

Chapter 7
PERMITS

BUREAU OF LOCAL ROADS AND STREETS MANUAL

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Chapter 7
PERMITS

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7-1 GENERAL

Many activities performed by local public agencies (LPAs) affect the environment, navigation, public land, or private land. Depending upon the nature of the impact, the activity may require the LPA to obtain a permit or certification. Unless otherwise noted, the LPA coordinates with the applicable Federal or State agencies to process the permit application. Some of these permits/certifications are obtained during the planning phase of project development, and others are obtained during the design or construction phase. Any necessary permit authorizations/certifications should be obtained before commencement of work requiring the permit/certification. Personnel involved in project development should be aware of the requirements for these permits/certifications to ensure that necessary authorizations and clearances are obtained in a timely manner to allow the work requiring the permit/certification to proceed as scheduled. The permit authorization/certification should be obtained as close as practical to the start date for the work to optimize the time frame available for accomplishing the work before the authorization expires. LPAs must carefully monitor expiration dates for permit authorizations to ensure that any necessary extension or renewal request is processed in a timely manner. The need to receive one or more permits or approvals can significantly affect the project schedule.

Chapter 7 briefly documents information related to the permits/certifications that may be required for a project. Figure 7-1A identifies the address for each agency from whom a permit or certification may be required. Figure 7-1B identifies the regulatory jurisdictional boundaries for the USACE within the State of Illinois.

A joint application form (NCR Form 426) that has been developed by the United States Army Corp of Engineers (USACE), Illinois Environmental Protection Agency (IEPA), and Illinois Department of Natural Resources Office of Water Resources (OWR), which is used to apply for Section 10 and Section 404 permits from the USACE and for obtaining the related Section 401 Water Quality Certification from the IEPA. The form is also used for obtaining permits from the OWR for Construction in Floodways of Rivers, Lakes, and Streams and for work affecting public waters. The current version of the joint application form is available on the websites for the Chicago, Rock Island (lead Corps District for Illinois) and St. Louis Corps Districts. The LPAs should contact the USACE, IEPA, or OWR to obtain the current version of the joint application form. The form is also available on the [IDNR website](#).

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Federal

US Army Corps of Engineers

US Army Corps of Engineers
Chicago District
231 South LaSalle Street – Suite 1500
Chicago, Illinois 60604
(312) 846-5530

US Army Corps of Engineers
Rock Island District
Clock Tower Building
P.O. Box 2004
Rock Island, Illinois 61204-2004
(309) 794-5057

US Army Corps of Engineers
St. Louis District
1222 Spruce Street
St. Louis, Missouri 63103-2833
(314) 331-8575

US Army Corps of Engineers
Louisville District
Indianapolis Regulatory Office
8902 Otis Avenue – Suite S106B
Indianapolis, IN 46216
(317) 543-9424

US Army Corps of Engineers
Louisville District
Newburgh Regulatory Office
6855 State Road 66
P. O. Box 489
Newburgh, IN 47630-0489
(812) 853-5631

US Army Corps of Engineers
Memphis District
167 North Main Street
B-202
Memphis, Tennessee 38103
(901) 544-3471

US Coast Guard

Commander
Attn: Western Rivers Bridge Branch
Eighth Coast Guard District
1222 Spruce Street – Suite 2.102D
St. Louis, Missouri 63103-2832
(314) 269-2378

Commander
Attn: Bridge Branch
Ninth Coast Guard District
1240 East Ninth Street
Cleveland, Ohio 44199-2060
(216) 902-6087

State

Illinois Environmental Protection Agency

Illinois Environmental Protection Agency
Bureau of Water
Permit Section
1021 North Grand East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782- 3397

Illinois Environmental Protection Agency
Bureau of Air
Permit Section
1021 North Grand East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-2113

IDNR Office of Water Resources

(For Lake Michigan)

Illinois Department of Natural Resources
Office of Water Resources
Lake Michigan Management Section
Michael A. Bilandic Building
160 North LaSalle Street – Suite S-703
Chicago, Illinois 60601
(312) 793-5947

(For Cook, Lake, McHenry, DuPage, Kane, & Will Counties)

Illinois Department of Natural Resources
Office of Water Resources – Region 2 Office
2050 West Stearns Road
Bartlett, Illinois 60103
(847) 608-3116

(For the remainder of the State)

Illinois Department of Natural Resources
Office of Water Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
(217) 785-3334

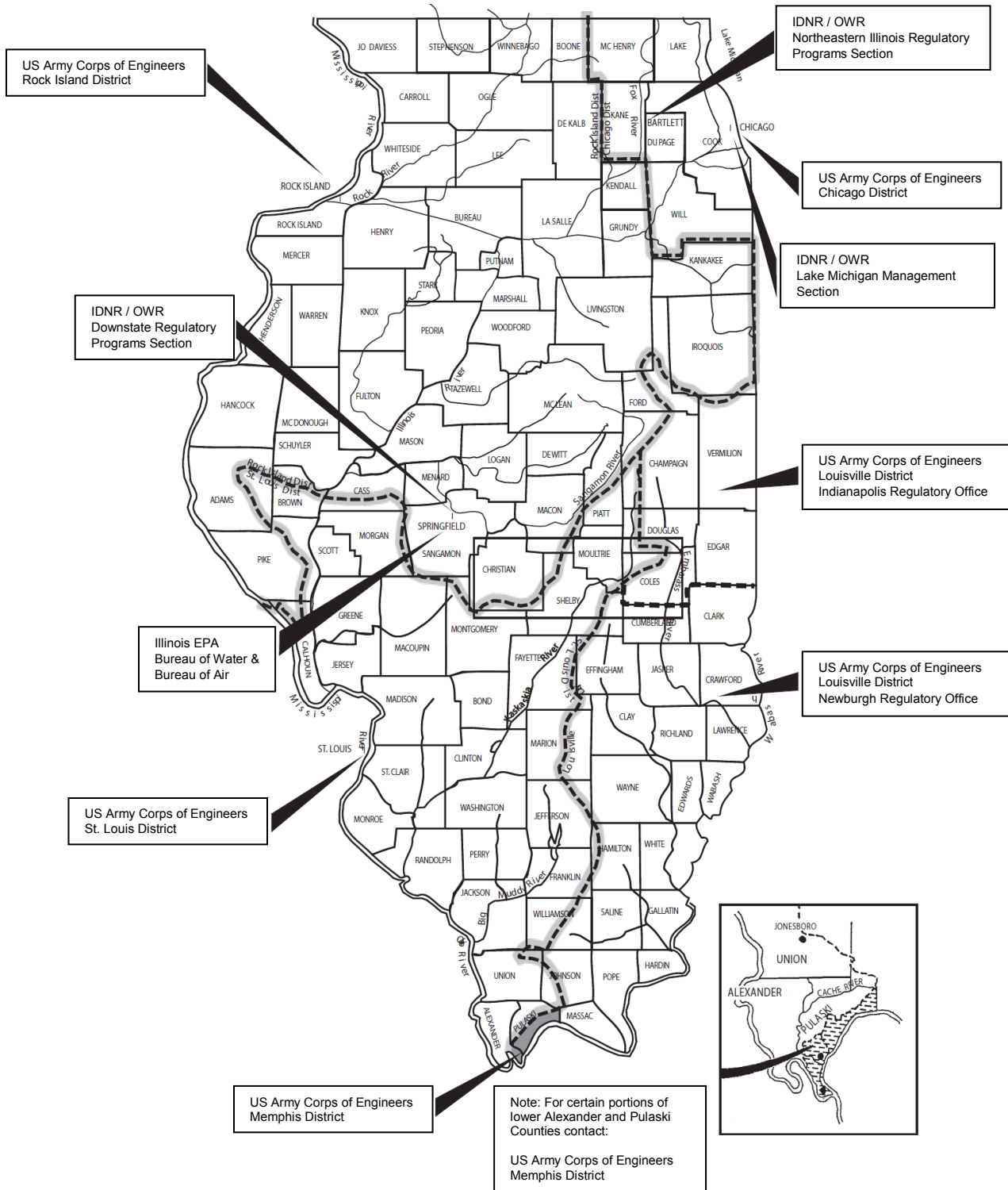
PERMIT AGENCY OFFICES

Figure 7-1A

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REGULATORY JURISDICTIONAL BOUNDARIES

Figure 7-1B

7-2 IDNR OFFICE OF WATER RESOURCES PERMITS**7-2.01 Permit Programs**

Construction activities in and along the rivers, lakes, and streams of the State, including Lake Michigan, in and along public bodies of water, and for the construction and maintenance of dams may require coordination and/or permits administered by OWR, pursuant to the *Rivers, Lakes, and Streams Act*, [615 ILCS 5](#). LPA improvement projects would most likely involve the following three IDNR regulatory permit programs.

- Part 3700 – Construction in Floodways of Rivers, Lakes, and Streams Permit. The permit requirements are applicable to all rivers, lakes, and streams under the jurisdiction of OWR, except those in the counties of Cook, Will, DuPage, Kane, Lake, and McHenry for which floodway limits have been defined pursuant to 17 *Illinois Administrative Code* 3708.
- Part 3704 – Regulation of Public Waters Permit. The permit requirements are applicable to those lakes, rivers, streams, and waterways that are considered public waters, as listed in 17 *Illinois Administrative Code*, Part 3704, Appendix A.
- Part 3708 – Floodway Construction in Northeastern Illinois Permit. The purpose of this permit is to regulate construction and backfill in the regulatory floodway of rivers, lakes, and streams of Cook, DuPage, Lake, McHenry, and Will Counties, excluding the City of Chicago. A permit is required for construction, including replacement structures, roadway widening, etc., within the designated area listed above.

