under subsection (b)(2).

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.9.*

#### **IC 13-18-22-8**

##### **Department action on wetland permits; effective dates of permits; amended permit application**

Sec. 8. (a) Subject to subsection (f), the department shall make a decision to issue or deny an individual permit under section 3 or 7(b)(1) of this chapter not later than one hundred twenty (120) days after receipt of the completed application. If the department fails to make a decision on a permit application by the deadline under this subsection or subsection (f), a permit is considered to have been issued by the department in accordance with the application.

(b) A general permit under section 4 of this chapter becomes effective with respect to a proposed wetland activity that is within the scope of the general permit on the thirty-first day after the department receives a notice of intent from the person proposing the wetland activity that the wetland activity be authorized under the general permit.

(c) Except as provided in subsection (d), a permit to undertake a wetland activity in a Class I wetland under section 7(b)(2) of this chapter is considered to have been issued to an applicant on the thirty-first day after the department receives a notice of registration submitted under section 7(b)(2) of this chapter if the department has not previously authorized the wetland activity.

(d) The department may deny a registration for a permit for cause under subsection (c) before the period specified in subsection (c) expires.

(e) The department must support a denial under subsection (a) or (d) by a written statement of reasons.

(f) The department may notify the applicant that the completed application referred to in subsection (a) is deficient. If the department fails to give notice to the applicant under this subsection not later than fifteen (15) days after the department's receipt of the completed application, the application is considered not to have been deficient. After receipt of a notice under this subsection, the applicant may submit an amended application that corrects the deficiency. The department shall make a decision to issue or deny an individual permit under the amended application within a period that ends a number of days after the date the department receives the amended application equal to the remainder of:

- (1) one hundred twenty (120) days; minus

(2) the number of days the department held the initial application before giving a notice of deficiency under this subsection.  
*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.10.*

#### **IC 13-18-22-9**

##### **Designation of Class III wetland as outstanding state protected wetland; rules; restrictions on wetland owner; rescission of designation**

Sec. 9. (a) The owner of a Class III wetland may petition the board for designation of the wetland as an outstanding state protected wetland. Upon verification by the board that the wetland is a Class III wetland and that the petitioner is the owner of the wetland, the board shall conduct a proceeding under IC 4-22-2 and IC 13-14 to adopt a rule designating the wetland as an outstanding state protected wetland.

(b) A rule adopted by the board under subsection (a) must specifically identify each wetland to be designated as an outstanding state protected wetland, including:

- (1) the wetland type;
- (2) a legal description of the wetland as delineated; and
- (3) other information considered necessary by the board.

(c) The owner of a Class III wetland designated as an outstanding state protected wetland under this section shall:

- (1) not cause or allow any anthropogenic activities on the property on which the wetland is located that may adversely affect or degrade the wetland, except for activities with minimal and short term effect, such as construction of an observation pathway or installation of an underground pipeline that are:

- (A) authorized by rules adopted by the board; or
- (B) approved by the department in the absence of rules under clause (A); and

- (2) provide for the long term assurance of the protections described in subdivision (1) through:

- (A) a restrictive covenant that is recorded with respect to the property on which the delineated wetland is located; or
- (B) a grant of title to or a conservation easement in the property on which the delineated wetland is located to:
  - (i) the department of natural resources; or
  - (ii) a nonprofit entity with demonstrated ability in the maintenance and protection of wetlands.

(d) Notwithstanding the designation of a wetland under this section by the board as an outstanding state protected wetland, the owner of a Class III wetland may petition the board for rescission of the designation if the owner can demonstrate important social or economic needs that warrant adverse effects to the wetland. In its review of the petition, the board shall give great weight to a resolution of the legislative body of the municipality or county in which the Class III wetland is located describing important social or economic needs, the accomplishment of which would necessitate

adverse effects to the wetland.  
*As added by P.L.282-2003, SEC.38.*

#### **IC 13-18-22-10**

##### **Department authority over wetlands**

Sec. 10. (a) Except as provided in subsection (b), the department has no authority over the:

- (1) filling;
- (2) draining; or
- (3) elimination by other means;

before January 1, 2004, of a wetland that would have been an isolated wetland.

(b) The department has authority over wetland activities in an isolated wetland, including an exempt isolated wetland, that are subject to the provisions of:

- (1) a National Pollutant Discharge Elimination System (NPDES) permit issued by the department under 33 U.S.C. 1342;
- (2) an agreed order under IC 13-30-3-3, consent order, or consent decree executed by the department and the regulated party;
- (3) an order issued under IC 13-30-3-4; or
- (4) a judgment of a court enforcing or upholding an enforcement order or decree described in subdivision (2) or (3);

that became effective before January 1, 2004.

*As added by P.L.282-2003, SEC.38. Amended by P.L.52-2004, SEC.11.*

#### **IC 13-18-22-11**

##### **Applicability of chapter to certain isolated wetlands**

Sec. 11. When land referred to in IC 13-11-2-74.5(a)(7) is no longer subject to United States Department of Agriculture wetland conservation rules:

- (1) isolated wetlands located on the land are subject to this chapter; and
- (2) any past wetland activities in the isolated wetlands located on the land become subject to this chapter, unless the wetland activities were in compliance with United States Department of Agriculture wetland conservation rules.

*As added by P.L.282-2003, SEC.38.*





US Army Corps of Engineers®  
Chicago District

## CHICAGO DISTRICT REGIONAL PERMIT PROGRAM

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Effective: April 1, 2012  
Expiration: April 1, 2017  
Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344

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### A. Introduction

The U.S. Army Corps of Engineers, Chicago District (the 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 visit our website for a copy of the following: joint application form for Illinois (Protecting Illinois Waters); draft deed restriction; mitigation requirements 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 application checklist on the District website at:

**<http://www.lrc.usace.army.mil/Missions/Regulatory.aspx>.**

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.

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 Commander 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 a list of waters that meet the definition of Section 10, please reference the District's website for a listing of navigable waterways [www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx](http://www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx). Section 404 waters are defined at and determined in accordance with 33 CFR 328-329 and 40 CFR 230.3.

### C. Definitions

Definitions found at 33 CFR Parts 320-332 and 40 CFR Part 230 are applicable to the RPP and are incorporated by reference herein.

Agency Request for Comments (ARC) is the notice provided to Federal and State agencies which requests comments concerning a proposed “Category II” activity.

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 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.

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 A or B for Diversity or Integrity or mapped as Biologically Significant as described in the Integrating Multiple Taxa in a Biological Stream Rating System published by the Illinois Department of Natural Resources, 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.

Modification is the revision of terms or conditions of an 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.

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 all 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, unless road improvements are to be made as part of the development.

Revocation is the permanent cancellation of the authorization.

