Public Notice

US Army Corps of Engineers
Detroit District
Louisville District
Chicago District

Applicant: The Public

Date: March 2, 2018

In Reply Refer To: File No. LRE 1998-1000100-S17

Programmatic General Permit for Minor Activities in Indiana

1. In accordance with Title 33 CFR Part 325 (c)(1), as published November 13, 1986 in the Federal Register, Volume 51, No. 219, the U.S. Army Corps of Engineer Districts of Detroit, Louisville, and Chicago (the Districts), have reissued the Programmatic General Permit (PGP) for certain construction activities in waters of the United States within the State of Indiana under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act that are also regulated by the Indiana Department of Natural Resources (IDNR) as public freshwater lakes under the Lake Preservation Act, IC 14-26-2 and specific waterways regulated as floodways under the Flood Control Act, IC - 14-28-1, and as Navigable Waterways under IC 14-29-1; specific waterways are listed in the table below. The Districts have revised the PGP by extending the length for refacing existing shore protection from 300 linear feet to 500 linear feet.

2. The PGP affords the Districts with a means to authorize activities of a minor nature through an abbreviated review process that relies on existing permit review procedures by the IDNR, and reduces costs, delays, and paperwork. When performed under the limitations and conditions explained below, these activities will cause only a minimal individual and cumulative environmental impacts. These activities are similar in nature, as they will conform to the specific categories identified below, and to the attached glossary of terms.

EFFECTIVE DATE: March 5, 2018

DURATION: The PGP will be in effect for five (5) years, expiring on March 5, 2023. At that time, it will be re-evaluated for its effectiveness. The Districts reserve the right to suspend the PGP before the 5-year time period expires.

COVERAGE AREA: Public freshwater lakes regulated under IC 14-26-2, located in the following counties: Adams, Allen, Cass, DeKalb, Elkhart, Fulton, Huntington, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Miami, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Wabash, Wells, White, and Whitley. Rivers and streams regulated under IC 14-28-1 and IC 14-29-1, with a drainage area exceeding 100 square miles (listed in table below). Water bodies or activities not regulated by the IDNR under IC-14-26-2 or IC 14-28-1 and IC 14-29-1 are not eligible for the PGP.

Waterway	Located in _____ County/Counties
Christiana Creek	Elkhart
Elkhart River	Elkhart, Noble
Elkhart River, North Branch	LaGrange, Noble
Elkhart River, South Branch	Elkhart, Noble
Geyer Ditch	St. Joseph
Iroquois River	Jasper, Newton
Kankakee River	Jasper, Lake, LaPorte, Starke, St. Joseph, Newton, Porter
Kline Arm	Starke
Maumee River	Allen
Pine Creek	LaPorte, St. Joseph
Slough Creek	Jasper
St. Joseph River (upstream of Twin Branch Dam)	Elkhart, St. Joseph
St. Mary's River	Adams, Allen
Turkey Creek	Elkhart, Kosciusko, Noble
Yellow River	Marshall, Starke, St. Joseph

ACTIVITIES COVERED: The discharge of dredged or fill material into waters of the United States (regulated by the Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act).

PROCEDURES: The PGP authorization consists of two categories of activities, Category 1 and Category 2. Eligibility, application, and review procedures described below for these categories are tied to the IDNR permit programs and procedures currently in place. Applicants proposing to discharge dredged and/or fill material into waters of the U.S., including wetlands subject to the Corps' Section 404 jurisdiction, must obtain the following State approvals in order for the general permit authorization to be valid. Applicants are responsible for ensuring that all required State and local approvals have been applied for and obtained.

1. A license from the IDNR under IC 14-26-2, the Lake Preservation Act; IC 14-28-1, the Flood Control Act; or IC 14-29-1 the Navigable Waterways Act, for construction activities along and within Indiana's regulated waterbodies.

2. Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is required for work in Corps' jurisdiction involving a discharge into waters of the U.S. Some projects authorized under the PGP may require an individual Section 401 WQC issued by the IDEM before work can proceed.

The Corps' involvement will vary based on the Category of activity. The applicability of each activity type to lakes and/or rivers/streams is indicated in the heading of each activity type.

Category 1 Activities

1. New Shore Protection (applicable to lakes and rivers/streams): Project length is equal to or less than 300 linear feet and the proposed fill does not exceed an average of 1 cubic yard per linear foot of discharge waterward of the Ordinary High Water Mark (OHWM). New shore protection projects longer than 300 feet are not eligible for the PGP. Category 1 shore protection includes construction of new shore protection using the materials listed below:
    i. Lakes: glacial stone, riprap, or bioengineered materials.
    ii. Rivers/streams: glacial stone, bioengineered materials, riprap, concrete, vinyl or steel sheet pile, or broken concrete (must be clean and without exposed rebar).

2. Refacing of Existing Shore Protection (applicable to lakes and rivers/stream): Project length is equal to or less than 500 linear feet and the proposed fill does not exceed an average of 1 cubic yard per linear foot of discharge waterward of the OHWM. Refacing of existing shoreline projects longer than 500 feet are not eligible for the PGP. Category 1 refacing of existing shore protection includes refacing of existing shore protection with materials that are similar in nature or the same as the existing material (e.g. refacing concrete with concrete, glacial stone with glacial stone, etc.). Refacing does not include the conversion of a glacial stone, riprap or bioengineered seawall into a concrete, vinyl or steel sheet pile seawall.

3. Boat Ramps (applicable to lakes and rivers/streams):
    a. Maximum width of ramp is 20 feet.
    b. Discharge into waters of the U.S. does not exceed 50 cubic yards of fill, including concrete, rock, gravel, or precast concrete planks or slabs.
    c. Base material must be crushed stone, gravel, or another suitable material.