More detailed information may be obtained from the IDNR website. The IDNR “Sustainability Act” ([Public Act 97-1136](#)) became law in December 2012 and provides new revenue sources and reduces dependency on General Revenue funding. Among other provisions, this new act added language to the Rivers, Lakes and Streams Act ([615 ILCS 5/35](#)) that allows IDNR to collect a fee per application for permits issued under the Rivers, Lakes and Streams Act to help defray a portion of the ordinary and contingent expenses of the IDNR.

7-2.01(a) Part 3700 – Construction in Floodways of Rivers, Lakes, and Streams Permit

Legal Reference: This permit is authorized by [615 ILCS 5/23](#), 29a, 30 and 35; Implementing Rules are in 17 *Illinois Administrative Code*, Part 3700.

Purpose of Permit: To protect the rights, safety, and welfare of private and public landowners by the regulation of floodway development.

Applicability: The permit requirements are applicable to all rivers, lakes, and streams under the jurisdiction of the OWR, except those in the counties of Cook, Will, DuPage, Kane, Lake, and McHenry for which floodway limits have been defined pursuant to 17 *Illinois Administrative Code* 3708. A permit is required for construction in the floodway of streams serving a tributary area of one square mile (640 acres) or more in an urban area or in the floodway of a stream serving a tributary area of 10 square miles (6,400 acres) or more in a rural area.

Permit Criteria for Bridges and Culverts Crossings:

1. **New Bridges and Culverts.** The following applies to new bridges and culverts that would not result in flood damages or potential flood damages outside the project right-of-way due to increases in flood heights or velocities. Absent contrary evidence, this standard will be considered met if, for the worst-case analysis, the application shows that:
 - (a) any water surface profile increase would be contained within the channel banks (or within existing vertical extensions of the channel banks such as within the design protection grade of existing levees or floodwalls) or flood easements; or
 - (b) in urban areas, the water surface profile increase would not exceed 0.5 ft (150 mm) at the structure, nor 0.1 ft (30 mm) at a point 1,000 ft (300 m) upstream of the structure; or
 - (c) in rural areas, the water surface profile increase would not exceed 1.0 ft (300 mm) at the structure, nor 0.5 ft (150 mm) at a point 1,000 ft (300 m) upstream of the structure; and
 - (d) any increase in average channel velocity would not be beyond the scour velocity of the predominant soil type of the channel; or
 - (e) increased scour, erosion, and sedimentation would be prevented by the use of riprap or other design measures.
2. **Bridge and Culvert Crossing Reconstruction.** A bridge or culvert crossing reconstruction project that meets the following provisions will be permissible. A reconstruction project that does not meet these provisions must comply with the general standards for new bridges and culverts described above.
 - (a) For any flood event up to and including the 1%-annual-chance event, reconstructed crossing shall be no more restrictive to normal and flood flows than the existing bridge or culvert crossing; and
 - (b) Documentation must be provided that the existing crossing has not caused demonstrable flood damage. In the case of public projects, certification by a Regional Engineer of the IDOT Office of Highways Project Implementation, a county engineer (if an Illinois Licensed Professional Engineer), or a municipal engineer (if an Illinois Licensed Professional Engineer) that the existing crossing has not caused demonstrable flood damage will be adequate documentation.

7-2.01(b) Part 3704 – Regulation of Public Waters Permit

Legal Reference: This permit is authorized by [615 ILCS 5](#); Implementing Rules are in 17 *Illinois Administrative Code*, Part 3704.

Purpose: To protect the public's interest, rights, safety, and welfare in the State's public bodies of water by preventing construction that would:

- obstruct or interfere with the navigability of any public body of water;
- encroach on any public body of water; or

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- impair the rights, interests, or uses of the public in any public body of water or in the natural resources thereof.

Applicability: The permit requirements are applicable to those lakes, rivers, streams, and waterways that are considered public waters, as listed in 17 *Illinois Administrative Code*, Part 3704, Appendix A.

Permit Standards: The following apply to the Public Waters Permit:

1. **Navigability.** No activity may result in an obstruction to, or interference with, the navigability of any public body of water.
2. **Bank/Shoreline Instability.** No activity may result in bank or shoreline instability on other properties.
3. **Encroachment.** If it is determined that an activity would result in a long-term or permanent encroachment on a public body of water or impairment of any rights, interests, or uses of the public, it must be demonstrated that:
 - the project has been designed and will be constructed and operated in a way that will minimize and mitigate to the fullest practicable extent its encroachment on the body of water and its impairment of the rights, interests, and uses of the public; and
 - there will be a public benefit resulting from the activity that would offset the encroachment and/or impairment.

7-2.01(c) Part 3708 – Floodway Construction in Northeastern Illinois Permit

Legal Reference: This permit is authorized by [615 ILCS 5/18g](#) and 35; Implementing Rules are in 17 *Illinois Administrative Code*, Part 3708.

Purpose: The purpose of this permit is to regulate construction and backfill in the regulatory floodway of rivers, lakes, and streams of Cook, DuPage, Lake, McHenry, and Will Counties, excluding the City of Chicago, so that periodic inundation will not:

- pose a danger to the general health and welfare of the user;
- require the expenditure of public funds;
- require the provision of public resources or disaster relief services; and
- result singularly or cumulatively in greater flood damages or potential flood damages due to increases in flood stage or velocities or loss of flood storage.

Applicability: A permit is required for construction, including replacement structures, roadway widening, etc., within the designated area listed above. To receive a permit for work in the regulatory floodway, the proposed construction shall be an appropriate use of the regulatory floodway (see Part 3708 for appropriate uses), and the proposed construction shall not reduce the regulatory floodway storage or conveyance and shall not increase regulatory floodway velocities.

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Permit Criteria for Bridge, Culvert, and Roadway Approaches:

1. Bridges and Culverts. The construction of an appropriate use below the 100-year frequency flood elevation will be considered permissible provided the proposed project meets the following criteria and is so stated in writing with supporting plans, calculations and data by an Illinois Licensed Professional Engineer:
 - (a) In the case of the construction of a new bridge or culvert crossing and roadway approach, the proposed structure shall not result in an increase of upstream flood stages greater than 0.1 ft (32 mm) when compared to existing conditions for all flood events up to and including the 100-year frequency event; or the upstream flood stage increases will be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements; or a flood control project is built to mitigate the increased backwater due to the structure.
 - (b) In the case of bridge and culvert reconstruction or modification, the bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 ft increase in backwater over the existing flood profile for all flood frequencies up to and including the 100-year event, if the existing structure is not a source of flood damage. The proposed construction shall meet the following criteria:
 - 1) The proposed structure, including approach roads, does not result in an increase in upstream stages for normal and flood flows when compared to the existing structure.
 - 2) On publicly navigated waterways, the proposed structure is not an obstruction to navigation.
 - 3) The determination as to whether the existing structure is a source of flood damage shall be made according to the following method:
 - a. Determine the increase in upstream flood profile due to the existing bridge or culvert by calculation or from the flood study used to delineate the regulatory floodway for all reported flood profiles up to and including the 100-year flood.
 - b. Determine if there are any buildings or structures located in the 100-year flood plain upstream of the existing bridge or culvert that may be subjected to flooding. The upstream flood plain shall be checked for the length of stream required for the backwater impacts due to the existing bridge or culvert to be reduced to 0.1 ft or less.
 - c. Collect the low opening elevations or lowest damageable elevations of the upstream buildings and structures as identified in subsection shown above. Determine if any buildings or structures are subject to inundation by the 100-year frequency flood event.

- (c) The compensatory storage shall be provided for any regulatory floodway storage lost due to the proposed work from the volume of fill or structures placed and the impact of any related flood control projects. Artificially created storage lost due to a reduction in head loss behind a bridge shall not be required to be replaced. The compensatory regulatory floodway storage must be placed between the proposed normal water elevation and the proposed 100-year flood elevation. All regulatory floodway storage lost below the existing 10-year flood elevation must be replaced below the proposed 10-year flood elevation. All regulatory floodway storage lost above the existing 10-year flood elevation must be replaced above the proposed 10-year flood elevation. If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer must demonstrate to the Department through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent.
- (d) When excavation is proposed in the design of the bridge and culvert openings, including the modifications to and replacement of existing bridge and culvert structures, or to compensate for lost conveyance for other appropriate uses, transition sections must be provided for the excavation. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to the Department through engineering calculations and model tests that more abrupt transitions may be used with the same efficiency:
 - 1) When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of 1 ft horizontal for every 4 ft of the flooded stream's length;
 - 2) When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of 1 ft horizontal for every 1 ft of the flooded stream's length; and
 - 3) When expanding or contracting flows in a vertical direction, a minimum of 1 ft vertical transition for every 10 ft of stream length shall be used.
- (e) If the 100-year regulatory floodway elevation at the site of the proposed construction is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed construction shall be shown to meet the requirements of this section for the 100-year frequency flood elevations of the regulatory floodway conditions and conditions with the receiving stream at normal water elevations. However, for bridge and culvert construction or reconstruction, a smaller bridge or culvert may be built if it can be demonstrated to the Department that the proposed structure would meet the requirements of this section for the 100-year frequency flood elevation of the regulatory floodway flood study profile and would not be a source of flood damage as determined according to the method described previously to any existing upstream building or structure when analyzed as follows:

The proposed bridge or culvert shall be analyzed for a 100-year flood frequency flow on the tributary stream and for all tailwater elevations on the receiving stream between and including the normal water elevation and the 10-year flood frequency elevation.

