

IEPA Log No.: **C-0406-14**

CoE appl. #: **N/A**

Public Notice Beginning Date: **September 18, 2014**

Public Notice Ending Date: **October 20, 2014**

Section 401 of the Federal Water Pollution Control Act
Amendments of 1972

Section 401 Water Quality Certification to Discharge into Waters of the State

Public Notice/Fact Sheet Issued By:

Illinois Environmental Protection Agency
Bureau of Water
Division of Water Pollution Control
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

Name and Address of Discharger: U.S. Army Corps of Engineers, Chicago District, 231 South LaSalle Street, Suite 1500, Chicago, IL 60604

Discharge Location: Various locations in DuPage County

Name of Receiving Water: Various waterbodies within DuPage County

Project Description: Reauthorization of the Programmatic General Permit No. 25 for DuPage County.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge into the waters of the state associated with an application received from the U.S. Army Corps of Engineers. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. The last day comments will be received will be on the Public Notice period ending date unless a commenter demonstrating the need for additional time requests an extension to this comment period and the request is granted by the IEPA. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters shall provide their names and addresses along with comments on the certification application. Commenters may include a request for public hearing. The certification and notice number(s) must appear on each comment page.

The attached Fact Sheet provides a description of the project and the antidegradation assessment. Also attached is the draft 401 water quality certification with identification of revisions proposed to the certification conditions in the Corps of Engineers July 24, 2014 public notice.

The application, Public Notice/Fact Sheet, comments received, and other documents are available for inspection and may be copied at the IEPA at the address shown above between 9:30 a.m. and 3:30 p.m. Monday through Friday when scheduled by the interested person.

If written comments or requests indicate a significant degree of public interest in the certification application, the IEPA may, at its discretion, hold a public hearing. Public notice will be given 30 days before any public hearing. If a Section 401 water quality certification is issued, response to relevant comments will be provided at the time of the certification. For further information, please call Thaddeus Faught at 217/782-3362.

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Fact Sheet for Antidegradation Assessment

U.S. Army Corps of Engineers – Re-Authorization of the Programmatic General Permit No. 25,

County of DuPage Illinois

IEPA Log # C-0406-14

Contact: Diane Shasteen (217) 558-2012

September 18, 2014

The U.S. Army Corps of Engineers Chicago District (USACE Chicago District) is proposing reissuance of their General Permit Number 25 (GP 25). Since 1995, the GP 25 has maintained the reduction in regulatory review duplication by allowing the DuPage County Department of Stormwater Management (SM) and the USACE Chicago District to simultaneously review activities requiring permits under the DuPage County Countywide Stormwater and Flood Plain Ordinance (Ordinance) and Section 404 of the Clean Water Act. This programmatic general permit applies only to Section 404 of the Clean Water Act activities within DuPage County and authorizes the DuPage County Department of SM to assume responsibility for the review of such projects. The general permit will be applicable where the discharge of dredged or fill material into wetlands and other waters of the United States will not result in more than minimal impacts to the aquatic environment. Activities specifically excluded from the general permit include any activities regulated under Section 10 of the Rivers and Harbors Act of 1899, or any project sponsored by DuPage County, the State of Illinois, or any unit of Federal government within the boundaries of DuPage County, Illinois. Furthermore, any activity, work, or project that the USACE Chicago District determines would result in more than minimal impacts to the aquatic environment or would relocate or channelize a linear waterbody would not be considered eligible for review under the general permit. The Ordinance provides a level of protection with respect to water quality, wetlands, fish and wildlife habitat, wetland plant communities, threatened and endangered species, in-stream habitat, riparian areas, natural areas, and other functions and values of the aquatic environment similar to, or greater than, that provided by the USACE Regulatory Program and follows guidelines issued by the USEPA pursuant to Section 404(b) (1) of the Clean Water Act. The Ordinance guidelines require avoidance and minimization, describe requirements for analysis of alternatives, and specify minimum mitigation ratios for wetland impacts. The wetland mitigation is required to duplicate or improve the hydrologic, biologic, and economic features of the original wetland that would be impacted and impacts to highly valued wetlands are prohibited unless it can be conclusively proven that the presence of these wetlands precludes all economic use of the entire property and that no practicable alternative to wetland modification exists. GP 25 avoids duplication in services, relieves the public of unnecessary delays, and allows the Federal regulatory resources to be directed toward the review of work involving greater adverse effects to the aquatic environment.

