

APPENDIX B – USACE GUIDANCE

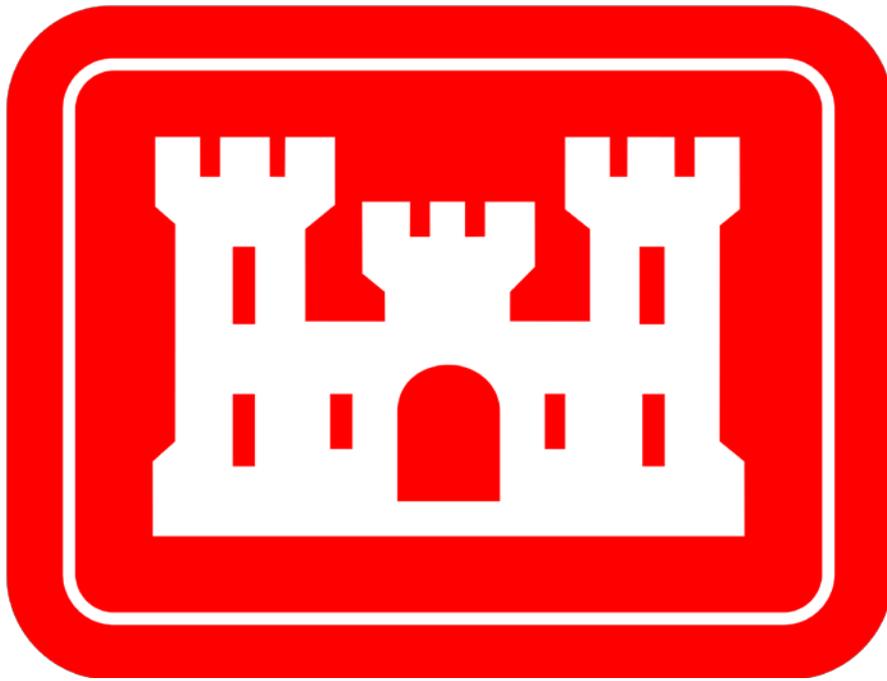


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Intended Use of Manual for INDOT and Local Projects

This manual has been written to set expectations for waterway permitting deliverables and review paths for projects developed by the Indiana Department of Transportation (INDOT). Other projects may also benefit from the guidance in this manual. Specifically, preparers of permits for local projects that receive federal funds and which follow INDOT standard specifications are encouraged to use this manual; however, INDOT does not review permits or other related deliverables for local projects



NATIONWIDE PERMIT CONDITIONS

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the US Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the US.

(c) The permittee understands and agrees that, if future operations by the US require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the US. No claim shall be made against the US on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. **Migratory Bird Breeding Areas.** Activities in waters of the US that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP's 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high

tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the US during periods of low-flow or no-flow.

13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, US Forest Service, US Fish and Wildlife Service).

17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. **Endangered Species.** (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification (PCN) to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete PCN. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from Corps.

(d) As a result of formal or informal consultation with the USFWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the US to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

20. **Historic Properties.** (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA is complete.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who,

with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the activity on historic properties.

21. **Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. **Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the US, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the US, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the US are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has

been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or USEPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification (PCN). (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a PCN as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the US expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the US. The 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of PCN Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require PCN notification and result in the loss of greater than 1/2-acre of waters of the US, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require PCN notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require PCN notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the PCN notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each PCN notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of PCN notifications to expedite agency coordination.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

APPLICABLE INDIANA NATIONWIDE PERMITS

The Louisville, Detroit, and Chicago Districts of the U.S. Army Corps of Engineers developed the existing Indiana Regional General Permit No. 1 (RGP #1) to replace several NWP's. As a consequence of this action, the following NWP's have been, and will continue to be suspended for the State of Indiana and do not require Section 401 Water Quality Certification:

NWP 7 Outfall Structures and Associated Intake Structures
NWP 11 Temporary Recreational Structures
NWP 13 Bank Stabilization
NWP 14 Linear Transportation Projects
NWP 15 U.S. Coast Guard Approved Bridges
NWP 18 Minor Discharges
NWP 19 Minor Dredging
NWP 25 Structural Discharges
NWP 29 Residential Developments
NWP 36 Boat Ramps