- (f) If an applicant learns from the Department, local government or a private owner that a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a public flood control project is scheduled to be built within the next five years, the proposed construction shall be analyzed and shown to meet the requirements of this Section for both the existing conditions and the expected flood profile conditions when the bridge, culvert or flood control project is built.
- (g) If the appropriate use would result in a change in the regulatory floodway location or the 100-year frequency flood elevation, the applicant shall submit to the Department and to FEMA all the information, calculations and documents necessary to be issued a conditional regulatory floodway map revision and receive from the Department a conditional approval of the regulatory floodway change before a permit is issued. However, the final regulatory floodway map will not be changed by the Department until as-built plans are submitted and accepted by FEMA and the Department. In the case of non-government projects, the municipality in incorporated areas and the county in unincorporated areas must concur with the proposed conditional regulatory floodway map revision before Department approval can be given.
- (h) All engineering analyses shall be performed by or under the supervision of an Illinois Licensed Professional Engineer, except in the case of a federal project.

7-2.02 Types of Permits

Generally, OWR issues an Individual Permit to applicants to demonstrate compliance with the rules for construction within a floodway. OWR has issued statewide and regional permits for specific activities which have insignificant impact on those factors under the jurisdiction of OWR. After the issuance of a statewide/regional permit, no application or further authorization will be required by OWR for activities meeting the terms and conditions of the statewide/regional permit. OWR may also issue General permits for more expeditious and less costly permit applications. Individual applications must still be submitted but authorizations will be granted for activities meeting all the terms and conditions of the general permit without notice or interagency coordination.

If a LPA project requires an Individual Permit coordination shall be with the OWR. Approval of the preliminary bridge design will be contingent on the hydraulics being approved by the OWR. If changes are required to the proposed structure, re-submittal to the LBU is required. For additional guidance on PBDHR submittal requirements, see [Chapter 10](#).

7-2.02(a) Statewide Permits

Figure 7-2A provides a list of all active OWR Statewide Permits (SWP).

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Permit Number	Permit Title
SWP 2	Construction of Bridge and Culvert Crossings of Streams in Rural Areas
SWP 3	Authorizing Mooring Facilities Used Exclusively for Barge Fleeting Purposes
SWP 4	Aerial Utility Crossings
SWP 5	Minor Boat Docks
SWP 6	Minor, Non-obstructive Floodway Construction Activities
SWP 7	Outfalls
SWP 8	Underground Pipeline and Utility Crossings
SWP 9	Minor Shoreline, Stream Bank, and Channel Protection Activities
SWP 10	Accessory Structures and Additions to Existing Residential Buildings
SWP 11	Minor Maintenance Dredging Activities
SWP 12	Bridge and Culvert Replacement Structures and Bridge Widening
SWP 13	Temporary Construction Activities
SWP 14	Special Uses of Public Waters

ACTIVE OWR STATEWIDE PERMITS**Figure 7-2A**

The following discusses the criteria for the Statewide Permits typically used for improvement projects by LPAs:

Statewide Permit No. 2 ([SWP 2](#)) – Construction of Bridge and Culvert Crossings of Streams in Rural Areas. SWP 2 applies to the construction of new and replacement bridges over streams in rural areas with drainage areas 10 mi² or greater when it is determined that the structure will not cause significant increases in potential flood damage. Rural areas are areas where residential, commercial, or industrial development does not exist and is not expected to occur within a 10-year period. If the area is unclear, the OWR shall be consulted for determination on whether the location is Rural or Urban. This decision should be documented.

SWP 2 does not apply to:

- 1) the areas in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708
- 2) the public waters of the State (see the Department's Part 3704 "Regulation of Public Waters" rules for a listing of the public waters), and

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- 3) replacement of any bridge or culvert that has been the source of demonstrable flood damage.

SWP 2 only approves the hydraulic design of qualifying bridges; additional approvals may be required. The PBDHR must be submitted through the district to the LBU for applicable structures. To be authorized by SWP 2, bridge and culvert structures must meet the following conditions:

Special Conditions of the Statewide Permit No. 2

1. For a new culvert or bridge crossing:
 - (a) The crossing shall be designed such that it will not result in an increase in water surface profile elevation more than 1.0 ft (300 mm) over the natural condition for any frequency flow up to and including the 100-year frequency flood; and
 - (b) The crossing shall be designed such that it will not result in an increase in water surface profile elevation more than 0.5 ft (150 mm) over the natural condition at a point 1,000 ft (300 m) upstream of the proposed structure (as determined by the horizontal projection of the maximum created head and the slope of the hydraulic grade line) for any frequency flood up to and including the 100-year frequency flood; and
 - (c) There are no buildings or structures in the area impacted by the increases in water surface profile.
2. For a replacement culvert or bridge crossing:
 - (a) The crossing shall be designed so that there will be no increase in backwater over the existing conditions, or
 - (b) The crossing shall be designed so that it complies with the water surface profile increases listed in Special Condition 1; and
 - (c) An Illinois Licensed Professional Engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - 1) No buildings or structures have been impacted by the backwater induced by the existing crossing; and
 - 2) There is no record of complaints of flood damages associated with the existing crossing.
3. The proposed bridge or culvert crossing, whether new or replacement, must not involve the straightening, enlargement or relocation of the existing channel of the river or stream. The excavation of the channel and/or overbank necessary for the effective hydraulic performance of the culvert or bridge or removal of debris from the river or stream is not considered straightening, enlargement or relocation. Any excavation of the overbank incorporated into the design of the bridge or culvert crossing to meet the terms of Special Condition 1 or 2, must include appropriate vertical and horizontal transitions. Furthermore, the bottom elevation of the overbank excavation must not be below one-

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half the channel depth of the stream. This depth shall be calculated at an existing cross-section of the stream within the general vicinity of the culvert or bridge which has been unaffected by man-made obstructions.

- 4. The design must be certified by an Illinois Licensed Professional Engineer to have been designed by standard hydrologic and hydraulic engineering methods and to be in compliance with the terms and conditions of this Permit and the applicable rules of the Department; and
- 5. The design must be certified by a second Illinois Licensed Professional Engineer to have been reviewed and found to be in compliance with the terms and conditions of this Permit.
- 6. The permittee shall maintain, for each project authorized by this permit, the records necessary to document compliance with the above conditions.

Certification Statements – SWP 2

To satisfy the requirements of SWP 2, for a **new bridge or a replacement** bridge or culvert crossings, the PBDHR that is submitted for the project must contain certification statements as noted above. The PBDHR is to be submitted through the district to the LBU; see [Section 10-2](#). The certification statements should contain, at a minimum, the information provided in the following samples:

I hereby certify that the waterway opening for the proposed structure has been designed by standard hydrologic and hydraulic engineering methods and is in compliance with the terms and conditions of Statewide Permit No. 2 and the applicable rules of the Department.	
_____	_____
(Signature of an Illinois Licensed Professional Engineer)	(Date)
PE Seal (with date of expiration)	

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I hereby certify that I have reviewed the design for the waterway opening of the proposed structure and I have found it to be in compliance with the terms and conditions of Statewide Permit No. 2 and the applicable rules of the Department.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

PE Seal (with date of expiration)

For a **replacement** bridge or culvert crossing, the PBDHR that is submitted for the project must contain an **additional** certification statement. The certification statement should contain, at a minimum, the information provided as following:

I hereby certify that the existing structure has not been the cause of demonstrable flood damage and that:

- a) no buildings or structures have been impacted by the backwater induced by the existing structure; and
- b) there is no record of complaints of flood damage associated with the existing structure.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

PE Seal (with date of expiration)

The required certifications must be included with the PBDHR. Based on review of the PBDHR, the LBU will concur that the conditions of SWP 2 have been met.

Statewide Permit No. 6 (SWP 6) – Minor Non-Obstructive Floodway Construction. SWP 6 authorizes the construction of minor floodway activities that are determined to have an insignificant impact on the factors under the jurisdiction of OWR. This permit does not apply to the areas in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. Some of the activities not involving fill or positive change in grade include the construction of light poles, sign posts, and similar structures and the construction of sidewalks and driveways built at grade. Other minor construction activities, including those involving fill or positive change in grade, may be authorized by this permit based on a determination by OWR after their review of submitted plans. Additional information is available on the IDNR website.

Statewide Permit No. 7 (SWP 7) – Outfalls. SWP 7 authorizes all outfall structures and drainage ditch outlets meeting the conditions of the permit, except those on Lake Michigan and

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those in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. Additional information is available on the IDNR website.

Statewide Permit No. 9 (SWP 9) – Minor Shoreline, Stream Bank, and Channel Protection Activities. SWP 9 authorizes minor protection activities for shorelines, stream banks, and channels experiencing active erosion, except those in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. The length protected must not exceed, either singularly or cumulatively, 1,000 ft (300 m). In public waters, only the placement of protection materials on an eroded bank is authorized by SWP 9. Additional information is available on the IDNR website.