Section 10 Waters are "Navigable Waters of the United States". This is defined to include all those waters that are subject to the ebb and flow of the tide, and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (33 CFR Part 329.4). These waters are listed on our internet site at [www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx](http://www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx) and include: Calumet River, Calumet-Sag Channel, most of the Chicago River, Chicago Sanitary and Ship Canal, Des Plaines River, Fox River and Chain O' Lakes, Grand Calumet River, Illinois and Michigan Canal, Kankakee River, Lake Calumet, Lake Michigan, and Little Calumet River.

Single and complete project is the total project proposed or accomplished by one owner, developer, 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 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 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.

Waters of the United States (WOUS) is an all encompassing term referring to lakes, rivers, streams, wetlands, and other aquatic resources that are regulated by the Corps under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. A complete definition can be found at 33 CFR 328.3(a).



## **D. Permit Expiration**

The Regional Permit Program (RPP) is valid for a period of five (5) years from the date of issuance (or reissuance). The District will periodically review the RPP and their conditions and will decide to modify, reissue, or revoke the permits with opportunity for public comment. If the RPP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. Activities completed under the authorization of the RPP which was in effect at the time the activity was completed continue to be authorized by the RPP.

A verification letter from the District is valid for a period of three years unless the RPP is modified, suspended, or revoked. A verification letter will remain valid if the RPP authorization is reissued without modification or the activity complies with any subsequent modification of the RPP authorization.

## **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 when 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 when 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 evaluate each proposed activity before issuing authorization. Should the District determine that a proposed activity may 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 when 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 22, 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 sixty (60) calendar days and provide instructions on the procedures to seek authorization under an Individual Permit. If the District determines that a proposed activity complies with the terms and conditions of the RPP, it will notify the applicant within 60 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 upon a determination that it is satisfied that the violation has been resolved.

If the District does not provide a written response to the applicant within 60 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.

The District may add special conditions to an authorization to ensure that 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 22 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 Regional Permit (RP) is the date the District confirms in writing that the activity meets the terms and conditions of the RPP. 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 and/or restoration, the District can suspend enforcement proceedings and allow the submittal of an application for an after the fact authorization under the RPP. An after-the-fact application will not be accepted until signature of the “Tolling Agreement” has been received by the District. Any after the fact RPP authorization will be consistent with the Army/EPA Memorandum of Agreement on Enforcement.

## **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 may be 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 carried

out in accordance with Section 404 of the Clean Water Act. Projects carried out in accordance with Section 10 of the Rivers and Harbors Act of 1899 do not require Section 401 Water Quality Certification

On March 2, 2012, 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) 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;
  - c) interference with water use practices near public recreation areas or water supply intakes;
  - d) a violation of applicable provisions of the Illinois Environmental Protection Act.
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. Except as allowed under condition 9, 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 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 a 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. A 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; 2011, <http://aiswcd.org/IUM/index.html>).
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 less than 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.
9. 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.
10. 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.
  11. 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.
  12. 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.
  13. Applicants that use site dewatering techniques in order to perform work in waterways for construction activities approved under Regional Permits 1 (Residential, Commercial and Institutional Developments), 2 (Recreation Projects), 3 (Transportation Projects), 7 (Temporary Construction Activities), 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.
  14. 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 22, 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.

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 Endangered Species Act of 1973, as amended (Act). Applicants shall provide additional information that would enable the District to conclude that the proposed action will have no effect on federally listed species.

The application packet shall indicate whether resources (species, their suitable habitats, or critical habitat) listed or designated under the Act, may be present within areas affected (directly or indirectly) by the proposed project. Applicants shall provide a section 7 species list for the action area using the on-line process at the USFWS website. You can access "U.S. Fish and Wildlife Service Endangered Species Program of the Upper Midwest" website at [www.fws.gov/midwest/Endangered](http://www.fws.gov/midwest/Endangered). Click on the section 7 Technical Assistance green shaded box in the lower right portion of the screen and follow the instructions to completion. Review all documentation pertaining to the species list, provide the rationale for your effects determination for each species, and send the information to this office for review.

If no species, their suitable habitats, or critical habitat are listed, then a "no effect" determination can be made, and section 7 consultation is not warranted. If species or critical habitat appear on the list or suitable habitat is present within the action area, then a biological assessment or biological evaluation will need to be completed to determine if the proposed action will have "no effect" or "may effect" the species or suitable habitat. The District will request initiation of section 7 consultation with the USFWS upon agreement with the applicant on the effect determinations in the biological assessment or biological evaluation.

If the issues are not resolved, the analysis of the situation is complicated, or impacts to listed species or critical habitat are found to be greater than minimal, the District will consider reviewing the project under the Individual Permit process.

Projects in Will, DuPage, or Cook Counties that are located in the recharge zones for Hine's emerald dragonfly critical habitat units may be reviewed under the RPP, with careful consideration due to the potential impacts to the species. All projects reviewed that are located within 3.25 miles of a critical habitat unit will be reviewed under Category II of the RPP. Please visit the following website for the locations of the Hine's emerald dragonfly critical habitat units in Illinois.

<http://www.fws.gov/midwest/endangered/insects/hed/FRHinesFinalRevisedCH.html>

3. Historic Properties - In cases where the District determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity may require an Individual Permit. A determination of whether the activity may be authorized under the RPP instead of an Individual Permit will not be made until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the District with the appropriate documentation to demonstrate compliance with those requirements.

Non-Federal permittees must include notification to the District if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the permit application must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing permit submittals, the District will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. Based on the information submitted and these efforts, the District shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the District, the non-Federal applicant shall not begin the activity until notified by the District either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

The District will take into account the effects on such properties in accordance with 33 CFR Part 325, Appendix C, and 36 CFR 800. 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, IL 62701-1507  
(217) 782-4836  
[www.illinoishistory.gov](http://www.illinoishistory.gov)

If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity, you must immediately notify this office of what you have found, and to the maximum extent practicable, stop activities that would adversely affect those remains and artifacts until the required coordination has been completed. We will initiate the Federal, Tribal and State coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

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 including temporary BMPs. The plan shall be designed in accordance with the Illinois Urban Manual, 2011 (<http://aiswcd.org/IUM/index.html>). 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 Illinois Urban Manual 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 (SWCD), or the Lake County Stormwater Management Commission (SMC) for review. When the District requires submission of an SESC plan, the following applies: An activity may not commence until the SESC plan for the project site has been approved; 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 that it meets technical standards. Once a 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, Suite 100  
St. Charles, IL 60174  
(630) 584-7961 ext.3  
[www.kanedupageswcd.org](http://www.kanedupageswcd.org)

McHenry-Lake County SWCD  
1648 South Eastwood Dr.  
Woodstock, IL 60098  
(815) 338-0099 ext.3  
[www.mchenryswcd.org](http://www.mchenryswcd.org)