NWP 39 Commercial and Institutional Developments
NWP 40 Agricultural Activities
NWP 41 Reshaping Existing Drainage Ditches
NWP 42 Recreational Facilities
NWP 43 Stormwater Management Facilities
NWP 44 Mining Activities

It is the judgment of this office that NWP's 1, 2, 3, 4, 5, 6, 9, 10, 12, 21, 22, 24, 27, 28, 30, 33, 37, 45, 46, 49, 50, 51, 52 will comply with applicable provisions of state law (including 327 IAC 2) and Sections 301, 302, 303, 306, and 307 of the Clean Water Act subject to the conditions set forth in this Certification. IDEM hereby grants Section 401 Water Quality Certification for these NWP's with the following General Conditions and Nationwide Permit Specific conditions:

USACE FORM 4345

U.S. ARMY CORPS OF ENGINEERS APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT 33 CFR 325. The proponent agency is CECW-CO-R.		OMB APPROVAL NO. 0710-0003 EXPIRES: 28 FEBRUARY 2013	
Public reporting for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.			
PRIVACY ACT STATEMENT			
Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.			
(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)			
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
(ITEMS BELOW TO BE FILLED BY APPLICANT)			
5. APPLICANT'S NAME First - Middle - Last - Company - E-mail Address -		8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) First - Middle - Last - Company - E-mail Address -	
6. APPLICANT'S ADDRESS: Address- City - State - Zip - Country -		9. AGENT'S ADDRESS: Address- City - State - Zip - Country -	
7. APPLICANT'S PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax		10. AGENTS PHONE NOS. w/AREA CODE a. Residence b. Business c. Fax	
STATEMENT OF AUTHORIZATION			
11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.			
_____ SIGNATURE OF APPLICANT		_____ DATE	
NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY			
12. PROJECT NAME OR TITLE (see instructions)			
13. NAME OF WATERBODY, IF KNOWN (if applicable)		14. PROJECT STREET ADDRESS (if applicable) Address	
15. LOCATION OF PROJECT Latitude: °N Longitude: °W		City - State- Zip-	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID Municipality Section - Township - Range -			

17. DIRECTIONS TO THE SITE

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
-------------------------------	-------------------------------	-------------------------------

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres
or
Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

24. Is Any Portion of the Work Already Complete? Yes No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address-

City - State - Zip -

b. Address-

City - State - Zip -

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

_____ SIGNATURE OF APPLICANT _____ DATE _____ SIGNATURE OF AGENT _____ DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

401 / 404 NWP – NATIONWIDE PERMIT - CHECKLIST



401/404 Nationwide Permit (NWP) Checklist | 2013

INDOT Environmental Services (ES), Ecology and Waterway Permitting Office (EWPO)

1. PROJECT SPECIFIC INFORMATION

Project Route/Type	
INDOT Des. Number	
County	
Letting Date	

2. PROJECT BACKGROUND

Designer/Firm			
Submittal Date		Submittal Number	
ES Reviewer/Contact Info.			
Review Date			

Review columns are abbreviated as follows: Sufficient (S), Deficient (D), and Not Applicable (NA). All items marked deficient require resolution from the designer prior to INDOT acceptance of the application.

3. NWP Expiration Date

S	D	NA	I. Program Expiration*
			<p>A) The current NWP program expires March 18, 2017. A project must be under construction (already gone to letting) in order to receive an automatic one year extension (expiration 3/18/18). If the proposed project will not be under construction by this date (3/18/17) or finished by the extension deadline (3/18/18) if already started, consider applying for a Regional General Permit (RGP) to avoid permit expiration prior to the project letting.</p> <p><i>Reviewer Notes:</i></p>

*If this table is marked deficient, a different level of permitting should be investigated for the proposed project.