Statewide Permit No. 11 (SWP 11) – Minor Maintenance Dredging Activities. SWP 11 authorizes minor dredging activities except for those in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. The affected length must not exceed, either singularly or cumulatively, 1,000 ft (300 m). Additional information is available on the IDNR website.

Statewide Permit No.12 (SWP 12) – Bridge and Culvert Replacement Structures and Bridge Widening. SWP 12 authorizes the replacement of bridge and culvert structures and the widening of specified existing bridges on rivers, lakes, and streams under IDNR's jurisdiction draining 10 mi² (26 km²) or more in rural areas and 1 mi² (2.59 km²) or more in urban areas. SWP 12 does not apply to the State's public bodies of water, nor those in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. A list of Illinois "public bodies of water" can be viewed at the IDNR website.

For a project to be authorized by SWP 12, bridge and culvert structures must meet the following conditions:

Special Conditions of the Statewide Permit No. 12

1. An Illinois Licensed Professional Engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - a) no buildings or structures have been impacted by the backwater induced by the existing structure, and
 - b) there is no record of complaints of flood damages associated with the existing structure.
2. An Illinois Licensed Professional Engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects, the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.

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3. The project does not include any appreciable raising of the roadway approaches. This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a Federal Emergency Management Agency flood insurance study, or a study completed or approved by IDNR/OWR.
4. The project shall not involve the straightening, enlargement, or relocation of the existing channel of the river or stream, except as permitted by IDNR Statewide Permit No. 9, (Minor Shoreline, Channel, and Stream Bank Protection Activities) or by Statewide Permit No. 11, (Minor Maintenance Dredging Activities).
5. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.

The certification statements should contain, at a minimum, the information provided in the following samples:

I hereby certify that the existing structure has not been the cause of demonstrable flood damage and that:

- a) no buildings or structures have been impacted by the backwater induced by the existing structure; and
- b) there is no record of complaints of flood damage associated with the existing structure.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

PE Seal (with date of expiration)

I hereby certify that I have determined that the new structure will provide an effective waterway opening equal to or greater than that provided by the existing structure.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

PE Seal (with date of expiration)

The required determination and documentation, along with the certifications, should be submitted with the PBDHR through the district to the LBU; see [Section 10-2](#).

Based on review of the PBDHR, the LBU will concur that the conditions of SWP 12 have been met.

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Statewide Permit No. 13 (SWP 13) – Temporary Construction Activities. SWP 13 applies to temporary construction activities in floodways. SWP 13 does not apply to the State's public bodies of water and those in Lake, McHenry, Cook, DuPage, Kane, and Will Counties for which regulatory floodways have been designated pursuant to 17 *Illinois Administrative Code*, Part 3708. Additional information is available on the IDNR website.

7-2.02(b) Regional Permits

Regional Permits are permits authorizing specific types of projects meeting certain criteria within regulatory floodways of Cook, DuPage, Kane, Lake, McHenry, and Will Counties in Northeastern Illinois without coordination with OWR.

The following describes the Regional Permits and their requirements:

1. Regional Permit 1 – Authorizing Bridge and Culvert Reconstruction and Modification Projects That Are Not a Source of Flood Damage. IDOT's District 1 administers Regional Permit 1. IDOT operates, without coordination with OWR, under the Memorandum of Understanding between the IDOT and IDNR.

Bridge and culvert reconstruction and modifications that are certified by the Regional Engineer as meeting the following criteria are considered authorized by OWR under Regional Permit 1:

- (a) Flow Restriction. The proposed structure, including the approach roads, is no more restrictive to normal and flood flow than the existing structure.
- (b) Channel Modification. No channel modification is proposed other than that required for transitions by the rules for Floodway Construction in Northeastern Illinois (17 *Illinois Administrative Code*, Part 3708).
- (c) Navigable Waterways. On publicly navigated waterways, the proposed work is not an obstruction to navigation.
- (d) Headwater Increase. The maximum headwater increase due to the proposed modification is no greater than 0.1 ft (30 mm) increase in backwater over the existing flood profile for all flood frequencies up to and including the 100-year event.
- (e) Flood Damage. The existing crossing is not a source of flood damage. To show the proposed structure is not a source of flood damage, the IDOT Regional Engineer must adhere to the following procedure:
 - Determine the head loss due to the existing bridge or culvert by calculation, or from the flood study used to delineate the regulatory floodway for all reported flood profiles up to and including the 100-year flood.
 - Determine if there are any buildings or structures located in the 100-year flood plain upstream of the existing bridge or culvert that may be subjected to flooding. The upstream flood plain should be checked for

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the length of stream required for the backwater impacts due to the existing bridge or culvert to be reduced to 0.1 ft (30 mm) or less.

- Collect the low-opening elevations or lowest damageable elevations of the upstream buildings and structures. Determine if any buildings or structures are subject to flood damage.

If the existing structure is determined to be a source of flood damage to buildings or structures in the upstream flood plain, Regional Permit 1 does not authorize the proposed structure.

- (f) Compensatory Storage. Effective compensatory storage will be provided for any additional loss of floodway storage due to the proposed work. This means that if flood storage will be lost below the existing 10-year flood elevation, it must be replaced below the 10-year flood elevation and, if flood storage is lost above the existing 10-year flood elevation, it is replaced above the proposed 10-year flood elevation. All effective compensatory storage must be placed above the normal water elevation and below the 100-year elevation.

Compensatory storage for up to 200 yd³ (150 m³) of fill material may be placed at a location outside of the project reach without demonstrating hydraulic equivalence and without applying for a floodway map change.

Relief from the compensatory storage requirement may be granted with OWR concurrence when extreme hardship is demonstrated, and an engineering analysis shows that no increase in flood stage will result. Relief will not be granted for compensatory storage greater than 200 yd³ (150 m³).

- (g) Transition Sections. Transition sections must be used in the calculation and design of effective bridge and culvert openings and in the design and construction of effective excavations. Use the following expansion and contraction ratios:

- when water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of 1 ft (300 mm) horizontal for every 4 ft (1.2 m) of the flood stream's length;
- when water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of 1 ft (300 mm) horizontal for every 1 ft (300 mm) of the flooded stream's length; and
- when expanding or contracting flows in a vertical direction, use a minimum of 1 ft (300 mm) vertical transition for every 10 ft (3 m) of stream length.

- (h) Downstream Backwater. If the 100-year floodway elevation at the site of the proposed construction is impacted by backwater from a downstream receiving stream with a larger drainage area, document that it meets the requirements of 17 *Illinois Administrative Code*, Part 3708, for the flood study profile conditions and conditions with the receiving stream at normal water elevations. However, for bridge and culvert construction or reconstruction, a smaller bridge or culvert

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may be built if it can be demonstrated that the proposed structure would meet the requirements for the flood study profile and would not be a source of flood damage to any existing upstream building or structures when analyzed as follows:

- Analyze for a 100-year flood frequency flow on the tributary stream for all tailwater elevations on the receiving stream between and including the normal water elevation and the 10-year flood frequency elevation.
- If, within the next 5 years, a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a government sponsored regional flood control project is scheduled to be built, analyze and document the proposed construction to ensure that it meets the preceding criteria for both the existing conditions and the expected flood profile conditions when the bridge, culvert, or flood control project is built.
- If the bridge or culvert reconstruction or modification would result in a change in the regulatory floodway location or the 100-year frequency flood elevation, submit to the OWR and to the Federal Emergency Management Agency all the information, calculations, and documents necessary to revise the floodway map. The Office of Water Resources Management will issue a conditional approval of the floodway change before authorization is granted.
- All engineering analyses must be performed by or under the supervision of an Illinois Licensed Professional Engineer.

A permit summary form (form [D1_PD0024](#)) has been prepared to aid in the design and review of floodway projects and to ensure that designed projects can be permitted according to the rules of the Regional Permit. The summary form identifies the key permit conditions that must be addressed and serves as a check sheet for the reviewer. The Illinois Licensed Professional Engineer who performed or supervised the hydraulic design in accordance with the permit rules must sign the form. This form must be completed by the LPA and included with the submittal to District 1 of the PBDHR (see [Chapter 10](#)) for all projects utilizing Regional Permit 1.

2. Regional Permit 2 – Authorizing Bridge and Culvert Modification. IDOT District 1 administers Regional Permit 2. IDOT operates, without coordination with OWR, under the Memorandum of Understanding between IDOT and IDNR. Bridge and culvert modifications that are certified by the Regional Engineer as meeting the following criteria are considered authorized by OWR under Regional Permit 2:
 - (a) Culvert Length/Bridge Width. The total amount of proposed culvert lengthening or bridge widening does not exceed 12 ft (3.6 m).
 - (b) Flow Restriction. The proposed modification, including the approach roadway, is no more restrictive to normal and flood flows than the existing structure.

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- (c) Channel Modification. No channel modification is proposed other than that required for transitions under the rules for “Floodway Construction in Northeastern Illinois” (17 *Illinois Administrative Code*, Part 3708).
- (d) Navigable Waterway. On publicly navigated waterways, the proposed modification is not an obstruction to navigation.
- (e) Compensatory Storage. Effective compensatory storage will be provided for any additional loss of floodway storage due to the proposed work. This means, for example, that if flood storage is lost below the existing 10-year flood elevation, it must be replaced below the proposed 10-year flood elevation and if flood storage is lost above the existing 10-year flood elevation, it must be replaced above the proposed 10-year flood elevation. All effective compensatory storage must be placed above the normal water elevation and below the 100-year flood elevation.