North Cook SWCD  
899 Jay Street  
Elgin, IL 60120  
(847) 468-0071  
[www.northcookswcd.org](http://www.northcookswcd.org)

Lake County SMC  
500 W. Winchester Rd, Suite 201  
Libertyville, IL 60048  
(847) 377-7700  
[www.lakecountyil.gov/stormwater](http://www.lakecountyil.gov/stormwater)

5. Total Maximum Daily Load - For projects that include a discharge of pollutant(s) to waters for which there is an approved Total Maximum Daily Load (TMDL) allocation for any parameter, the applicant shall develop plans and BMPs that are consistent with the assumptions and requirements in the approved TMDL. The applicant must incorporate into their plans and BMPs any conditions applicable to their discharges necessary for consistency with the assumptions and requirements of the TMDL within any timeframes established in the TMDL. The applicant must carefully document the justifications for all BMPs and plans, and install,



implement and maintain practices and BMPs that are consistent with all relevant TMDL allocations and with all relevant conditions in an implementation plan. Information regarding the TMDL program, including approved TMDL allocations, can be found at the following website: [www.epa.state.il.us/water/tmdl/](http://www.epa.state.il.us/water/tmdl/)

6. 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 the local governing agency (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 the local governing agency with jurisdiction at the earliest stages of project planning. For information on floodway construction, contact:

IDNR/OWR  
2050 Stearns Road  
Bartlett, IL 60103  
(847) 608-3100  
<http://dnr.state.il.us/owr/>

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.

7. Navigation - No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

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

9. 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.

10. Equipment - Soil disturbance and compaction shall be minimized through the use of matting for heavy equipment, low ground pressure equipment, or other measures as approved by the District.

11. 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.

12. Tribal Rights - No activity or its operation may impair reserved tribal rights, such as reserved water rights, treaty fishing and hunting rights.
13. 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.
14. Shellfish Production - No discharge of dredged or fill material may occur in areas of concentrated shellfish production.
15. 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, asphalt, and creosote treated wood.
16. Spawning Areas - Discharges in spawning areas during spawning seasons shall be avoided to the maximum extent practicable.
17. 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.
18. 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.
19. Waterfowl Breeding Areas - Discharges into breeding areas for migratory waterfowl shall be avoided to the maximum extent practicable.
20. Removal of Temporary Fills - Any temporary fill material shall be removed in its entirety and the affected area returned to its pre-existing condition.
21. Mitigation - All appropriate and practicable steps must first be taken to avoid and minimize impacts to aquatic resources. For unavoidable impacts, compensatory mitigation is required to replace the loss of wetland, stream, and/or other aquatic resource functions (33 CFR 332). The proposed compensatory mitigation shall utilize a watershed approach and fully consider the ecological needs of the watershed. Where an appropriate watershed plan is available, mitigation site selection should consider recommendations in the plan. The applicant shall describe in detail how the mitigation site was chosen and will be developed, based on the specific resource need of the impacted watershed. Permit applicants are responsible for proposing an appropriate compensatory mitigation option to offset unavoidable impacts. However, the District is responsible for determining the appropriate form and amount of compensatory mitigation required when evaluating compensatory mitigation options, and determining the type of mitigation that would be environmentally preferable. In making this determination, the District will assess the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed. Methods of providing compensatory mitigation include aquatic resource restoration, establishment, enhancement, and in certain circumstances, preservation. Compensatory mitigation will be accomplished by establishing a minimum ratio of 1.5 acres of mitigation for every 1.0 acre of impact to waters of the U.S. Furthermore, the District has the discretion to require additional mitigation to ensure that the impacts are no more than minimal. Further information is available at [www.lrc.usace.army.mil/Missions/Regulatory/Illinois/Mitigation.aspx](http://www.lrc.usace.army.mil/Missions/Regulatory/Illinois/Mitigation.aspx)

22. 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 informs the applicant within 60 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 60 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 60-day review period.

For all activities, notification shall include:

- a. A cover letter providing a detailed narrative of the proposed activity describing all work to be performed, 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 (be sure to specify if the impact is permanent or temporary, and identify which area it affects), and a statement that the terms and conditions of the RPP will be followed.
- b. A completed joint application form for Illinois signed by the applicant or agent. The application form is available at [www.lrc.usace.army.mil/36/docs/regulatory/forms/appform.pdf](http://www.lrc.usace.army.mil/36/docs/regulatory/forms/appform.pdf). If the applicant does not sign the joint application form, 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 aerial photography), shall be prepared in accordance with the current U.S. Army Corps of Engineers methodology ([www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/reg\\_supp.aspx](http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/reg_supp.aspx)) and generally conducted during the growing season.\* Our wetland delineation standards are available at [www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/Delineations.pdf](http://www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/Delineations.pdf). 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 (see Appendix A), and a listing of waterfowl, reptile and amphibian species observed while at the project area. The District reserves the right to exercise judgment when reviewing submitted wetland delineations. Flexibility of the requirements may be determined by the District on a case-by-case basis only.
- d. A street map showing the location of the project area.
- e. Latitude and longitude for the project in decimal degrees format (i.e. 41.88377N, -87.63960W).
- f. Preliminary engineering drawings sized 11" by 17" (full-sized may be requested by the project manager and you may also submit plans in PDF format on a disc) 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, 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 plans 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.

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\* If a wetland delineation is conducted outside of 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 the delineation lacks sufficient evidence, the application will not be considered complete until the information is provided. This may involve re-delineating the project site during the growing season.



- g. Submittal of soil erosion and sediment control (SESC) plans that identify all SESC measures to be utilized during construction of the project.
- h. The application packet shall indicate whether resources (species, their suitable habitats, or critical habitat) listed or designated under the Endangered Species Act of 1973, as amended, may be present within areas affected (directly or indirectly) by the proposed project. Applicants shall provide a section 7 species list for the action area using the on-line process at the USFWS website. You can access “U.S. Fish and Wildlife Service Endangered Species Program of the Upper Midwest” website at [www.fws.gov/midwest/Endangered](http://www.fws.gov/midwest/Endangered). Click on the section 7 Technical Assistance green shaded box in the lower right portion of the screen and follow the instructions to completion. Print all documentation pertaining to the species list, include the rationale for your effects determination for each species, and forward the information to this office for review.

In the event there are no species, their suitable habitats, or critical habitat, then a “no effect” determination can be made and section 7 consultation is not warranted. If species or critical habitat appear on the list, or suitable habitat is present within the action area, then a biological assessment or biological evaluation will need to be completed to determine if the proposed action will have “no effect” or “may effect” on the species or suitable habitat. The District will request initiation of section 7 consultation with the USFWS upon agreement with the applicant on the effect determinations in the biological assessment or biological evaluation. If the issues are not resolved, the analysis of the situation is complicated, or impacts to listed species or critical habitat are found to be greater than minimal, the District will consider reviewing the project under the Individual Permit process.