4. NWP #3 Maintenance

S	D	NA	I. Verification**
			<p>A) Project must involve the repair, rehabilitation, or replacement of an <i>existing</i> structure or fill.</p> <p><i>Reviewer Notes:</i></p>
			<p>B) Project impacts are less than 0.1 acres and equal to or less than 300' to jurisdictional waters (rivers, streams, wetlands, lakes, ponds, etc.). Total cumulative impacts should be considered for "<i>single and complete projects</i>." These are typically projects that will be under construction during the same period of time in the same 8-digit watershed.</p> <p><i>Reviewer Notes:</i></p>
			<p>C) Is the waters report and/or wetland delineation less than five years old? If not, a follow-up investigation is warranted to verify findings are still accurate.</p> <p><i>Reviewer Notes:</i></p>
			<p>D) The project will not impact any waters designated as salmonid or Outstanding State and/or National Resource Waters. The project will also not impact any critical wetland or critical special aquatic sites.</p> <p><i>Reviewer Notes:</i></p>
			<p>E) No state endangered, threatened, or rare (ETR) species are documented within a ½ mile radius of the proposed project as documented by the Indiana Department of Natural Resources (IDNR) Division of Nature Preserves. If an ETR species is present, documentation must be obtained from Nature Preserves indicated that the proposed activities will not constitute a violation of state laws protecting these species.</p> <p><i>Reviewer Notes:</i></p>
			<p>F) The proposed project will not permanently change the sinuosity, flow path, velocity, cross sectional area under the ordinary high water mark (OHWM), or the slope of any stream. Stream relocations are not authorized under the NWP program.</p>

			<p><i>Reviewer Notes:</i></p> <p>G) All discharges of riprap into streams are flush with the upstream and downstream bank as well as, stream channel elevations and grades.</p> <p><i>Reviewer Notes:</i></p>
			<p>H) For the replacement of stream encapsulation activities the following requirements must be met:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The replacement will not reduce the cross sectional area under bank full elevation; <input type="checkbox"/> The replacement will not increase the length of the encapsulation to over 150 linear feet; <input type="checkbox"/> The replacement will have the same slope as the existing encapsulation or will more closely match the slope immediately upstream and downstream of the encapsulation; <input type="checkbox"/> The type of replacement encapsulation is the same as the existing type of encapsulation; <input type="checkbox"/> Bank stabilization and channel bottom stabilization do not exceed either one bank full width upstream and downstream of the replacement encapsulation or ten linear feet (whichever is greater); <input type="checkbox"/> Any channel bottom stabilization is flush with the existing grade of the stream bottom; <input type="checkbox"/> Existing encapsulations over 150 ft may be replaced as long as the structure length does not change more than 20 ft upstream and 20 ft downstream (not additive to one end). <p><i>Reviewer Notes:</i></p>
			<p>I) For lining existing structures:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The activity is reviewed and approved by INDOT Office of Hydraulics and the liner size is the largest size listed on the hydraulics memo; <input type="checkbox"/> Riprap scour protection is flush with the upstream and downstream banks as well as, stream channel elevations and grades. <p><i>Reviewer Notes:</i></p>
			<p>J) For all other maintenance activities:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The activity will permanently affect 0.1 acre or less of waters of the U.S.; <input type="checkbox"/> The activity will permanently affect 300 linear ft or less of stream channel, streambank, or lake shoreline; <input type="checkbox"/> For bank stabilization activities, the proposed project must demonstrate that the existing bank or shoreline in question is unstable; <input type="checkbox"/> The activity cannot result in a permanent secondary effect to a waters for the U.S. (for example: dredging, excavation, damming, creation of in channel pools, etc.) that when combined with the primary effect exceeds 0.1 acres and 300' of impacts; <input type="checkbox"/> Any channel bottom stabilization is flush with the existing grade of the stream bottom. <p><i>Reviewer Notes:</i></p>
			<p>K) No unsuitable fill material (trash, debris, asphalt, etc.) will be placed below the OHWM.</p> <p><i>Reviewer Notes:</i></p>
			<p>L) The activity does not take place in close proximity to a public water supply intake (except if the purpose of the project is for repair/improvement of the intake structure).</p> <p><i>Reviewer Notes:</i></p>
			<p>M) Heavy equipment working in wetlands must be placed on mats, or other measures are taken to minimize soil disturbance. Adequate erosion/sediment control measures are incorporated into the project to prevent sediment discharge to jurisdictional waters.</p> <p><i>Reviewer Notes:</i></p>
			<p>N) Project does not affect a property listed, or eligible for listing, in the National Register of Historic Places (i.e. Section 106 must be satisfied).</p> <p><i>Reviewer Notes:</i></p>

****If any of the above requirements are not met, the NWP #3 will not apply and a different level of permitting will be required. Refer to the other 404/401 checklists to determine the correct level of permitting for this project.**

If the project applies under the general NWP #3 conditions (Table D), use Table II to determine the type of NWP permit.