The ordinance is comprised of a comprehensive document integrating stormwater management concerns with wetland issues, water quality, wildlife issues, riparian corridors, and flood control issues. The proposed general permit will divide activities into two main classes. Class I activities will include residential, commercial, and institutional developments; recreational projects; wetland and riparian restoration and enhancement; utility line, maintenance, and bank stabilization projects where the proposed impacts are less than 1.0 acre of wetland and high quality aquatic resources (HQAR) are not impacted. Bogs, ephemeral pools, fens, forested wetlands, sedge meadows, wet meadows, seeps, wet prairies, wetlands that support Federal or Illinois endangered or threatened species or have a floristic quality index (FQI) of 20 or greater or mean C value of 3.5 or greater, and streams rated Class A or B in the Illinois Biological Stream Characterization study are considered HQARs. These aquatic areas are considered to be regionally critical due to their uniqueness, scarcity, and/or value and perform

functions important to the public interest. Class II activities include any other activity not listed under Class I and any activity that would impact a HQAR or a wetland greater than 1.0 acre. The applicant is requesting 401 Water Quality Certification for Class I activities. The Illinois Environmental Protection Agency (Agency) is considering general Water Quality Certification pursuant to Section 401 of the Clean Water Act for the Class I activities. An Antidegradation assessment pursuant to 35 Ill. Adm. Code 302.105 (Antidegradation standard) has been conducted on the provisions of the proposed general permit including the potential special conditions that the Agency will include in the Section 401 Water Quality Certification. Any Class I project that does not meet the special conditions or any Class II project will require an individual 401 certification from the Agency that will include an Antidegradation Assessment. For wetland impacts, the County will implement the pre-discharge notification (PDN) procedure to identify which General Permit Class (I or II) is being sought and to notify agencies of proposed activities in water of the U.S. Agencies including the USEPA, USFWS, ILEPA, and IDNR will be notified of each pending permit action, given ten (10) calendar days to respond, and given an additional fifteen (15) calendar days to provide written comments before permits are issued.

The regulated communities in DuPage County are separated into three categories: Complete Waiver, Partial Waiver, and Non-Waiver (Table 1). Complete Waiver communities will be granted jurisdiction for reviewing applications and granting SM Certifications for all sections of the Ordinance, including authorizations for special management areas such as wetlands or buffers. They will be required to submit community-sponsored project applications directly to the District or to the DuPage County SM. Partial Waiver (PW) communities will be granted jurisdiction for reviewing applications and issuing certifications under the Ordinance after authorization by DuPage County SM for any proposed special management area impacts affecting wetlands or buffers. All projects involving wetland issues in PW communities will be evaluated by the DuPage County SM. Non-Waiver (NW) communities will not be granted any review authority under the Ordinance; all projects involving wetland issues will be the responsibility of the DuPage County SM. Community-sponsored projects in PW and NW communities will require direct application to the SM along with a copy to the District.

Table 1: Listing of DuPage County Cities by Waiver type

<u>Complete Waiver</u>	<u>Partial Waiver</u>		<u>Non-Waiver</u>
Addison	Bartlett	Lombard	Batavia
Bloomingtondale	Bensonville	Naperville	Bolingbrook
Carol Stream	Burr Ridge	Oakbrook Terrace	Chicago
Downers Grove	Clarendon Hills	Roselle	DuPage County, Unincorporated
Glen Ellyn	Darien	Wayne	Elk Grove Village
Oak Brook	Elmhurst	West Chicago	LeMont
Villa Park	Glendale Heights	Westmont	Schaumburg
Warrenville	Hanover Park	Wheaton	
Willowbrook	Hinsdale	Winfield	
Wood Dale	Itasca		
Woodridge	Lisle		

Identification and Characterization of the Affected Water Body.