- i. A determination of the presence or absence of any State threatened or endangered species. Please contact the Illinois Department of Natural Resources (IDNR) to determine if any State threatened and endangered species could be in the project area. You can access the IDNR’s Ecological Compliance Assessment Tool (EcoCAT) at the following website: <http://dnrecocat.state.il.us/ecopublic/>. Once you complete the EcoCAT and consultation process, forward all resulting information to this office for consideration. The report shall also include recommended methods as required by the IDNR for minimizing potential adverse effects of the project.
- j. A statement about the knowledge of the presence or absence of Historic Properties, which includes properties listed, or properties eligible to be listed in the National Register of Historic Places. A letter from the Illinois Historic Preservation Agency (IHPA) can be obtained indicating whether your project is in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended. The permittee shall provide all pertinent correspondence with the IHPA documenting compliance. The IHPA has a checklist of documentation required for their review located here: [www.illinoishistory.gov/PS/rcdocument.htm](http://www.illinoishistory.gov/PS/rcdocument.htm).
- k. Where an appropriate watershed plan is available, the applicant shall address in writing how the proposed activity is aligned with the relevant water quality, hydrologic, and aquatic resource protection recommendations in the watershed plan.
- l. A discussion of measures taken to avoid and/or minimize impacts to aquatic resources on the project site.
- m. A compensatory mitigation plan for all impacts to waters of the U.S. (if compensatory mitigation is required under the specific RP).
- n. A written narrative addressing all items listed under the specific RP.

For Category II activities, the District will provide an Agency Request for Comments (ARC) which describes the proposed activity. The ARC will be sent to the following agencies: 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). Additional entities may also be notified as needed. These agencies have ten (10) calendar days from the date of the ARC to contact the District and either provide comments or request an extension not to exceed fifteen (15) calendar days. 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 special conditions if 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.

23. Compliance Certification - Any permittee who has received authorization under the RPP from the District shall 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.

24. 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 22. If multiple Regional Permits are used, the total impact may not exceed the maximum allowed by the Regional Permit with the greatest impact threshold.

25. 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//

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Frederic A. Drummond, Jr.  
Colonel, U.S. Army  
District Commander

February 24, 2012

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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. Authorization under RP1 is subject to the following requirements which shall be addressed in writing and submitted with the notification:

- a. The impact to waters of the U.S. shall not exceed 1.0 acre. 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, will be processed under Category I.
- c. Projects that impact over 0.5 acres up to 1.0 acre of waters of the U.S., or impacts high-quality aquatic resources, will 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 (horizontal: vertical) 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 in size, the buffer shall be a minimum of 30 feet.
  - 4) For any jurisdictional wetland over 0.50 acres in size, the buffer shall be a minimum of 50 feet.

The District may allow buffer widths below the above-required minimums on a case by case basis. However, it is the responsibility of the applicant to provide supporting documentation as to why the buffer requirement could not be met.

Stormwater retention/detention facilities and nature trails may be located within the outer 50% of the buffer. The District may allow Best Management Practices, small boat launches 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 protected through a deed restriction or through a conservation easement. A draft deed restriction or conservation easement shall be provided with notification. This requirement may be waived at the discretion of the District if there are long term protections already in place for the onsite natural resources.
- 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. The District may consider a request by the applicant to allow for lot lines to be in these areas provided there is a demonstrated conflict between the lot line restriction and local ordinance and/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 permanent 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, bioswales, 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 runoff onto pervious surfaces.
  - c. Using cisterns, retention structures or rooftops to store precipitation or runoff for reuse.
  - 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. The 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 detention basin inlets and maximizing the distance between inlets and the basin outlet.
  - c. Installation of pre-settling systems such as forebays, mechanical stormwater treatment units, or other similar structures, prior to discharge of stormwater into detention/retention facilities.
  - d. Detention/retention facilities should be designed so that discharges from outlet structures are directed to level spreaders prior to entering adjacent/downstream aquatic resources.



A written narrative shall be included with the 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 thoroughly describe 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. Each BMP selected shall be part of a coordinated system (“treatment train”), which provides multiple layers of treatment.

- h. Stormwater management facilities shall 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 stormwater shall be either 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, with the exception of culverted transportation crossings.
- k. For a project site adjacent to a conservation area, the permittee shall request correspondence from the organization responsible for management of the area. The correspondence should identify recommended measures to protect the area from impacts that may occur as a result of 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 phasing, the sum of all impacted areas would be the basis for deciding whether or not the project will be covered under the Regional Permit Program.
- m. Items e through p of Regional Permit 3 (Transportation Projects) shall be addressed in writing and submitted with the notification.
- n. Items d through s of Regional Permit 8 (Utility Line Projects) 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 RP8 condition d.
- o. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.

## **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. Authorization under RP2 is subject to the following requirements which shall be addressed in writing and submitted with the notification:

- a. The impact to waters of the U.S. shall not exceed 1.0 acre. 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, will be processed under Category I.
- c. Projects that impact over 0.5 acres up to 1.0 acre of waters of the U.S., or impacts high-quality aquatic resources, will 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 (horizontal: vertical) 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 in size, the buffer shall be a minimum of 30 feet.
  - 4) For any jurisdictional wetland over 0.50 acres in size, the buffer shall be a minimum of 50 feet.

The District may allow buffer widths below the above-required minimums on a case by case basis. However, it is the responsibility of the applicant to provide supporting documentation as to why the buffer requirement could not be met.

Stormwater retention/detention facilities and nature trails may be located within the outer 50% of the buffer. The District may allow Best Management Practices, small boat launches 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 protected through a deed restriction or through a 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. The District may consider a request by the applicant to allow for lot lines to be in these areas provided there is a demonstrated conflict between the lot line restriction and/or 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 permanent 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 facilities, 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, bioswales, 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 runoff onto pervious surfaces.
  - c. Using cisterns, retention structures or rooftops to store precipitation or runoff for reuse.
  - 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. The 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 detention basin inlets and maximizing the distance between inlets and the basin outlet.
  - c. Installation of pre-settling systems such as forebays, mechanical stormwater treatment units, or similar structures, prior to discharge of stormwater into detention/retention facilities.
  - d. Detention/retention facilities should be designed so that discharges from outlet structures are directed to level spreaders prior to entering adjacent/downstream aquatic resources.

A written narrative shall be included with the 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 thoroughly describe 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. Each BMP selected shall be part of a coordinated system (“treatment train”), which provides multiple layers of treatment.