S	D	NA	II. NWP #3 Type (a, b, or c)
			<p>A) The project must meet the following requirements for a 404 NWP #3 (a) to apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Project involves the repair, rehabilitation, or replacement of previously authorized and currently serviceable fills and/or structures; <input type="checkbox"/> The proposed project represents only a minor deviation from the existing conditions for maintenance purposes (minor deviations include changes in materials, construction techniques, construction codes or safety standards, etc.); <input type="checkbox"/> Structure and/or fill will not be put to uses differing from those specified or contemplated for it in the original permit; <input type="checkbox"/> No placement of new or additional riprap outside of the existing riprap footprint (i.e. maintenance of existing riprap fill is allowed). <p>A Pre-Construction Notification (PCN) is NOT required for a 404 NWP#3 (a). <i>Reviewer Notes:</i></p>
			<p>B) The project must meet the following requirements for a 404 NWP #3 (b) to apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Removal of accumulated sediments and/or debris (not riprap) in the vicinity of and within the existing structure that does not exceed 200' in any direction from the structure; <input type="checkbox"/> Placement of new or additional riprap only to protect a structure (i.e. bank stabilization not associated with a structure requires a separate authorization under the RGP program). <p>A Pre-Construction Notification (PCN) is required for all 404 NWP#3 (b) activities. <i>Reviewer Notes:</i></p>
			<p>C) The project must meet the following requirements for a 404 NWP #3 (c) to apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Temporary structures, fills, and work necessary to conduct a maintenance activity; <input type="checkbox"/> Appropriate measures are taken to maintain normal downstream flows and minimize flooding; <input type="checkbox"/> Temporary fill is non-erosive; <input type="checkbox"/> Temporary fill will be removed in the entirety and affected areas returned to pre-construction elevations; <input type="checkbox"/> Disturbed areas must be revegetated. <p>A Pre-Construction Notification (PCN) is NOT required for 404 NWP #3 (c) activities. Note that this type of NWP#3 is issued in conjunction with type (a) and (b). If the project only involves temporary impacts, the NWP#33 should be used instead. <i>Reviewer Notes:</i></p>

After determining the type of NWP #3 required, use Table III to determine its notification requirements.

S	D	NA	III. Notification Requirements
			<p>A) If the project qualifies for a 404 NWP #3 (a), a formal PCN is <u>not</u> required. Take the following action:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Create a hard-copy file for the project and include the documentation provided by the project designer demonstrating compliance with all the conditions of the NWP; <input type="checkbox"/> Include a copy of this checklist in the file as documentation that all the requirements of the NWP program were evaluated; <input type="checkbox"/> Notify the project manager and designer that the NWP applies and provide them a copy of the <i>applicable conditions</i> for inclusion in the contract letting documents. <p><i>Reviewer Notes:</i></p>
			<p>B) If the project qualifies for a 404 NWP #3 (b), a formal PCN is required. The following should be submitted to the USACE:</p>

			<input type="checkbox"/> Copy of the waters report with signed pre-JD form from either the preparer of the report or a member of INDOT-ES (this should include a wetland delineation if any wetlands will be impacted by the proposed work);
			<input type="checkbox"/> Cover letter;
			<input type="checkbox"/> A description of the proposed project, its purpose, and impacts associated with the project (acres and linear feet) (Note: the preparer can use Corps Form 4345 or State Form 51937 to ensure that all necessary information is submitted);
			<input type="checkbox"/> Project plans labeled with all jurisdictional waters that include cross sections of all fill placement with the flow-line elevation and ordinary high water mark (OHWM elevation) and existing versus proposed conditions.
			<i>Reviewer Notes:</i>
			C) If the project qualifies for a 404 NWP #3 (c), a formal PCN is <u>not</u> required. Take the following action:
			<input type="checkbox"/> Create a hard-copy file for the project and include the documentation provided by the project designer demonstrating compliance with all the conditions of the NWP;
			<input type="checkbox"/> Include a copy of this checklist in the file as documentation that all the requirements of the NWP program were evaluated;
			<input type="checkbox"/> Notify the project manager and designer that the NWP applies and provide them a copy of the <i>applicable conditions</i> for inclusion in the contract letting documents.
			<i>Reviewer Notes:</i>