4. Beach Construction (applicable to lakes only): Areas which meet IDNR criteria under 312 IAC 11-4-4 for Public Freshwater Lakes. These criteria may be found on the Internet at either of the following websites:
http://www.in.gov/legislative/iac/T03120/A00110.pdf or
http://www.in.gov/legislative/iac/title312.html.

5. Filling of Boat Wells (applicable to lakes only): Existing boat wells no more than 20 feet wide and 30 feet long, provided that a seawall is constructed prior to placement of fill within the boat well. (Note: seawalls built for this purpose are covered as Category 1—shore protection; this includes concrete, vinyl or steel sheet pile, glacial stone, riprap and bioengineered materials.)

6. General License Activities (applicable to lakes only): Work which meets IDNR criteria under 312 IAC 11-3-1 for temporary structures, dry hydrants, and glacial stone refaces. These criteria can be found on the Internet at the websites listed above in item 4.

Category 1 Procedures: Work in Indiana subject to Corps' jurisdiction which meets all of the above terms and the PGP general conditions below may proceed without application or notification to the Corps provided that the required IDNR authorization has been obtained. The IDNR permit will include language confirming Federal authorization under the PGP, and the Federal PGP conditions. If an applicant objects to any of the Federal PGP conditions, the application will be forwarded on to the Districts for processing as a Category 2 permit, or as a general or individual permit, as appropriate. Activities located in wetlands, as defined by the Corps, or in IDNR-identified Significant Wetlands (as defined under 312 IAC 11-2-24) are not eligible for Category 1, with the exception of general license activities (e.g. glacial stone refaces). Activities which are located in the vicinity of, or have the potential to involve Federally listed endangered, threatened, or proposed species or which may involve potential impacts to historical, cultural, or archaeological resources or practices are not eligible for Category 1. The IDNR, at its discretion, may elect to coordinate other projects in accordance with Category 2.

Category 2 Activities

1. New Shore Protection (applicable to lakes and rivers/streams): Project length is equal to or less than 300 linear feet and:
   a. the proposed fill exceeds an average of 1 cubic yard per linear foot of discharge waterward of the Ordinary High Water Mark (OHWM).
   b. All new shore protection using the materials listed below (regardless of the amount of fill per linear foot):
      i. Lakes: concrete, vinyl or steel sheet piling with backfill (Exception—seawalls built in association with Category 1 boat well fill).
      ii. Rivers/streams: any material not specifically listed in Category 1.

2. Beach Construction (applicable to lakes only): Areas outside of those identified in Category 1.

3. Any of the Category 1 activities located in wetlands as defined by the Corps or in IDNR-identified Significant Wetlands as defined under 312 IAC 11-2-24. If wetlands are present, a wetland delineation report, prepared in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and the appropriate Regional Supplement, will be required by the Corps. Wetland fill (as defined in 33 CFR Part 323.2) that exceeds 0.1 acre (4,356 square feet) in area does not qualify for the PGP.

4. Activities where part of the work in Corps' jurisdiction did not require an IDNR permit (e.g. work above the IDNR legal lake level or in adjacent wetlands).

5. Activities which are located in the vicinity of, or have the potential to involve, Federally listed endangered, threatened, or proposed species.

6. Activities which may impact historical, cultural, or archaeological resources or practices as provided in Section 106 the National Historic Preservation Act of 1966 and the Archaeological and Historic Preservation Act of 1974.

7. Activities authorized by order of the Indiana Natural Resources Commission following appeal of an IDNR permit denial.

8. Any other action elevated to Category 2.

Category 2 Procedures: Work in Indiana subject to Corps' jurisdiction which meets all of the above terms and the PGP general conditions below may be considered for the PGP through the following procedure: Upon receipt of a complete application or issuance of a permit, the IDNR will forward a copy to the Corps indicating that it appears to meet Category 2. The IDNR will also inform the applicant that their application has been referred to the Corps for evaluation as a Category 2 activity under the PGP. Any IDNR permit will indicate that a separate permit from the Corps is required. The Corps will determine if the Category 2 applications are complete (using the IDNR permit application, Indiana State Form 42946), and evaluate each application to determine whether it meets the minimal impact standard, the PGP general conditions, and the intent of the PGP. The Corps may either: 1) authorize the project under the PGP, with any special conditions or modifications necessary to reduce the impacts to no more than minimal; or 2) determine that the PGP is not appropriate. A project that does not qualify for the PGP may be considered under any of the Corps' other evaluation methods, including Regional, Nationwide, and individual permits. The Corps will respond to Category 2 applications in writing.

Discretionary Authority: For either Category 1 or 2 activities, the District may, at its discretion or at the request of the IDNR, determine that the PGP is not appropriate and require an individual permit review. If this occurs after the IDNR permit has been issued, the Corps will inform the applicant in writing that the Federal authorization for work has been suspended and additional review is required.

Project-Specific PGP Conditions: The District may add project-specific conditions to PGP authorizations. PGP Category 2 authorization will be confirmed by the District sending the applicant a verification letter that specifies any required conditions.

State Water Quality Certification: A State Section 401 Water Quality Certification or waiver is required for this PGP, or for individual projects under the PGP. In Indiana, this

authority resides with the Department of Environmental Management (IDEM).

Further Information: Questions may be directed to Rebecca Hartman at the Detroit District-Michiana Branch Corps of Engineers, telephone 574-232-1952 ext. 21969.

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We request that the above notice be conspicuously and continuously posted for 30 days from the date of issuance.