Compensatory storage for up to 200 yd³ (150 m³) of fill material may be placed at a location outside of the project reach without demonstrating hydraulic equivalence and without applying for a floodway map change.

Relief from the compensatory storage requirement may be granted with the OWR Management concurrence when extreme hardship is demonstrated, and an engineering analysis shows that no increase in flood stage will result. Relief will not be granted for compensatory storage greater than 200 yd³ (150 m³).

A permit summary form (form [D1 PD0024](#)) must be completed by the LPA and submitted to District 1 with the PBDHR (see [Chapter 10](#)), if applicable, for all projects utilizing Regional Permit 2.

3. Regional Permit No. 3 – Authorizing Construction of Minor Projects in Northeastern Illinois Floodways. Regional Permit 3 applies to the construction of certain minor projects within floodways in Northeastern Illinois including the following project types:
 - storm sewer outfalls and outlet channels,
 - sidewalks, and
 - shoreline and streambank protection.

Each of these types of projects must meet specified criteria like the criteria in SWP’s 6, 7, and 9 to be permitted under Regional Permit 3. See the IDNR website for additional information on Regional Permit 3.

7-2.02(c) General Permits

General Permits are like Statewide Permits but require an application submittal to OWR. They cover specific type of projects and are limited in scope.

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7-2.02(d) Individual Permits

Applicability: If an OWR Construction Permit is needed, and the project is not covered by a Statewide, Regional, or General Permit, an Individual Permit is required from OWR. It is suggested that OWR be consulted about rural/urban determinations. Individual permits to construct drainage structures and channel changes must be secured from the OWR for:

- structures that drain an area 10 mi² or greater in a rural area, or
- structures that drain an area 1 mi² or greater in an urban area, or
- channel changes affecting a drainage area of 10 mi² or more in a rural area and 1 mi² in an urban area; or
- projects affecting public waterways (see 17 *Illinois Administrative Code*, Part 3704, Appendix A for a list of these public waterways).

Permit Information Needs: The Joint Application Form (NCR Form 426), with appropriate supporting data, is used as the application for an Individual Permit. Supporting data includes:

- hydraulic report (use PBDHR when required; see [Section 10-2](#));
- hydraulic analysis data files (electronic);
- waterway sketch
- floodplain cross sections;
- road profiles; and
- channel change sketch, if applicable, (see Figure 7-2B for a sample channel change sketch). See Section 5-700 in the IDOT [Drainage Manual](#) for guidance on channel modification.

For replacement structures with no appreciable raising of grade, the LPA may use a certification statement signed by the county engineer or municipal engineer in place of the hydraulic analysis data. The county engineer or municipal engineer must be an Illinois Licensed Professional Engineer. This certification statement should be like the certification statement for SWP 12 (see Section 7-2.02). The statement should state that the existing structure has not been the cause of demonstrable flood damage and that the proposed replacement structure will not increase flood damage potential. When making this certification statement, the engineer is acknowledging that the design risk assessment process as described in the IDOT [Drainage Manual](#) has been performed.

If a LPA project requires an Individual Permit coordination shall be with the OWR. Approval of the preliminary bridge design will be contingent on the hydraulics being approved by the OWR. If changes are required to the proposed structure, re-submittal to the LBU is required. For additional guidance on PBDHR submittal requirements, see [Chapter 10](#).

7-2.02(e) Maintenance/Rehabilitation Exceptions

The following activities are exempted from an OWR Floodway Construction Permit:

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1. Maintenance and repair of existing bridge and culvert structures, including dredging to restore the waterway opening to the original design cross section, and superstructure replacement which would not reduce the waterway opening below the 1% annual chance of exceedance (100-year frequency) water surface elevation. (Maintenance does not include increasing the height of an existing roadway). (Note: although exempt from this Part, superstructure replacement involving replacing the girders of bridges over public bodies of water will require authorization under 17 *Illinois Administrative Code* 3704 Regulation of Public Waters);
2. Widening of bridge decks which would not reduce the bridge waterway opening below the 1% annual chance of exceedance (100-year frequency) water surface elevation nor involve the horizontal extension of piers;
3. Culvert extensions of up to 100% of the original length, but not exceeding 40 ft in length, provided the extension involves no change in alignment or reduction in size from the original culvert;
4. Removal of structures provided the materials would be removed from the floodway or placed in a way which would not obstruct normal or flood flows;

Projects calling for the total removal of an existing superstructure and the construction of a new superstructure on the existing substructure units, and culvert extensions as noted above, require hydraulic submittals. The hydraulic submittals shall include the existing and proposed design and 100-year hydraulic openings and elevations and shall be sufficient to evaluate the impact of scour on the existing substructure to remain (for bridges). The supporting data should be included, and a certification statement included that the existing structure has not been the cause of “demonstrable flood damage”. Use a certification statement like that provided for Statewide Permit 12 provided in Section 7-2.02(a).

7-2.02(f) No Construction Permit required

For projects not requiring an OWR construction permit, LPAs should continue to submit all PBDHR to the district for projects that require IDOT approval prior to preparation of design plans (see [Section 10-2](#)). Coordination with the OWR is not required. OWR construction permits are not required for rural structures with a drainage area of less than 10 square miles or for urban structures with a drainage area of less than one square mile. IDOT will review and approve the PBDHR for such projects.

The certification statements included with PBDHR submitted to IDOT should reference the IDOT [Drainage Manual](#) as the publication providing the policies and procedures for determining hydraulic adequacy.

Hydraulic Certification statements should contain, at a minimum, the information provided in the following sample certification statements:

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1. Drainage Areas Not Requiring a Permit:

I hereby certify that the waterway opening for the proposed structure has been designed using hydrologic and hydraulic engineering methods in accordance with the policies and procedures presented in the *Drainage Manual* or the Illinois Department of Transportation.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

PE Seal (with date of expiration)

2. Rehabilitation Projects Not Requiring a Permit:

The PBDHR information submitted to the LBU for superstructure replacement projects should contain a certification statement that the existing structure has not been the cause of “demonstrable flood damage” (similar to the certification statement for Statewide Permit No. 12).

If the certification statement for flood damage cannot be provided by the county engineer, a complete hydrologic and hydraulic analysis is required to verify the hydraulic adequacy of the existing waterway opening and the following certification statement should be included with the hydraulic report:

I hereby certify that the waterway opening for the existing/proposed structure has been analyzed and evaluated using hydrologic and hydraulic engineering methods in accordance with the policies and procedures presented in the *Drainage Manual* of the Illinois Department of Transportation.

(Signature of an Illinois Licensed Professional Engineer)

(Date)

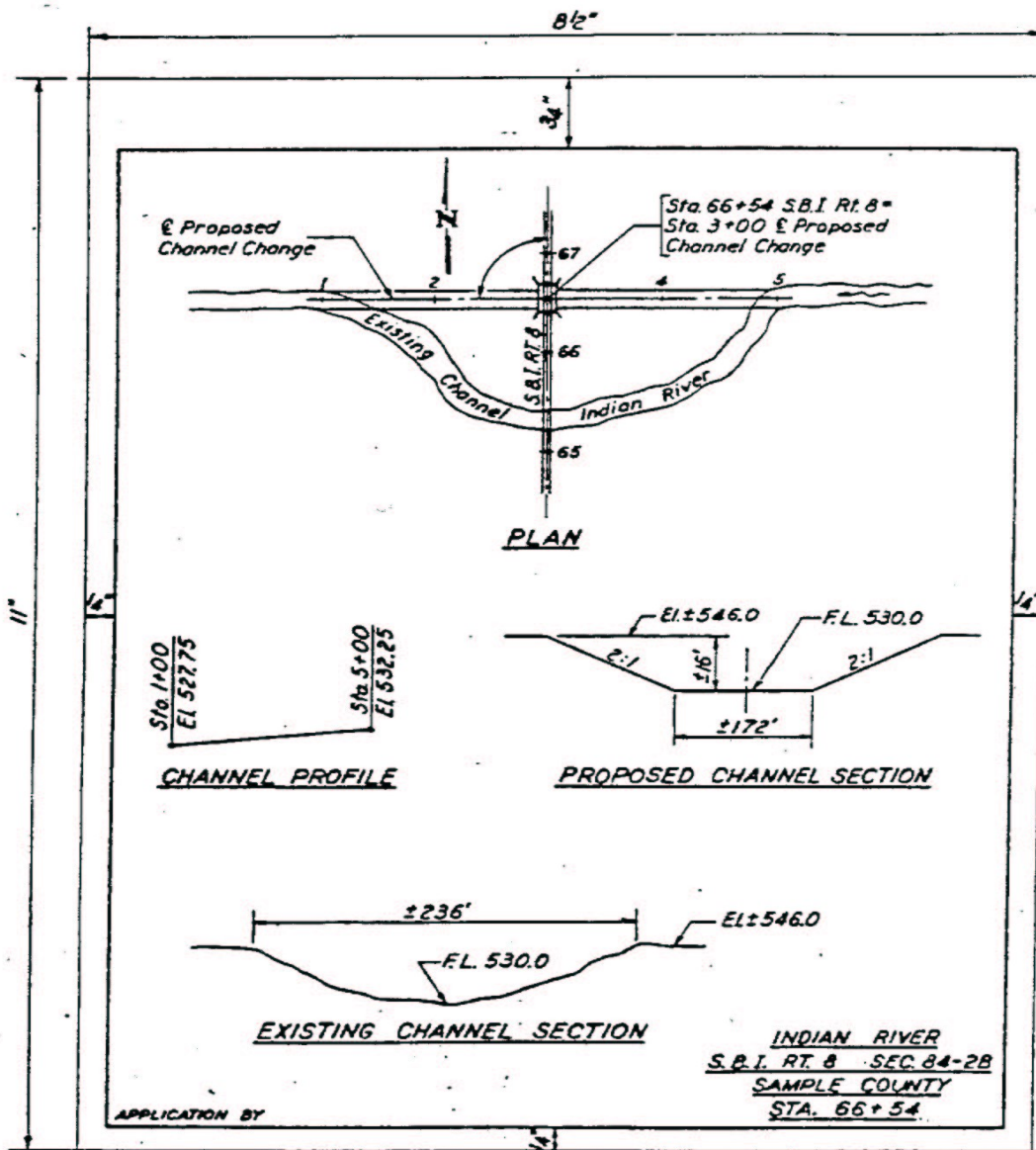
PE Seal (with date of expiration)

When making this certification, the engineer is acknowledging that the “design risk assessment process” has been performed as described in Section 1-303.01 of the IDOT [Drainage Manual](#).