Comments: _____

5. NWP #33 Temporary Construction, Access, and Dewatering

S	D	NA	I: Verification****
			A) Project impacts are less than 0.1 acres and equal to or less than 300' to jurisdictional waters (rivers, streams, wetlands, lakes, ponds, etc.). Total cumulative impacts should be considered for "single and complete projects." These are typically projects that will be under construction during the same period of time in the same 8-digit watershed. <i>Reviewer Notes:</i>
			B) Is the waters report and/or wetland delineation less than five years old? If not, a follow-up investigation is warranted to verify findings are still accurate. <i>Reviewer Notes:</i>
			C) The project will not impact any waters designated as salmonid or Outstanding State and/or National Resource Waters. The project will also not impact any critical wetland or critical special aquatic sites. <i>Reviewer Notes:</i>
			D) No state endangered, threatened, or rare (ETR) species are documented within a ½ mile radius of the proposed project as documented by the Indiana Department of Natural Resources (IDNR) Division of Nature Preserves. If an ETR species is present, documentation must be obtained from Nature Preserves indicated that the proposed activities will not constitute a violation of state laws protecting these species. <i>Reviewer Notes:</i>
			E) The proposed project will not permanently change the sinuosity, flow path, velocity, cross sectional area under the ordinary high water mark (OHWM), or the slope of any stream. Stream relocations are not authorized under the NWP program. <i>Reviewer Notes:</i>
			F) All impacts associated with the proposed project are <i>temporary</i> in nature. No permanent impacts

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			are included in the proposed project. <i>Reviewer Notes:</i>
			G) No unsuitable fill material (trash, debris, asphalt, etc.) will be placed below the OHWM. <i>Reviewer Notes:</i>
			H) The activity does not take place in close proximity to a public water supply intake (except if the purpose of the project is for repair/improvement of the intake structure). <i>Reviewer Notes:</i>
			D) Heavy equipment working in wetlands must be placed on mats, or other measures are taken to minimize soil disturbance. Adequate erosion/sediment control measures are incorporated into the project to prevent sediment discharge to jurisdictional waters. <i>Reviewer Notes:</i>

***If any of the above requirements are not met, the NWP #33 program will not apply and a different level of permitting will be required. Refer to the other 404/401 checklists to determine the correct level of permitting for this project.

S	D	NA	II. Notification Requirements
			A) If the project qualifies for a 404 NWP #33, a formal PCN is required. The following should be included in this notification:
			<input type="checkbox"/> Copy of the waters report with signed pre-JD form from either the preparer of the report or a member of INDOT-ES (this should include a wetland delineation if any wetlands will be impacted by the proposed work);
			<input type="checkbox"/> Cover letter;
			<input type="checkbox"/> A description of the proposed project, its purpose, and impacts associated with the project (acres and linear feet) (Note : preparer can use Corps Form 4345 or State Form 51937 to ensure that all necessary information is submitted to their attention);
			<input type="checkbox"/> Project plans labeled with all jurisdictional waters that include cross sections of all fill placement with the flow-line elevation and ordinary high water mark (OHWM elevation) and existing versus proposed conditions;
			<input type="checkbox"/> Restoration plan for all temporary impacts including an appropriate seed mix to revegetate all bare areas. <i>Reviewer Notes:</i>