- h. Stormwater management facilities shall 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 either 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 area. The response letter should identify recommended measures to protect the area from impacts that may occur as a result of 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 phasing, the sum of all impacted areas would be the basis for deciding whether or not the project will be covered under the Regional Permit Program.
- m. Items e through p of Regional Permit 3 (Transportation Projects) shall be addressed in writing and submitted with the notification.
- n. Items d through s of Regional Permit 8 (Utility Line Projects) 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 RP8 condition d.
- o. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.



### **3. TRANSPORTATION PROJECTS**

RP3 authorizes the construction or replacement of public transportation projects, including roads, bridges, runways and taxiways, and railroads. Authorization under RP3 is subject to the following requirements which 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 acre. 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 impact greater than 0.10 acres 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 high-quality aquatic resources will be processed under Category I.
- d. Projects that impact over 0.5 acres up to 1.0 acre of waters of the U.S., impact a high quality aquatic resource, or cross a Section 10 Waterway ([www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx](http://www.lrc.usace.army.mil/Missions/Regulatory/NavigableWaters.aspx)), will 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. They shall be designed so as not to impede low water flows or the safe passage of fish and aquatic organisms. Additional guidance for the planning and installation of stream crossings can be found at: [www.fws.gov/midwest/Fisheries/StreamCrossings/index.htm](http://www.fws.gov/midwest/Fisheries/StreamCrossings/index.htm) . Additional conditions may be required for streams determined to be a high quality fisheries resource such as designing the bottom of the culvert to include “roughness” to reduce flow velocities. “Roughness” can include cemented-in stone, baffles, or the placement of rock along the bottom of the culvert and/or along the culvert wall. Embedding the culvert to a depth of greater than 12 inches may also be required.
  - 1) An alternatives analysis shall be prepared for perennial stream crossings where a culvert is proposed. The analysis shall document why the use of an arch-span, bottomless culvert or bridging would not be a practicable alternative. If use of a multi-barrel pipe culvert is proposed, document why a single box-culvert system cannot be used.
  - 2) For culverts, the upstream and downstream invert shall be embedded 6 to 12 inches below the streambed elevation. This will allow the natural substrate to colonize the structure’s bottom, encourage fish movement and maintain the existing channel slope. Culvert slope should match adjacent elevations. The width of the base flow culvert shall be approximately equal to the average channel width to promote the safe passage of fish and other aquatic organisms. Culvert(s) shall not permanently widen /constrict the channel or reduce/increase stream depth. Multiple pipe culverts may not be used to receive base flows.
- 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, rock and concrete protection measures, existing and proposed utilities lines, outfalls 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 installation of cofferdams or water diversion devices, the removal of accumulated sediments, and any demolition work, shall be clearly labeled on the construction drawings and explained in detail in project narrative.
- i. 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 shall be temporary only. No in-stream work will be authorized unless soil erosion and sediment control measures are deemed acceptable by the District.
- j. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.
- k. This permit shall not be used to authorize structural bank stabilization methods such as retaining walls, gabion baskets, riprap, etc., other than those structures necessary to assure the integrity of the stream and stream bank immediately adjacent to the crossing.
- l. The permittee shall establish and maintain a protective upland buffer composed of native plants (or other appropriate vegetation approved by the District) within the right-of-way adjacent to all waters of the U.S.
- m. The project shall employ permanent Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts of the project on aquatic resources. BMPs shall be considered at the earliest planning stages of the project.

The applicant shall design the project to include the avoidance of natural resource features such as floodplains, streams, lakes, significant wildlife areas, wetlands, and drainageways. To the greatest extent possible, the activity should be designed such that surface water does not directly discharge into waters of the U.S.

BMPs may be used independently or in concert to achieve the required water quality enhancement and resource protection. Water should be infiltrated or detained and treated prior to discharging into waters of the U.S. Possible BMPs include, but are not limited to: native vegetated swales, bioswales, rain gardens, filter strips, infiltration trenches, naturalized detention basins, and permeable pavement.

A written narrative shall be included with the notification which describes how the water quality protection practices were selected for the project site. The narrative shall thoroughly describe the BMPs that will be utilized. A management and monitoring plan will be required on a case-by-case basis and shall include performance standards such as the BMPs ability to function as designed, percent coverage of vegetation, stabilization of soils, and corrective measures to bring areas into compliance.

- n. This permit specifically excludes discharges into jurisdictional areas for the construction associated with 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 area. The response letter should identify recommended measures to protect the area from impacts that may occur as a result of the 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. Minor discharges of dredged or fill material into all waters of the United States. The quantity of discharged material or the volume of area excavated shall not exceed 25 cubic yards below the ordinary high water mark and shall not impact high-quality aquatic resources. The activity will be processed under Category 1. (Section 10/404)
2. Minor dredging of no more than 25 cubic yards below the ordinary high water mark or the mean high water mark from navigable waters of the United States (Section 10 waters). This RP does not authorize the return water from a contained disposal area. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d), even though the disposal itself occurs on the upland and does not require a section 404 permit. The activity will be processed under Category 1. (Section 10)
3. Single Family Residence: The discharge of dredged or fill material for construction or expansion of a single-family residence (including house, garage, driveway, etc.) provided the activity is a single and complete project. This RP is used only once per residence. Sufficient vegetated buffers shall be maintained adjacent to all open water, streams and wetlands. An individual may use this RP for a single-family home to be used as a personal residence only. The term “individual” refers to natural person or persons 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 impact high-quality aquatic resources will be processed under Category II and compensatory mitigation will be required. There is no volumetric limitation for activities processed under this item. (Section 404)

Authorization under RP4 is subject to the following requirements 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. Authorization under RP4 is subject to individual water quality certification under Section 401 of the Clean Water Act only when there is a discharge of dredged and/or fill material, including return flows from dredging operations, pursuant to Section 404 in the following waters:
  - 1) Fox River (including the Fox Chain of Lakes)
  - 2) Lake Michigan
  - 3) Pettibone Creek
  - 4) Kankakee River

## **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 disking 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 which shall be addressed in writing and submitted with the notification:

- a. All projects will be processed under Category I.
- b. This permit does not authorize activities to relocate or channelize a linear waterway 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, or the conversion of waterfowl impoundments and wildlife habitat areas.
- 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, forest preserve holdings, or village, city, municipal or county owned lands, the permittee shall request a letter from the organization responsible for management of the area. The response letter should identify recommended measures to protect the area from impacts that may occur as a result of the development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- g. For projects receiving State or Federal grants or funding sources, the permittee shall submit a copy of the document disclosing the expiration date for use of the funds and the expected calendar date for commencement of the project in order to meet funding deadlines.