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Note: This sketch is applicable when the following major channel changes occur:

1. The new channel is 250 ft (75 m) or longer.
2. The abandoned portion of the old channel is 750 ft (225 m) or longer.
3. The channel change at a bridge results in a stream alignment that would cause bank erosion because of a short radius bend.
4. The stream change is unusual and needs special attention.

SAMPLE CHANNEL CHANGE SKETCH

Figure 7-2B

7-3 IEPA PERMITS**7-3.01 Permit for Burning of Landscape Waste****7-3.01(a) Background**

Legal Reference: [415 ILCS 5/9\(c\)](#), 10, and 27; Implementing rules in 35 *Illinois Administrative Code* Part 237.

Responsible Agency: Illinois Environmental Protection Agency (IEPA) and the Illinois Pollution Control Board.

Purpose: To ensure that open burning if necessary, will be conducted in a time, place, and manner as to minimize the emission of air contaminants, and will have no serious detrimental effect upon adjacent properties or the occupants thereof.

No person shall cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the IEPA; except that the Illinois Pollution Control Board may adopt regulations permitting open burning of refuse in certain cases.

Applicability: For the burning of landscape waste in any area of the State, if open burning is conducted with the aid of an air curtain destructor or comparable device to reduce emissions substantially and does not occur within 1,000 ft (300 m) of any residential or other populated area.

7-3.01(b) General Permit

Permit Name: General Permit for Open Burning of Landscape Waste Generated by Land Clearing Activities Necessitated by Road Construction Projects Included in the “Annual Program” and “Service Bulletins” of IDOT.

Applicability: This General Permit can be used for any LPA project constructed with Federal funds or let by the State.

Permit Information Needs: A completed Notice of Open Burn form must be sent to the IEPA Air Permit Section not less than 7 working days prior to each open burn. The Notice of Open Burn form must provide the following information:

- name and address of the contractor proposing the open burn;
- the site location of the proposed open burn including address, county, township, sketch of the immediate vicinity of the proposed open burn site, and a printed map of the general area showing the site and nearby features marked, with distances to the features (e.g., structures, residences, populated areas, roadways, airports, lakes, waterways, hospitals, nursing homes, schools);
- schedule of the open burning activity including estimated duration and dates;

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- estimated quantity of material to be burned;
- IDOT construction contract number; and
- authorized signature of person responsible for the open burn activity.

7-3.01(c) Individual Permit

Applicability: The open burning of landscape waste on local-let projects not constructed with Federal funds will require an Individual Permit from the IEPA Bureau of Air. It will normally be the responsibility of the contractor to apply for this permit.

Permit Information Needs: A completed application must be sent to the IEPA Bureau of Air. See the IEPA website for the current open burning guidance and application forms required. The application must provide the following information:

- name and address of the contractor proposing the open burn;
- the site location of the proposed open burn including address, county, township, sketch of the immediate vicinity of the proposed open burn site, and a printed map of the general area showing the site and nearby features marked, with distances to the features (e.g., structures, residences, populated areas, roadways, airports, lakes, waterways, hospitals, nursing homes, schools);
- schedule of the open burning activity including estimated duration and dates;
- exact quantity and type of material to be burned;
- project identification;
- exact nature and exact quantities of air contaminant emissions;
- methods or actions that will be taken to reduce the emission of air contaminants;
- reasons why burning is necessary to the public interest; and
- authorized signature of person responsible for the open burn activity.

7-3.02 General Storm Water NPDES Permit for Construction Site Activities

See Section 7-4.01 for information on the General Storm Water NPDES Permit for construction activities issued by IEPA.

7-3.03 Section 401 Water Quality Certification

See Section 7-4.03 for a discussion of Section 401 Water Quality Certification issued by IEPA and required by the *Clean Water Act* for Federal authorization by the USACE under Section 404.

7-3.04 Permit Fees

Applicants for certain IEPA permits and certifications require the payment of a fee. These include NPDES Permits and Water Quality Certifications. Permit fees do not apply to the State

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or any department or agency of the State, nor to any school district; however, this exemption from permit fees does not apply to LPAs even though they may receive some assistance from the State.

Permit fees must be included with all permit applications. Permit holders should be aware that failure to pay fees could result in a referral to the Attorney General's Office and potential penalties, pursuant to Statute. For additional information on permit fees, see the IEPA website.

7-4 FEDERAL PERMITS / CERTIFICATIONS

LPAs are responsible for obtaining several Federal permits or certifications when required on individual projects. This Section briefly discusses the identification, applicability, and information needs of each permit or certification. The Federal permits are:

1. Section 402 NPDES Permit for Storm Water Discharge. This permit is administered by the IEPA and applies to projects that will involve clearing, grading, and excavation activities that result in the disturbance of one acre or more of total land area.
2. Section 404 Permit for the Discharge of Dredged or Fill Material. This permit is obtained from the USACE for the discharge of dredge or fill material into waters of the United States, including wetlands.
3. Section 401 Water Quality Certification. This certification is obtained from the IEPA and is required in conjunction with a Section 404 permit (i.e., the IEPA must either approve or waive the water quality certification as a condition for issuance of an individual Section 404 permit or for use of a nationwide or regional Section 404 permit).
4. Section 9 Permit for the Construction of Bridges in Navigable Waters. This permit is obtained from the US Coast Guard (USCG) for construction of bridges in navigable waters of the United States.
5. Section 10 Permit for Structures and Work in Navigable Waters. This permit is obtained from the USACE for structures or work (other than bridges and causeways) affecting the navigable water of the United States.

7-4.01 National Pollutant Discharge Elimination System (NPDES) Permits

Permit Name: General NPDES Permit No. ILR10 – General NPDES Permit for Storm Water Discharges from Construction Site Activities. A copy is available on the IEPA website.

Legal Reference: Section 402 of the *Federal Water Pollution Control Act* (1972), as amended by the *Clean Water Act* (1977 & 1987): 33 USC 1251-1376, DOT Order 5660.1A; 23 CFR 650, Subpart B; 40 CFR 121-125, 129-131, 133, 135-136.

Responsible Agency: United States Environmental Protection Agency through the IEPA.

Purpose: To restore and maintain the chemical, physical, and biological integrity of the nation's waters through prevention, reduction, and elimination of pollution.

Applicability: Required for construction activities involving clearing, grading, and excavation activities that disturb 1 acre or more of land area.

Permit Authorization: For storm water discharges from construction sites to be authorized under this General Permit, a Notice of Intent (NOI) must be submitted to IEPA at least 30 days prior to the commencement of construction:

Notice of Intent (NOI): The NOI requires the following information:

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- mailing address and location of construction site or, if not available, latitude and longitude of the approximate center of the site;
- the owner's name, address, telephone number, and status as Federal, State, private, public, or other entity;
- the name, address, and telephone number of the general contractor that has been identified at the time of the NOI submittal;
- the name of the receiving water or, if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer, and the ultimate receiving water;
- the number of any NPDES permit for any discharge, including non-storm water discharges, from the site that is currently authorized by an NPDES permit;
- a yes or no indication of whether the owner or operator has existing quantitative data that describes the concentration of pollutants in storm water discharges;
- a brief description of the project;
- estimated timetable for major activities;
- estimate of the number of acres of the site on which soil will be disturbed; and
- a certification that a Storm Water Pollution Prevention Plan (SWPPP) has been or will be prepared for the facility prior to the start of construction.

The NOI form is available on the IEPA website.

Notice of Termination (NOT): Submit a NOT to the IEPA after construction activities are complete. The NOT indicates that the site has been finally stabilized using permanent stabilization methods and that all storm water discharges from the construction site are eliminated. The NOT must include the following information:

- mailing address and location of construction site or, if not available, latitude and longitude of the approximate center of the site;
- the owner's name, address, telephone number, and status as Federal, State, private, public, or other entity;
- the name, address, and telephone number of the general contractor; and
- a certification that all storm water discharges associated with construction has been eliminated.

The NOT form is available on the IEPA website.