Comments: _____

6. NWP #27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities

S	D	NA	I: Verification****
			A) Project impacts are less than 0.1 acres and equal to or less than 300' to jurisdictional waters (rivers, streams, wetlands, lakes, ponds, etc.). Total cumulative impacts should be considered for "single and complete projects." These are typically projects that will be under construction during the same period of time in the same 8-digit watershed. <i>Reviewer Notes:</i>
			B) Is the waters report and/or wetland delineation less than five years old? If not, a follow-up investigation is warranted to verify findings are still accurate. <i>Reviewer Notes:</i>
			C) The project will not impact any waters designated as salmonid or Outstanding State and/or National Resource Waters. The project will also not impact any critical wetland or critical special aquatic sites. <i>Reviewer Notes:</i>
			D) No state endangered, threatened, or rare (ETR) species are documented within a ½ mile radius of the proposed project as documented by the Indiana Department of Natural Resources (IDNR) Division

		of Nature Preserves. If an ETR species is present, documentation must be obtained from Nature Preserves indicated that the proposed activities will not constitute a violation of state laws protecting these species. <i>Reviewer Notes:</i>
		E) The proposed project will not permanently change the sinuosity, flow path, velocity, cross sectional area under the ordinary high water mark (OHWM), or the slope of any stream. Stream relocations are not authorized under the NWP program. <i>Reviewer Notes:</i>
		F) The proposed activities are part of a restoration program previously approved by IDEM and the USACE. Activities authorized by this NWP include, but are not limited to, installation/removal of water control structures, establishment of riffle/pool stream structure, placement of in-stream habitat structure, <i>Reviewer Notes:</i>
		G) The activity cannot result in a permanent secondary effect to a waters for the U.S. (for example: dredging, excavation, damming, creation of in channel pools, etc.) that when combined with the primary effect exceeds 0.1 acres and 300' of impacts. <i>Reviewer Notes:</i>
		H) No unsuitable fill material (trash, debris, asphalt, etc.) will be placed below the OHWM. <i>Reviewer Notes:</i>
		I) The activity does not take place in close proximity to a public water supply intake (except if the purpose of the project is for repair/improvement of the intake structure). <i>Reviewer Notes:</i>
		J) Heavy equipment working in wetlands must be placed on mats, or other measures are taken to minimize soil disturbance. Adequate erosion/sediment control measures are incorporated into the project to prevent sediment discharge to jurisdictional waters. <i>Reviewer Notes:</i>

****If any of the above requirements are not met, the NWP #27 will not apply and a different level of permitting will be required. Refer to the other 404/401 checklists to determine the correct level of permitting for this project.

S	D	NA	II. Notification Requirements
			A) If the project qualifies for a 404 NWP #27, a formal PCN is required. The following should be included in this notification: <ul style="list-style-type: none"> <input type="checkbox"/> Copy of the waters report with signed pre-JD form from either the preparer of the report or a member of INDOT-ES (this should include a wetland delineation if any wetlands will be impacted by the proposed work); <input type="checkbox"/> Cover letter; <input type="checkbox"/> A description of the proposed project, its purpose, and impacts associated with the project (acres and linear feet) (Note : preparer can use Corps Form 4345 or State Form 51937 to ensure that all necessary information is submitted to their attention); <input type="checkbox"/> Project plans labeled with all jurisdictional waters that include cross sections of all fill placement with the flow-line elevation and ordinary high water mark (OHWM elevation) and existing versus proposed conditions. <i>Reviewer Notes:</i>

Comments: _____

7. DOCUMENTATION

S	D	NA	I: INDOT-ES Internal Databases
			A) Update the following databases to reflect the type of NWP obtained for the project:
			<input type="checkbox"/> EWPS;
			<input type="checkbox"/> Milestones;
			<input type="checkbox"/> PSCS;
			<input type="checkbox"/> Projectwise.
			<i>Reviewer Notes:</i>

Version: 20130524

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401 RGP - REGIONAL GENERAL PERMIT - CONDITIONS

US Army Corps
of Engineers

Detroit District
Louisville District
Chicago District

Joint Public Notice



In Reply Refer To: File No. LRE-2014-00571-100
LRL-2014-00648
LRC-2014-00586

Date: Dec. 15, 2014
Expires: Dec. 15, 2019

REISSUANCE OF INDIANA REGIONAL GENERAL PERMIT NO. 001

1. In accordance with Title 33 CFR 325.5(b)(2), and 325.5(c)(1), as published in the Federal Register, Volume 51, No. 219, the U.S. Army Corps of Engineers Districts of Louisville, Detroit and Chicago (the Districts), have reissued a Regional General Permit (RGP) for certain activities in waters of the United States within the State of Indiana under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

2. The RGP affords the Districts a means to authorize, on a regional basis, categories of activities that are similar in nature and cause minimal individual and cumulative impacts to the aquatic environment while eliminating unnecessary duplication of regulatory control. In this case, the Districts have been effective in reducing duplication with the Indiana Department of Environmental Management (IDEM) Section 401 Water Quality Certification (WQC) process.

