

**Illinois Environmental Protection Agency
Bureau of Water, Permit Section
(IEPA)**

1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276, 217/782-3362

The IEPA has issued a Public Notice of a request for a Clean Water Act Section 401 water quality certification that would allow the issuance of a federal permit for the discharge of pollutants to waters of the State.

Public Notice Beginning Date:

Friday, February 24, 2023

Public Notice Ending Date:

Monday, March 27, 2023

Agency Log No.: C-0264-22

Federal Permit Information: Proffered by Rock Island District, Regulatory Branch U.S. Army Corps of Engineers and as adopted by other USACE Districts in Illinois

Name and Address of Discharger: Permittees as would be eligible under the terms of the proffered General Permit

Discharge Location: Within areas of the State of Illinois approved for coverage by the federal permitting agency and as further limited or specified by the proffered General Permit and the herein discussed draft Illinois EPA water quality certification.

Name of Receiving Water: All Waters of the State

Project Name/Description: Regional Permit 26 - Emergency Reconstruction and Repair Activities for Flood Damaged Areas - This Regional General Permit (RGP) authorizes excavation and/or placement of fill materials for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills.

Construction Schedule: Undetermined

The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters must provide their name and address along with comments on the certification request. The IEPA Log number must appear on each comment page. Commenters may include a request for public hearing. Only hearing requests and comments that pertain to Clean Water Act Section 401 authority will be considered. This authority provides consideration of whether the permit or license would be consistent with Sections 301, 302, 303, 306, or 307 of the CWA, as well as "any other appropriate requirement of State [or tribal] law". Requests for additional comment period must provide a demonstration of need. The final day of comment acceptance will be on the Public Notice Ending date shown above, unless the IEPA grants an extended notice period. The attached Fact Sheet provides a detailed description of the project and the findings of the IEPA's antidegradation assessment. **A draft of the Agency's water quality certification for the proposed general permit is also provided as part of this fact sheet.**

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 see the contact information below.

Name: Darren Gove

Email: Darren.Gove@illinois.gov

Phone: 217/782-3362

Post Document. No. C-0264-22-02242023-PublicNoticeAndFactSheet.pdf

The U.S. Army Corps of Engineers, Rock Island District (USACE) has proposed re-issuance of Regional General Permit 26 that will authorize work in waters of the United States, including rivers, lakes, streams, and wetland areas, associated with emergency reconstruction and repair activities in various counties in Illinois.

This Regional General Permit (RGP) authorizes activities to excavate and/or place fill material for protection and/or repair of existing flood damaged structures, damaged land areas and/or damaged fills as follows:

- Repair of levees to pre-existing elevations and cross-section, including breach closures and borrow operations; unless design modification is justified and impacts to jurisdictional waters are kept at minimum at the discretion of the respective Corps Districts. (Mitigation may be required for modifications).
- Bridge embankment protection (armoring), modification, and/or repair.
- Repair of pre-existing highway or railroad embankments and the addition or repair of stone (armoring) protection.
- Repair of pre-existing utility protection structures.
- Placement of rock and/or earthen materials for stream or ditch bank protection and/or stream or ditch bank restoration.
- Drainage channel/ditch restoration to pre-flood capacity and flow line unless the flow line must be altered due to other damage associated with the flood event.
- Restoration of creek channels to the pre-flooding alignment and capacity; unless a modification is justified and approved at the discretion of the respective Corps Districts.
- Construction of temporary haul roads and temporary fills to facilitate the completion of any of the listed activities.

Special conditions have also been proposed in this regional permit that: limit the work to that necessary to restore damaged areas to pre-flood conditions; require that all channel restoration work be limited to restoring the area to pre-flood conditions unless a modification is approved by the Regulatory District, require clean, uncontaminated materials for fill; require appropriate guidelines for the use of temporary levees, accesses and fills; require that all dredged or excavated materials be placed on upland, non-wetland sites; require work to be conducted in a manner to minimize increases in suspended solids and turbidity; require appropriate guidelines for the use and storage of petroleum products; regulate the design and construction of stream channels to minimize erosion and property damage; restrict tree clearing between April 1 through September 30 for protection of endangered bats; prohibit the use of various invasive plant species for vegetative cover; specify the type and size of rock to be utilized; require consultation with Illinois Department of Natural Resources and require acquisition of applicable federal, state, and local permits; and specify wetland mitigation design objectives and performance measures, among others.

Identification and Characterization of the Affected Water Body

The Regional General Permit No. 26 may be applied to those water bodies within the boundaries of Engineers Rock Island, St. Louis, Chicago, Louisville, and Memphis Districts of the Corps of Engineers. These water bodies are General Use, Upper Dresden Island Pool Aquatic Life Use, Chicago Area

Waterway System Aquatic Life Use A, Chicago Area Waterway System and Brandon Pool Aquatic Life Use B, and Indigenous Aquatic Life Use waters within the State of Illinois.

Identification of Proposed Pollutant Load Increases or Potential Impacts on Uses

Activities that would be authorized under the proposed permit may result in short-term, minor impacts to the waterbody. They are unlikely to result in a change in the existing uses of a water body. Projects requiring work in biologically significant streams must obtain an individual 401 certification unless the project meets the special condition provided in the Agency's 401 certification for protection of these resources.

Purpose and Anticipated Benefits of the Proposed Activity

Projects authorized under the proposed permit will reconstruct and/or repair areas affected by floods or other discrete weather phenomenon.