Storm Water Pollution Prevention Plan (SWPPP): A SWPPP must be developed for each construction site covered by this permit and completed prior to the start of construction. The SWPPP should include a site description (e.g., map, nature of construction activity, area disturbed), erosion and sediment controls, storm water management plan, maintenance of site, inspection schedule, reports, and identification of the contractors/sub-contractors. Unless

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otherwise specified in the IEPA's *Illinois Urban Manual*, the SWPPP must be designed for a 24-hour rainfall event for a 25-year storm frequency. It is required that the SWPPP be kept on site during construction activities.

7-4.02 Section 404 Permits – Dredged or Filled Material

7-4.02(a) General

Section 404 permits, issued by the USACE are required for activities that involve the discharge of dredged or fill material into waters of the United States, including wetlands. An FHWA publication (FHWA-RE-88-028) titled *Applying the Section 404 Permit Process to Federal-aid Highway Projects* provides useful information for improving interagency coordination. In addition, the publication helps integrate the *National Environmental Policy Act* (NEPA) and the Section 404 requirements.

Legal Reference: Section 404 of the *Federal Water Pollution Control Act* (1972), as amended by the *Clean Water Act* (1977 & 1987): 33 USC 1251-1376, DOT Order 5660.1A; 23 CFR 650, Subpart B; 33 CFR 209, 320-323, 325, 328, 330; 40 CFR 121-125, 129-131, 135-136, and 230-231.

Purpose: To restore and maintain the chemical, physical, and biological integrity of the Nation's waters through prevention, reduction, and elimination of pollution.

Applicability: Permit required for any discharge of dredged or fill material into waters of the United States, including wetlands.

7-4.02(b) General Permits

Certain discharges into waters of the United States may be authorized by a USACE General Permit. A General Permit covers certain activities that the USACE has identified as being substantially similar in nature and causing only minimal individual and cumulative environmental impacts. These activities may be authorized on a nationwide basis or may cover activities in a limited geographic (regional) area. The information needs, applicability provisions, processing procedures, and conditions applicable to Regional and Nationwide Permits vary according to the specific permit involved. Some USACE districts require submittal of essentially the same information for Nationwide or Regional Permits as for Individual Permits. For actions that would involve discharges covered by more than one Nationwide or Regional Permit, the permit that is the least burdensome procedurally should be used.

The USACE Chicago District has issued a Regional Permit (RP) Program to replace the Nationwide Permit (NWP) Program. The NWPs typically expire every five years. The following is a discussion of the NWP and RP most commonly used for highway projects in Illinois:

NWP 3 – Maintenance.

- (a) The repair, rehabilitation, or replacement of a previously authorized, currently serviceable, structure or fill provided that the structure or fill is not to be put to uses

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differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification.

- (b) NWP 3 also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures and the placement of new or additional riprap to protect the structure.
- (c) NWP 3 also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity.

NWP 7 – Outfall Structures and Associated Intake Structures. Activities related to the construction or modification of outfall structures and associated intake structures, where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted by, or that are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System Program.

NWP 13 – Bank Stabilization. Bank stabilization activities necessary for erosion prevention, provided the activity meets all the following criteria:

- (a) No material is placed more than the minimum needed for erosion protection;
- (b) The activity is no more than 500 ft in length along the bank, unless this criterion is waived in writing by the district engineer;
- (c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high-water mark or the high tide line, unless this criterion is waived in writing by the district engineer;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless this criterion is waived in writing by the district engineer;
- (e) No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any water of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows; and,
- (g) The activity is not a stream channelization activity.

NWP 14 – Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States., provided the discharge does not cause the loss of greater than 0.5 acre of waters of the United States. For NWP 14, which addresses linear transportation crossings, the description of the project provided to USACE should include information on temporary stream crossings, work pads, temporary bypass channels, cofferdams, etc., that will be involved in the construction work, to the extent that this information is known or can be anticipated at the time of the permit submittal. To the extent that this information adequately covers the temporary work features that the contractor ultimately proposes, it will eliminate the need for having the contractor obtain a separate permit authorization for the temporary work and will avoid the associated potential for delays in project implementation.

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NWP 23 – Approved Categorical Exclusion. Federally funded projects that are classified as categorical exclusions may be eligible for authorization under NWP 23. The Federal Highway Administration (FHWA) and the USACE have an agreement for processing NWP 23.

Categorical Exclusion (CE) projects that will not involve more than minor water quality impacts and are such that the applicable permit conditions can be met, are potentially eligible for processing under the CE Nationwide Permit. Such projects should be discussed at district coordination meetings and approval should be requested from FHWA for use of NWP 23. Form [BLR 19100](#) or [BLR 22210](#) should be used to document this authorization.

If the FHWA grants approval for use of NWP 23, the appropriate USACE district should be provided with:

- documentation of the FHWA's approval;
- a sketch and brief description of the work requiring a 404 Permit;
- an indication of the type and approximate quantity of fill involved; and
- a copy of the biological information received in response to the environmental survey request for the action.

If the USACE district does not provide notification that it intends to seek assertion of the USACE Division Engineer's discretionary authority to require an Individual Permit for the action within 20 calendar days from the date it receives the above information, the project may proceed under NPW 23.

NWP 25 – Structural Discharges. Discharges of material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, including the excavation of bottom material from within the form.

NWP 33 – Temporary Construction Access and Dewatering. Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the USACE or the USCG. It should be recognized that time will be required to obtain separate permit authorization for the additional temporary work items.

Chicago RP3 – Transportation Projects. RP3 authorizes the construction of transportation projects that affect waters of the United States not to exceed 0.25 acres for a single crossing with a cumulative impact not to exceed 1.0 acres for a transportation project involving multiple crossings. Temporary construction activities are not authorized by RP3.

Chicago RP4 – Minor Discharges and Minor Dredging. RP4 authorizes the discharge of up to 25 yd³ of dredged or fill material, including the discharge of materials such as concrete, sand, rock or stone into tightly sealed cells, where such cells will be used as a structural member for a pile-supported structure,

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Chicago RP7 – Temporary Construction Activities. RP7 authorizes temporary structures and discharges necessary for construction activities, access fills, and dewatering of construction sites.

Chicago RP9 – Maintenance. RP9 authorizes:

- (a) 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.
- (b) Maintenance of existing flood control facilities, retention/detention basins, and channels that were constructed by the USACE and transferred to a local sponsor for operation and maintenance.

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

- (a) Projects that involve the use of vegetative and biotechnical practices will be processed under Category I and are not subject to length restrictions.
- (b) 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 ft.

Chicago RP12 – Bridge Scour Protection. RP12 authorizes the construction and installation of protective armoring at existing bridge foundations, abutments, and/or bridge piers of Scour Critical bridges.

Other Nationwide and Regional Permits. A complete listing of USACE nationwide and regional permits is available on the website for the appropriate USACE District Office.

These permits are subject to certain notification procedures and restrictions and must meet the NWP general conditions and any applicable special conditions. This information is available on the appropriate USACE District Office website. The use of any of these permits requires Section 401 Water Quality Certification from IEPA. See Section 7-4.03 for a discussion of the certification process.

For work covered by NWP or RP, the LPA must notify the appropriate USACE District Office via letter in advance of undertaking the action. When the permit has specific requirements for notification, the notification must conform to the stipulated requirements. For use of permits that are not subject to specific notification requirements, the notification must be provided via a letter or other correspondence to the appropriate USACE District Office informing them of the action and indicating the proposed permit category.

A statement concerning the use of any applicable Nationwide or Regional Permit should be included in the contract proposal. The special provisions must include applicable Section 404 Permit requirements identifying the contractor's responsibilities and the conditions applicable to

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the project. The contractor should clearly be made responsible for securing permits for construction activities not included in the specific permit documents.

7-4.02(c) Individual Permits

If an activity involves the discharge of dredged or filled material into waters of the United States and is not covered by a Nationwide or Regional Permit, an individual Section 404 Permit will be required. Each application for an Individual Section 404 Permit must be submitted to the appropriate USACE District Office. The joint application form (NCR Form 426) should be used for the application. A copy of the application should also be sent to the IEPA for Section 401 Water Quality Certification. This is discussed in Section 7-4.03.

Permit Information Needs: The list below indicates the typical items of information required for a Section 404 Permit:

- Name and address of permit applicant.
- Complete, detailed description of the proposed activity, its purpose, intended use, and drainage area of the watershed to the downstream limit of the project. The description should include information on temporary stream crossings, work pads, temporary bypass channels, cofferdams, etc., that will be involved in the construction work requiring a Section 404 Permit. For dredging and fill activities, describe the location, type, composition, and quantity of material to be dredged/filled, method of dredging/filling, and method of transportation to disposal/fill site. Also, describe the disposal/fill site by including the location, quantity of material it will hold, composition of receiving soil, and method of containment. Identify any practical alternatives that would fulfill the objectives of the proposed project and explain why the final proposal was selected.
- Location of the proposed activity, including legal description.
- If applicable, name, address, and title of authorized agent.
- Names, addresses, and telephone numbers of all adjoining and potentially affected property owners, including the property involved with the permit action, if different from the applicant.
- Date activity is proposed to commence.
- Estimated time of construction.
- Indication of whether any portion of the activity for which authorization is sought is complete.
- List of all approvals or certifications required by other Federal, Interstate, State, or LPAs for any structures, construction, discharges, deposits, or other activities described in the application.
- Indication of whether any agency has denied approval for the activity described in the application or for any activity directly related to the activity described.
- Engineering details (e.g., limit of fill activity, amount of fill, area taken, linear feet [meters] of disturbance, erosion control plan, disposal of waste material).