The GP 25 will regulate activities that may be applied to a variety of General Use or Secondary Contact waters including wetlands that lie within the boundaries of DuPage County, Illinois.

Identification of Proposed Pollutant Load Increases or Potential Impacts on Uses.

The Antidegradation Assessment finds that the Class I activities proposed for general 401 Water Quality Certification will not result in perceptible increases in pollutant loading to water bodies. Best Management Practices (BMPs) will be implemented pre-, during, and post-construction to protect water quality, preserve natural hydrology, and minimize the overall impacts to aquatic resources. Mitigation for proposed impacts to wetlands or other waterbodies will follow the Federal Mitigation Rule as outlined in 33 FCR Part 325 and Part 332.

Purpose and Anticipated Benefits of the Proposed Activity.

The DuPage County Department of SM permitting decision will be based on the benefits which may be expected to accrue balanced against the project's foreseeable detriments. Some factors considered include the cumulative effects of conservation, economics, aesthetics, environmental concerns, fish and wildlife values, water quality, and in general, the needs and welfare of the people of DuPage County. The GP 25 will allow the County to integrate local wetland resource concerns into other water-related issues such as flood control, wildlife habitat concerns, preservation and restoration of riparian corridors, stormwater storage, and water quality in long-range county planning and provide a variety of benefits for the communities and residents of DuPage County.

Assessments of Alternatives for Less Increase in Loading or Minimal Environmental Degradation.

The Ordinance guidelines require avoidance and minimization, describe requirements for analysis of alternatives, and specify minimum mitigation ratios for wetland impacts. The review of the activities allowed under the GP 25, Class I activities proposed for general 401 Water Quality Certification, finds that the conditions and limitations defined by the GP 25 and associated special conditions proposed by the Agency would assure that proposals would be thoroughly assessed, the least disruptive alternative selected, and the projects would be completed in a manner that minimizes environmental harm. Some of the projects may be proposed in or near potential Environmental Justice communities. As discussed herein, the projects eligible to proceed under the general permit program have minimal impacts. Projects with greater potential impacts are subject to the regional permit or individual permit programs.

Agency Conclusion.

This preliminary assessment was conducted pursuant to the Illinois Pollution Control Board regulation for Antidegradation found at 35 Ill. Adm. Code 302.105 (antidegradation standard) and was based on the information available to the Agency at the time the assessment was written. We tentatively find that the Class I activities proposed for general 401 Water Quality Certification, with applicable special conditions, would have minimal individual and cumulative impacts on the aquatic resources within DuPage County, Illinois. These activities are therefore compliant with the Antidegradation standard and no further evaluation under 35 Ill. Adm. Code 302.105 (Antidegradation standard) will be required. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.

C-0406-14 Programmatic General Permit No. 25 for DuPage County

Proposed revisions to the draft 401 water quality certification conditions issued in the Chicago District Corps of Engineers July 24, 2014 public notice.

- Addition of “The applicant shall not cause: violation of applicable provisions of the Illinois Environmental Protection Act;” to special condition 1.
- Special condition 4 has been split into special conditions 4 and 5.
- Special condition 5 is added to special condition 4.
- Revisions to the language of special condition 7.
- Deletion of special condition 8.
- Revisions to the language of special condition 9 and it becomes special condition 8.
- Deletion of special condition 10.
- Deletion of special condition 11.
- Deletion of special condition 12.
- Special condition 13 has been revised and added to special condition 4.
- Revised last sentence of special condition 15, which is renumbered to special condition 10, to read “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.”
- Renumbering due to the deletions, etc. described above: special condition 14 to special condition 9; special condition 15 to special condition 10; special condition 16 to special condition 11; special condition 17 to special condition 12; special condition 18 to special condition 13.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

LISA BONNETT, DIRECTOR

217/782-3362

DRAFT

U. S. Army Corps of Engineers
Chicago District
Regulatory Branch
231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604

Re: Issuance of Programmatic General Permit No. 25 for DuPage County
Section 401 Denial, Certification, and Regional Conditions

Gentlemen:

On July 24, 2014 the Corps of Engineers issued the public notice concerning Programmatic General Permit No. 25 for DuPage County under Section 404 of the Clean Water Act.