## **6. COMPLETED ENFORCEMENT ACTIONS**

RP6 authorizes any structure, work or discharge of dredged or 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 will 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 will 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 requirements 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. Fill shall be composed of non-erodible materials and be constructed to withstand expected high flows.
- d. Low ground-pressure equipment is recommended for work in wetlands. However, after careful consideration, if 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 to minimize soil disturbance.
- e. All materials used for temporary construction activities shall be moved to an upland area immediately following completion of the construction activity.
- f. The permittee is required to restore the construction area to pre-construction conditions including grading to original contours and revegetating disturbed areas with appropriate native vegetation immediately upon completion of the project. A restoration plan shall be submitted with the notification. A 1-foot contour topographic map of the project area may be required on a case-by-case basis.
- g. This permit does not authorize the use of earthen cofferdams or other practices that would result in a release of sediment into waters of the U.S. Cofferdams shall be constructed of non-erodible materials only. Acceptable practices include, but are not limited to: pre-fabricated rigid cofferdams, sheet piling, inflatable bladders, sandbags and fabric-lined basins.
- h. For projects that require installation and operation of a cofferdam, the cofferdam method and a detailed construction sequence shall be specified in the project narrative, and clearly labeled on the construction plans. Please see our website at [www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/cofferdam.pdf](http://www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/cofferdam.pdf) for "Requirements for In-Stream Construction Activities".
- i. The following requirements will be adhered to for any project requiring in-stream work and shall be incorporated into the soil erosion and sediment control plans for the project:
  - 1) Work in the waterway should be timed to take place during low or no-flow conditions. Low flow conditions are at or below the normal water elevation.



- 2) Water shall be isolated from the in-stream work area using a cofferdam constructed of non-erodible materials (steel sheets, aqua barriers, rip rap and geotextile liner, etc.). Earthen cofferdams are not permissible.
- 3) The cofferdam must be constructed from the upland area and no equipment may enter the water at any time. If the installation of the cofferdam cannot be completed from shore and access is needed to reach the area to be coffered, other measures, such as the construction of a causeway, will be necessary to ensure that equipment does not enter the water. Once the cofferdam is in place and the isolated area is dewatered, equipment may enter the coffered area to perform the required work.
- 4) If bypass pumping is necessary, the intake hose shall be placed on a stable surface or floated to prevent sediment from entering the hose. The bypass discharge shall be placed on a non-erodible, energy dissipating surface prior to rejoining the stream flow and shall not cause erosion. Filtering of bypass water is not necessary unless the bypass water has become sediment-laden as a result of the current construction activities.
- 5) During dewatering of the coffered work area, all sediment-laden water must be filtered to remove sediment. Possible options for sediment removal include baffle systems, anionic polymers systems, dewatering bags, or other appropriate methods. Water shall have sediment removed prior to being re-introduced to the downstream waterway. A stabilized conveyance from the dewatering device to the waterway must be identified in the plan. Discharge water shall not result in a visually identifiable degradation of water clarity.
- 6) The portion of the side slope that is above the observed water elevation shall be stabilized as specified in the plans prior to accepting flows. The substrate and toe of slope that has been disturbed due to construction activities shall be restored to proposed or pre-construction conditions and fully stabilized prior to accepting flows.

## **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 requirements 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 a high-quality aquatic resource, will be processed under Category I.
- b. Projects that impact over 0.5 acres and up to 1.0 acre of waters of the U.S., or impact a high-quality aquatic resource, will be processed under Category II.
- c. The impact to waters of the U.S. shall not exceed 1.0 acre. 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 pursuant to Section 404 of the Clean Water Act is subject to individual water quality certification under Section 401 of the Clean Water Act when there is a discharge of dredged and/or fill material to the waters listed below. Return flows from dredging operations to the waters listed below are considered Section 404 discharges. However, as determined on a case-by-case basis by the District, individual water quality certification may not be required for the installation of outfall structures in these waters if there will be no more than minimal disturbance to the sediment and substrate during construction activities;
- 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) Kankakee River
- e. For the installation of outfall structures in waters as listed above, there shall be no more than minimal disturbance to the sediment and substrate during construction activities. The implementation of soil erosion and sediment control measures prior to and during construction is required for any outfall installation.
- f. For a project site adjacent to a conservation area, the permittee shall request a letter from the organization responsible for management of the area. The response letter should identify recommended measures to protect the area from impacts that may occur as a result of the development. A copy of the request and any response received from the organization shall be submitted to the District with the notification.
- g. Stormwater management facilities shall 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. Potential benefits could include water quality improvements at headwaters of the watershed, or promote wildlife habitat, feeding and breeding areas.
- h. 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.
- i. The permittee shall establish and/or enhance an upland buffer of appropriate native plants adjacent to all created, restored, enhanced or preserved waters of the U.S., including but not limited to: wetlands, rivers, streams, creeks, ponds and lakes. However, the construction or installation of the support towers, poles, footing, anchors and appurtenant structures for overhead and/or underground utility lines are exempt from this upland buffer requirement.
- j. No discharge of dredged or fill material may consist of unsuitable material. Material discharged shall be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). Unsuitable

materials include but are not limited to: trash, debris, asphalt, and creosote treated wood (i.e. for support poles and towers).

- k. The permittee is required to restore the construction area to pre-construction conditions, including grading the disturbed areas to the original contours and revegetating with appropriate native vegetation to all disturbed areas immediately upon completion of the project. The restoration plan, shall be submitted with the notification. A 1-foot contour topographic map of the project area may be required on a case-by-case basis.
- l. The area of waters of the U.S. to be impacted shall be limited to the minimum necessary to construct the utility line.
- m. The construction zone for linear utility line projects shall be limited to a width of 50 feet. All designated work area(s), including construction staging areas, shall be drawn onto the submitted construction plans and clearly labeled. Equipment storage or staging areas shall not occur in wetlands or waters of the U.S.
- n. Mechanized clearing of vegetation in the utility corridor shall be conducted no more than seven (7) calendar days preceding installation of the utility line in that segment of the corridor. Vegetation shall not be cleared along the entire corridor prior to installation of the utility line.
- o. For utility line projects, directional drilling (regulated in Section 10 waters only) or dry crossing techniques, such as fluming, shall be used for utility line projects 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 pits, jacking and receiving pits and shall discuss the potential need for utility checks within the regulated area. Steps taken shall be taken for the removal and disposal of bentonite slurry, a by-product of installation.
- p. Notification shall include a contingency plan if the project involves the use of directional drilling in navigable waters (Section 10 waters only). The contingency plan shall discuss actions to stabilize the work area (prior, during and post- construction), to employ alternative construction methods, and the process to obtain additional permits necessary to complete the project.
- q. Material resulting from trench excavation may be temporarily (up to 30 days) sidecast into wetlands provided that the material is contained using appropriate soil erosion and sediment control measures. Excavated materials shall not be temporarily sidecast in waterways. Revegetation of all disturbed areas is required.
- r. Utility lines shall not adversely alter the 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 utility trench does not alter the hydrology nor 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.
- s. In wetland areas, the trench shall be backfilled with topsoil excavated from the trench in the same stratification in which it was removed. For example, the upper horizon of the wetland soil shall be placed back at the ground surface to allow for successful revegetation of wetland plants.
- t. All disturbed areas of the project (i.e. 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.