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- Copy of Environmental Impact Study (EIS) or Environmental Assessment (EA), if prepared, describing environmental impacts (e.g., soils, water quality, groundwater, wetlands, fish, wildlife, floodplains). If EIS or EA not prepared, copy of Wetland Determination Report, Wetland Impact Evaluation form, and Natural Resource Review Tool (NRRT) report or Ecological Compliance Assessment Tool (EcoCAT) report.
- Copy of the mitigation plan.
- Project drawings (8½ inches x 11 inches), including a vicinity map, plan view of the project and a cross section view of the project.
- Environmental signoffs.
- Some USACE districts may require additional items of information such as photographs of the project site, quantity calculations for fill activities, and documentation of coordination with Soil and Water Conservation Districts regarding proposed erosion and sediment control measures.

7-4.03 Section 401 Water Quality Certification

Responsible Agency: Illinois Environmental Protection Agency (IEPA).

Legal Reference: Section 401 of the *Federal Water Pollution Control Act* (1972), as amended by the *Clean Water Act* (1977 & 1987): 33 USC 1251-1376, DOT Order 5660.1A; 23 CFR 650, Subpart B; 33 CFR 209, 320-323, 325, 328, 329; 40 CFR 121-125, 129-131, 133, 135-136, and 230-231.

Purpose: To restore and maintain the chemical, physical, and biological integrity of the Nation's waters through prevention, reduction, and elimination of pollution.

Applicability: State certification is required in conjunction with the authorization by USACE of any activity that may result in any discharge into waters of the United States requiring a Section 404 Permit. Water Quality Certification is also required for Section 9 Permits.

Processing: The IEPA has issued Section 401 water quality certification for certain Nationwide Permits subject to general conditions. For certain other Nationwide Permits and for Regional Permits, water quality certification has been issued subject to general and regional conditions. Section 401 water quality certification was denied for the other Nationwide Permits. For a listing of 401 water quality certifications and denials see the Rock Island District USACE website.

For projects requiring an individual Section 404 Permit or a Nationwide Permit for which generic water quality certification was denied or the conditions required by the generic certification cannot be met, individual certification must be requested from the IEPA. The joint application form (NCR Form 426) along with the IEPA application fee should be sent to the IEPA. The USACE will not issue an individual Section 404 Permit until certification is received. Any Nationwide Permit authorization is subject to obtaining certification from the IEPA.

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7-4.04 Section 9 – Coast Guard Bridge Permit

This permit is for the construction of bridges or causeways over navigable waters of the United States required by Section 9 of the *Rivers and Harbors Act of 1899*. Permits for the construction of dams and dikes required by Section 9 are under the authority of the USACE.

Responsible Agency: United States Coast Guard (USCG).

Legal Reference: Section 9 of the *Rivers and Harbors Act of 1899*; 33 USC 401, et seq, as amended and supplemented; 23 CFR part 650, Subpart H; and 33 CFR 114-115.

Purpose: To ensure that there will be no interference to navigation on the navigable waterways of the United States.

Applicability: A permit is required for the construction, modification, replacement, or removal of bridges or causeways over a navigable waterway, except for the following:

1. A permit is not required for any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement to transport interstate or foreign commerce, whether or not such waters were used or were susceptible to use, at some previous time, to transport commerce (historic use).
2. Removal of an existing bridge without replacing it with another bridge also does not require a permit.
3. Repairs to a bridge which do not alter the clearances, type of structure, or any integral part of the substructure or superstructure or navigation conditions, but which consist only in the replacement of worn or obsolete parts may be made as routine maintenance without a formal permit action from the U.S. Coast Guard.

Permit Information Needs: The permit application can be in a letter form. See [Section 28-2](#) of the *Bureau of Design and Environment (BDE) Manual* or the USCG website for a discussion of the required information.

7-4.05 Section 10 – Structures and Work in Navigable Waters**7-4.05(a) General**

Section 10 Permits are required for structures (excluding dikes, dams, bridges, or causeways) and other work in or affecting the navigable capacity of the water body (i.e., course, location, condition). Section 10 Permits are obtained simultaneously with Section 404 Permits (i.e., share a joint application) and are normally valid for one year with possibility for extension.

Responsible Agency: United States Army Corps of Engineers (USACE).

Legal Reference: Section 10 of the *Rivers and Harbors Act of 1899*; 33 USC 403, et seq, as amended and supplemented; 23 CFR part 650, Subpart H; 33 CFR 320, 322, 323, 325, 326, 327, 329, and 330.

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Purpose: To protect and preserve the navigable waterways of the United States against any obstruction to navigation.

Applicability: Permit required for structures (other than bridges or causeways) or certain types of work in or affecting a navigable waterway. Examples of work include dredging, channelization, filling, and construction of pier protection cells.

7-4.05(b) General Permits

Some work in navigable water requiring a Section 10 Permit may be authorized by a General, Nationwide, or Regional Permit. Examples of Section 10 Nationwide Permits are NWP 7, 13, 23, 27, and 33. Details of these NWP's are in Section 7-4.02.

7-4.05(c) Individual Permits

If the work in navigable waters does not qualify for a General Permit, an application for an Individual Permit must be submitted to the appropriate USACE Regional Engineer. The joint application (NCR Form 426) should be used. Information like what is required for a Section 404 Permit should be provided to the USACE.

7-5 SPECIAL WASTE PERMITS

When a special waste is known to exist within the limits of a LPA improvement as determined by the results of a preliminary site investigation (PSI), then the exposure and disposal of that substance is regulated by state law. See [Section 20-12](#) for discussion of special waste and special waste studies. When applicable, it may be necessary to obtain the following permits for the proposed scope of work:

Supplemental Waste Stream Permit. This permit is applicable to all projects that will involve the disposal of a special waste. The permit application is prepared by the disposal facility on behalf of the environmental firm handling special waste disposal working for the prime construction contractor. This permit will allow the disposal facility to accept generated special waste.

Resource Conservation and Recovery Act (RCRA) Permit. This permit is applicable to all projects in which the contractor will conduct remediation activities that require the storage of hazardous waste for more than 90 days. This permit will be prepared by the environmental firm working for the prime construction contractor. This permit's purpose is to apply the appropriate conditions and restrictions for the operation of hazardous waste storage, hazardous waste treatment, or hazardous waste disposal.

Underground Storage Tank (UST) Permit. This permit is applicable to all projects in which the contractor is required to remove an underground storage tank. (Note: Permits for removing an UST can only be obtained by licensed UST removal contractors). This permit is necessary to ensure that tank removal meets acceptable closure standards.

For permit application requirements see [Section 28-3](#) of the *BDE Manual*,

or contact the IEPA:

Illinois Environmental Protection Agency
Bureau of Land
Permit Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 524-3300

or contact the OSFM:

Office of the State Fire Marshall
State Fire Marshall
1035 Stevenson Drive
Springfield, Illinois 62703
(217) 785-0969

7-6 ACRONYMS

This is a summary of the acronyms used within this chapter.

BDE	Bureau of Design and Environment
BLRS	Bureau of Local Roads and Streets
CE	Categorical Exclusion
CFR	Code of Federal Regulations
EA	Environmental Assessment
EcoCAT	Ecological Compliance Assessment Tool
EIS	Environmental Impact Study
FHWA	Federal Highway Administration
IDNR	Illinois Department of Natural Resources
IDOT	Illinois Department of Transportation
IEPA	Illinois Environmental Protection Agency
<i>ILCS</i>	<i>Illinois Compiled Statutes</i>
LBU	Local Bridge Unit in the Bureau of Bridges and Structures
LPA	Local Public Agency
<i>NEPA</i>	<i>National Environmental Protection Act</i>
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollution Discharge Elimination System
NRRT	Natural Resource Review Tool
NWP	Nationwide Permit
OSFM	Office of the State Fire Marshall
OWR	IDNR Office of Water Resources
PBDHR	Preliminary Bridge Design and Hydraulic Report
RCRA	Resource Conservation and Recovery Act
RP	Regional Permit
SWP	Statewide Permit
SWPPP	Storm Water Pollution Prevention Plan
USACE	United States Army Corp of Engineers
USC	United States Code
USCG	United States Coast Guard
UST	Underground Storage Tank

7-7 REFERENCES

1. *Federal Water Pollution Control Act of 1972*
2. *Clean Water Act*
3. *National Environmental Policy Act (NEPA)*
4. *Section 9 of the Rivers and Harbors Act of 1899*
5. [Illinois Compiled Statutes](#)
6. IDNR “Sustainability Act” ([Public Act 97-1136](#))
7. *17 Illinois Administrative Code, Part 3700*
8. *17 Illinois Administrative Code, Part 3704*
9. *17 Illinois Administrative Code, Part 3704, Appendix A*
10. *17 Illinois Administrative Code 3708*
11. *35 Illinois Administrative Code Part 237*
12. *Applying the Section 404 Permit Process to Federal-aid Highway Projects, FHWA*
13. *Illinois Urban Manual, IEPA*
14. [Chapter 10](#) “Project Development”, *BLRS Manual*, IDOT
15. [Chapter 20](#) “Special Environmental Studies”, *BLRS Manual*, IDOT
16. [Chapter 28](#) “Environmental Permits/Certifications”, *BDE Manual*, IDOT
17. [IDOT Drainage Manual](#), BBS, IDOT