Assessment of Alternatives for Less Increase in Loading or Minimal Environment Degradation

The assessment of the activities allowed under this permit finds that the general and special conditions and limitations as defined by the proposed permit would assure that the projects would be completed in a manner that minimizes environmental degradation.

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 Regional Permit 26 proposed for general 401 Water Quality Certification, with applicable special conditions, would have minimal individual and cumulative impacts on the aquatic resources within the State of Illinois. Projects requiring work in biologically significant streams must obtain an individual 401 certification unless the project meets the special condition provided in the Agency's 401 certification for protection of these resources. 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.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

DRAFT VERSION FOR PUBLIC NOTICE

U.S. Army Corps of Engineers
Rock Island District, Regulatory Branch
Clock Tower Building, P.O. Box 2004
Rock Island, IL 61204-2004

RE: Regional General Permit 26 - (All Counties in Illinois)
Illinois EPA Log No.: C-0264-22 / CoE Permit No.: CEMVR-RD-2022-0504
Bureau of Water ID#: W2178990113

Dear Sir or Madam:

The Illinois Environmental Protection Agency (Agency) has reviewed the subject Regional General Permit (RGP) authorizing activities that result in excavation and/or placement of fill material in waters of the U.S. for emergency reconstruction and repair activities needed to address flood damaged structures, damaged land areas and/or damaged fills. On November 16, 2022, your office requested water quality certification pursuant to Section 401 of the federal Clean Water Act for this RGP. Then on February 14, 2023, your office published a public notice of the draft RGP, providing the basis for this Agency's review.

Based on our review of the proposed RGP, it is the judgment of the Agency that permittees meeting the terms and conditions of the proposed RGP may construct their projects without causing water pollution as defined in the Illinois Environmental Protection Act and will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, provided the project is carefully planned, supervised and is performed in compliance with conditions specified in this water quality certification.

This Agency hereby issues certification under Section 401 of the Clean Water Act (PL 95-217), subject to the conditions identified below. This certification becomes effective when the Department of the Army, Corps of Engineers includes the following conditions no. 1 through no. 4 as conditions of the requested permit pursuant to Section 404 of PL-95-217. These conditions are directed at the effect on water quality of the construction procedures involved in activities which are authorized under the above described RGP and are not an approval of any discharge resulting from completed facilities, nor an approval of the design of the facilities. These conditions do not supplant any permit responsibilities of the applicant toward the Agency.

Water Quality Condition No. 1. General.

Pursuant to 35 Ill. Admin. Code Section 395.401(a), 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.

Water Quality Condition No. 2. State Listed Threatened and Endangered Species

Pursuant to 35 Ill. Admin. Code Section 302.105(f)(1)(F), prior to proceeding with any work in furtherance of activities permitted under this Regional General Permit, potential impacts to State threatened or endangered species

and Natural Areas shall be determined in accordance with applicable consultation procedures established under 17 Ill. Admin Code Part 1075. The Department of Natural Resources (IDNR) Ecological Compliance Assessment Tool (EcoCAT) is available to complete consultation at <http://dnr.illinois.gov/EcoPublic/>. If IDNR determines that adverse impacts to protected natural resources are likely, the applicant shall address those identified concerns with IDNR through the consultation process. Please contact IDNR, Impact Assessment Section at 217-785-5500 if you have any questions regarding consultation.

Water Quality Condition No. 3. Biologically Significant Streams

Pursuant to 35 Ill. Adm. Code Section 302.105(d)(6), an individual water quality certification pursuant to Section 401 of the federal Clean Water Act will be required for activities authorized under this Regional General Permit for discharges to waters designated by the State of Illinois as waters of particular biological significanceⁱ or Outstanding Resource Waters under 35 Ill. Adm. Code 302.105(b), if the activities involve in-stream work for an expected duration longer than three (3) weeks or the in-stream work will occur: (1) without cofferdam or adequate bypass measures (i.e. dam and pump, flumes, culverts, etc.) to minimize turbidity, sedimentation and erosion and to maintain normal stream flow during construction; or (2) without machinery utilizing biodegradable or bio-based hydraulic fluids to minimize pollution in the case of broken or leaking hydraulic equipment; or (3) without a spill avoidance and response plan developed and implemented for management of accidental releases of petroleum, oil, and lubricant products to the aquatic environment.

Water Quality Condition No. 4. NPDES Stormwater Construction Permit

Pursuant to the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Section 395.402(b)(2), the applicant shall be responsible for obtaining an NPDES Storm Water Permit required by the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be applied for at <https://www2.illinois.gov/epa/topics/forms/water-permits/storm-water/Pages/construction.aspx>.

This Section 401 water quality certification does not grant immunity from any enforcement action found necessary by this Agency to meet its responsibilities in prevention, abatement, and control of water pollution.

If you have any questions about this final determination, please contact Darren Gove of my staff at either 217/782-3362 or Darren.Gove@illinois.gov.

Sincerely,

Darin E. LeCrone, P.E.
Manager, Permit Section
Division of Water Pollution Control
Illinois Environmental Protection Agency

CC: CoE, Districts: Chicago, St. Louis, Louisville, Memphis
USEPA, Region 5
IDNR
BOW_File

¹ Biologically Significant Streams (BSS) are cataloged in Illinois DNR's publication "Integrating Multiple Taxa in a Biological Stream Rating System" and may be identified at: <https://www2.illinois.gov/dnr/conservation/BiologicalStreamratings/Pages/default.aspx>.

DRAFT