- u. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.

Note: Utility lines constructed in, over, or under Section 10 waters, and without a discharge of dredged or fill material, require a Section 10 permit if the proposed activity has the potential to affect the course, condition or capacity of navigation. Utility lines constructed through a Section 10 water with a discharge of dredged or fill material requires a Section 404 permit in addition to a Section 10 permit.

## **9. MAINTENANCE**

RP9 authorizes:

1. The 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 are permitted, provided the environmental impacts resulting from such repair or rehabilitation are minimal. This includes changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair or rehabilitation.
2. This permit also 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.
3. The 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.

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

- a. All projects meeting RP9 requirements will be processed under Category I.
- b. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.
- c. In the event of rehabilitation of any previously authorized, currently serviceable structure or fill, you shall provide plan drawings disclosing that the work shall not be put to uses differing than those specified in the original permit or most recently authorized modification.
- d. In the event of repair, rehabilitation or replacement of those structures destroyed by storms, floods, fire or other discrete events, you shall provide written and photographic evidence that the structure(s) has been affected by such events.
- e. No new fill activities shall be authorized under this regional permit.
- f. Projects along the Lake Michigan shoreline are not authorized under this regional permit.
- g. Maintenance dredging and beach restoration are not authorized by 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 requirements 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, lunker boxes, steel sheet piling, or fabric-formed concrete will be processed under Category I 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.

The following items apply to all authorizations under RP10:

- a. Projects that involve replacement of currently functional bank stabilization structures or practices will be processed under Category I, provided that the new practice includes only minor deviations in the structure's configuration or footprint such as those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair.
- b. Structural and vegetative/biotechnical practices may be combined, but in no case shall structural practices exceed 500 feet in total length.
- c. Bioengineering practices may be constructed in HQARs under Category II.
- d. Structural practices are not authorized in HQARs under this Regional Permit.
- e. Bank stabilization shall conform to the existing shoreline and may not be used to reclaim land lost to erosion.
- f. No more than one (1) cubic yard per running foot of material shall be used as backfill behind structures.
- g. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.
- h. In-stream work to be performed below the toe of the slope beyond the minimum necessary is not authorized under this Regional Permit, except in those instances where additional materials are required in order to maintain the structural integrity of the proposed design.
- i. This RP shall not be used to fill in boat slips.
- j. Projects along the shoreline of Lake Michigan, or within a ravine system tributary to Lake Michigan, will not be processed under this RP.



## **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 and 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 O'Lakes Boat Pier and Boat Ramp Application Review Policy ([www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/pierpolicy.pdf](http://www.lrc.usace.army.mil/Portals/36/docs/regulatory/pdf/pierpolicy.pdf)).

Authorization under RP11 is subject to the following requirements which shall be addressed in writing and submitted with the notification:

- a. All marine structures and activities, except for 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 piers/docks shall be constructed in accordance with the following conditions and limitations:
  - 1) The pier/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 pier/dock shall be the minimum length necessary to reach suitable water depth. The boat pier/dock width shall not be 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 pier/dock shall not be greater than 10 feet.
  - 3) For L-shaped or T-shaped piers/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) Piers/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) Pier/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 pier/dock shall be securely anchored to prevent its detachment during times of high water, winds, or ice movement.
  - 7) Boat mooring buoys and pier/dock flotation units shall be constructed of materials 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 piers/docks shall be constructed in a manner which will minimize obstruction to flow.
  - 9) If at any future date the IDNR/OWR or District determines that the pier/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 pier/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 constructed of asphalt are not authorized under this Regional Permit. For projects that impact over 0.10 acres of waters of the U.S., the permittee is required to provide compensatory mitigation.
  - 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 and parallel to the shoreline orientation. Shore protection projects will address the following requirements:
    - 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 8½” by 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 is 581.5’) of the Lake (International Great Lakes Datum 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 design may be allowed on a case-by-case basis.
    - 8) Construction sequence describing how access to the site will be accomplished. Water-based access is limited to the use of barges for the transport of heavy equipment and construction materials.
    - 9) A contingency plan with a written narrative for the temporary “dig-in” and displacement of Lake substrate for access to the work area by barge.

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 are 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 further than existing structures on adjacent land, except in those instances where additional materials are 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.
- 6) Impede public access to the shoreline.
- f. For repair and/or modification of a marine structure, provide the date the structure was originally constructed and a copy of the Department of the Army permit for the structure (if one was granted). If the construction of the structure was not authorized by the District, an after-the-fact authorization shall be sought.
- g. Temporary construction activities, including access roads and cofferdams, are not authorized under this Regional Permit.
- h. The construction of multi-user pier and docking facilities and related appurtenances within Section 10 waters are not authorized under the RPP.

## **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” as designated by the Federal Highway Administration (FHWA). Authorization under RP12 is subject to the following requirements which shall be addressed in writing and submitted with the notification:

- a. All projects will be processed under Category I.
- 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 immediately upon completion of work in any segment of the project. All portions of the site shall be restored to preconstruction conditions.
- d. All temporary construction activities shall adhere to the requirements of items c through i of Regional Permit 7 (Temporary Construction Activities) and shall be addressed in writing and submitted with the notification.
- e. 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.
- f. All designated work area(s) shall be drawn onto the submitted construction plans and clearly labeled.
- g. 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.