Based on our review of the public notice and draft permit conditions, Section 401 certification is hereby denied for Class II activities identified in the public notice and draft general permit conditions.

Based on our review of the public notice and draft general permit conditions, Section 401 certification is hereby issued for the General Permit Number 25 for the following Class I activities: Residential, Commercial and Institutional Developments, Recreational Projects, Wetland and Riparian Restoration and Enhancement, Utility Line Projects, Maintenance, and Bank Stabilization; subject to the following regional conditions:

- 1) The applicant shall not cause:
 - a. violation of applicable provisions of the Illinois Environmental Protection Act;
 - b. water pollution defined and prohibited by the Illinois Environmental Protection Act;
 - c. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulation; or
 - d. interference with water use practices near public recreation areas or water supply intakes.
- 2) The applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
- 3) Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area that is in compliance with all State statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
- 4) The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual", (IEPA/USDA, NRCS; 2013). 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 to prevent transport of sediment and materials to adjoining wetlands and downstream. All construction within the waterway shall be conducted during zero or low flow conditions.

4302 N. Main St., Rockford, IL 61103 (815)987-7760
595 S. State, Elgin, IL 60123 (847)608-3131
2125 S. First St., Champaign, IL 61820 (217)278-5800
2009 Mall St., Collinsville, IL 62234 (618)346-5120

9511 Harrison St., Des Plaines, IL 60016 (847)294-4000
5407 N. University St., Arbor 113, Peoria, IL 61614 (309)693-5462
2309 W. Main St., Suite 116, Marion, IL 62959 (618)993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312)814-6026

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- 5) The applicant shall be responsible for obtaining a NPDES Storm Water Permit under the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of one (1) or more acres, total land area. A NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the IEPA's Division of Water Pollution Control, Permit Section.
- 6) The applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.
- 7) Projects requiring authorization under General Permit 25 must implement Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts to aquatic resources during and after construction. If the project involves a water with an approved Total Maximum Daily Load (TMDL) allocation for any parameter, measures which ensure consistency with the assumption and requirements of the TMDL shall be included. TMDL program information and water listings are available at www.epa.state.il.us/water/tmdl/. If the project involves an impaired water listed on the Illinois Environmental Protection Agency's Section 303(d) list for suspended solids, turbidity, or siltation, measures designed for at least a 25-year, 24-hour rainfall event shall be incorporated. Impaired waters are identified at www.epa.state.il.us/water/tmdl/303d-list.html.
- 8) Prior to proceeding with any work in accordance with General Permit 25, potential impacts to threatened or endangered species shall be identified through use of the State's Ecological Compliance Assessment Tool (EcoCAT) at <http://dnrecocat.state.il.us/ecopublic/>. If potential impacts to State threatened or endangered species are identified, the Illinois Department of Natural Resources shall be consulted with.
- 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 that 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 that is proposing activities in a mined area or previously mined area shall provide to the Illinois EPA specifications on sediment and materials used that are considered "acid-producing material" as defined in 35 Ill. Adm. Code, Subtitle D. If considered "acid-producing material," the applicant shall obtain a permit to construct pursuant to 35 Ill. Adm. Code 404.101.
- 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.

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- 13) Applicants that use site dewatering techniques in order to perform work in perennial streams for construction activity shall maintain flow in the stream during such construction activity by utilizing dam and pumping, fluming, culverts or other such techniques.

Should you have any questions or comments regarding the content of this letter, please contact Thaddeus Faught at 217-782-3362.

Sincerely,

Alan Keller, P. E.
Manager, Permit Section
Division of Water Pollution Control

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cc: Records Unit
DuPage County Department of Economic Development and Planning
Clayton Heffter – DEC
IDNR, OWR, DWRM, Bartlett
USEPA, Region 5
USFWS, Barrington