### **13. CLEANUP OF TOXIC AND HAZARDOUS MATERIALS**

RP13 authorizes specific activities that effect the containment, stabilization or removal of toxic or hazardous materials or petroleum products that are performed, ordered, sponsored or approved by the Illinois EPA Bureau of Land (BOL). RP13 is subject to the following requirements 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 the EPA, do not require authorization from the U.S. Army Corps of Engineers.
- d. Evidence that an activity is performed, ordered, sponsored or approved by the Illinois EPA BOL.
- 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 22, 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 *   |
|--|--|---|
| <b>1. Residential, Commercial and Institutional Developments</b> | 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 acre of waters of the U.S. including impacts to a high-quality aquatic resource.  |
| <b>2. Recreation Projects</b>                                    | 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 acre of waters of the U.S. including impacts to a high-quality aquatic resource.  |
| <b>3. Transportation Projects</b>                                | 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, or impact a high-quality resource. 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. |
| <b>4. Minor Discharges and Dredging</b>                          | 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.  |
| <b>5. Wetland and Stream Restoration and Enhancement</b>         | All activities.  | N/A   |
| <b>6. Completed Enforcement Actions</b>                          | All judicial and non-judicial settlements.   | N/A   |
| <b>7. Temporary Construction Activities</b>                      | All activities.  | N/A   |
| <b>8. Utility Line Projects</b>                                  | 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 that impact between 0.5 acres and 1.0 acre of waters of the U.S., or impact a high-quality aquatic resource.   |
| <b>9. Maintenance</b>  | All activities   | N/A   |
| <b>10. Bank Stabilization</b>                                    | Activities in waters of the U.S. that are not high-quality aquatic resources.  | Activities in waters of the U.S. that are high-quality aquatic resources.   |
| <b>11. Marine Structures and Activities</b>                      | All activities except installation of boat ramps and Lake Michigan shoreline protection.   | Installation of boat ramps and Lake Michigan shoreline protection.  |
| <b>12. Bridge Scour Protection</b>                               | All activities   | N/A   |
| <b>13. Cleanup of Toxic and Hazardous Materials</b>              | N/A  | All activities  |

\* 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 Illinois portions of the Chicago District only. This list is to be used as a guideline for identifying high quality resources in the six-county region, and is not all-inclusive.

**Advanced Identification (ADID) Sites:** Aquatic sites that have been previously identified by the District and U.S. Environmental Protection Agency 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. Bogs can have non-flowering or very slow flowering water and their water levels fluctuate seasonally. Characteristic bog species include sphagnum (*Sphagnum spp.*), sundew (*Drosera spp.*), pitcher plant (*Sarracenia purpurea*), leatherleaf (*Chamaedaphne calyculata*), poison sumac (*Rhus vernix*), large cranberry (*Vaccinium macrocarpon*), dwarf birch (*Betula pumila*), and tamarack (*Larix laricina*).

**Ephemeral Wetlands:** A seasonally inundated depression within a forest, savannah, or prairie usually located on a moraine, glacial outwash plain or in an area shallow to bedrock; also known locally as a “seasonal pond” or a “vernal pool.” These areas may not be permanently vegetated.

**Dune and Swale Complex:** Areas usually oriented 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. Black oak (*Quercus velutina*), paper birch (*Betula papyrifera*), jack pine (*Pinus banksiana*), and prairie vegetation typically occur on the ridges and sedges, reeds, and marsh/aquatic vegetation are found in the swales. Dune and swale complexes are restricted to areas near Lake Michigan.

**Fen:** An alkaline or calcareous, ground water-fed wetland. Fens are often a mosaic of grassy areas, sedgy areas, graminoid-shrub areas, and tall shrub areas. Typical plant species found within these mosaics include fen star sedge (*Carex sterilis*), swamp thistle (*Cirsium muticum*), red-osier dogwood (*Cornus stolonifera*), brook lobelia (*Lobelia kalmii*), wild timothy (*Muhlenbergia glomerata*), grass of Parnassus (*Parnassia glauca*), shrubby cinquefoil (*Potentilla fruticosa*), and Ohio goldenrod (*Solidago ohioensis*). Fens can also be forested, with indicative tree species being eastern white cedar (*Thuja occidentalis*), yellow birch (*Betula alleghaniensis*), and black ash (*Fraxinus nigra*). Fens typically have a muck or peat substrate.

**Forested Wetland:** A wetland dominated by at least one of the following native trees: red maple (*Acer rubrum*), kingnut hickory (*Carya laciniosa*), black ash (*Fraxinus nigra*), red ash (*Fraxinus pennsylvanica*), black gum (*Nyssa sylvatica*), white oak (*Quercus alba*), swamp white oak (*Quercus bicolor*), bur oak (*Quercus macrocarpa*), pin oak (*Quercus palustris*), eastern white cedar (*Thuja occidentalis*), river birch (*Betula nigra*), yellow birch (*Betula alleghaniensis*), and slippery elm (*Ulmus rubra*).

**Sedge Meadow:** An herbaceous wetland typically dominated by one or more of the following graminoid genera, such as *Calamagrostis*, *Cladium*, *Cyperus*, *Deschampsia*, *Eleocharis*, *Eriophorum*, *Juncus*, *Rhynchospora*, *Scleria*, and *Carex*. Sedge meadows can be found along stream and lake margins or within river floodplains and upland depressions.

**Seep:** A spring- or groundwater-fed herbaceous or thinly wooded wetland with saturated soil or inundation resulting from the diffuse flow of groundwater to the surface stratum. Often times seep wetlands are situated on or near the base of a slope. Characteristic seep wetland species include marsh marigold (*Caltha palustris*) and skunk cabbage (*Symplocarpus foetidus*).

**Streams rated A or B for Diversity or Integrity, or mapped as Biologically Significant:** as described in the Integrating Multiple Taxa in a Biological Stream Rating System published by the Illinois Department of Natural Resources.

**Wet Prairie:** A wetland dominated by native graminoid species but with abundant forbs. Wet prairies often remain saturated throughout the growing season which is sometimes due to a high water table. Species found in a high quality wet prairie are dominated by at least one of the following species: big shining aster (*Aster puniceus firmus*), bluejoint (*Calamagrostis canadensis*), tall coreopsis (*Coreopsis tripteris*), rattlesnake master (*Eryngium yuccifolium*), marsh blazing star (*Liatris spicata*), narrow-leaved loosestrife (*Lysimachia quadriflora*), small sundrops (*Oenothera perennis*), prairie sundrops (*Oenothera pilosella*), cowbane (*Oxpolis rigidior*), marsh phlox (*Phlox glaberrima* var. *interior*), and prairie cord grass (*Spartina pectinata*).

**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" (found at [www.dnr.state.il.us/ESPB/](http://www.dnr.state.il.us/ESPB/)) 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, [www.fws.gov/midwest/endangered/lists/illinois-cty.html](http://www.fws.gov/midwest/endangered/lists/illinois-cty.html)) 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 ([www.lrc.usace.army.mil/Missions/Regulatory/Illinois/ADIDMaps.aspx](http://www.lrc.usace.army.mil/Missions/Regulatory/Illinois/ADIDMaps.aspx)), the Chicago Wilderness' Biodiversity Recovery Plan ([www.chicagowilderness.org/pdf/biodiversity\\_recovery\\_plan.pdf](http://www.chicagowilderness.org/pdf/biodiversity_recovery_plan.pdf)), Swink and Wilhelm's Plants of the Chicago Region, and the Integrating Multiple Taxa in a Biological Stream Rating System published by IDNR ([www.dnr.state.il.us/ORC/BioStrmRatings/index.htm](http://www.dnr.state.il.us/ORC/BioStrmRatings/index.htm)).