This RGP suspends several Nationwide Permits (NWP) (see Suspensions section of this document). The RGP has simplified and enhanced the effective regulation of waters and wetlands in Indiana and would further assure that only those activities that have minimal individual and cumulative impacts would be authorized by this RGP.

Structures and/or work in or affecting the course, location, condition, or capacity of a navigable water that does not involve the discharge of dredged or fill material requires authorization under Section 10 of the Rivers and Harbors Act and no WQC is required. In this case, the Districts would continue to evaluate the Section 10 activity proposed and authorize only those activities under the RGP that have minimal individual and cumulative impacts.

Certain activities that impact 1 acre or less of waters of the United States and have a valid WQC would be eligible for this RGP. Under the RGP, the Districts will continue to coordinate proposed activities with the U.S. Fish and Wildlife Service (USFWS) to satisfy the requirements of the Endangered Species Act and the Indiana State Historic Preservation Officer (SHPO) to satisfy the requirements of the National Historic Preservation Act.

December 15, 2014

Effective Date: December 15, 2014

Duration: The RGP will be effective for five (5) years, expiring on December 15, 2019.

Activities Covered by the Regional General Permit:

This RGP authorizes activities associated with the construction or installation of facilities or structures, and/or work that are detailed in the “Activity Categories and Conditions” section of this document, and have been granted a WQC from IDEM, if required.

SUSPENSIONS:

The following Nationwide Permits are proposed for suspension in Indiana. The proposed RGP would be used to authorize activities in place of suspended Nationwide Permits:

- 13 Bank Stabilization
- 14 Linear Transportation Projects
- 18 Minor Discharges
- 29 Residential Developments
- 36 Boat Ramps
- 39 Commercial and Institutional Developments
- 40 Agricultural Activities
- 41 Reshaping Existing Drainage Ditches
- 42 Recreational Facilities
- 43 Stormwater Management Facilities
- 44 Mining Activities

The NWP's that would not be suspended and would be used in lieu of the RGP are:

- 1 Aids to Navigation
- 2 Structures in Artificial Canals
- 3 Maintenance
- 4 Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- 5 Scientific Measurement Devices
- 6 Survey Activities
- 7 Outfall Structures and Associated Intake Structures
- 8 Oil and Gas Structures on the Outer Continental Shelf
- 9 Structures in Fleeting and Anchorage Areas
- 10 Mooring Buoys
- 11 Temporary Recreational Structures
- 12 Utility Line Activities
- 15 U.S. Coast Guard Approved Bridges
- 16 Return Water from Upland Contained Disposal Areas

December 15, 2014

- 17 Hydropower Projects
- 19 Minor Dredging
- 20 Oil Spill Cleanup
- 21 Surface Coal Mining Operations
- 22 Removal of Vessels
- 23 Approved Categorical Exclusions
- 24 Indian Tribe or State Administered Section 404 Programs
- 25 Structural Discharges
- 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities
- 28 Modifications of Existing Marinas
- 30 Moist Soil Management for Wildlife
- 31 Maintenance of Existing Flood Control Facilities
- 32 Completed Enforcement Actions
- 33 Temporary Construction, Access and Dewatering
- 34 Cranberry Production Activities
- 35 Maintenance Dredging of Existing Basins
- 37 Emergency Watershed Protection and Rehabilitation
- 38 Cleanup of Hazardous and Toxic Waste
- 45 Repair of Uplands Damaged by Discrete Events
- 46 Discharges in Ditches
- 47 Pipeline Safety Program Designated Time Sensitive Inspections and Repairs
- 48 Existing Commercial Shellfish Aquaculture Activities
- 49 Coal Re-Mining Activities
- 50 Underground Coal Mining Activities
- 51 Land-Based Renewable Energy Generation Facilities
- 52 Water-Based Renewable Energy Generation Pilot Projects

The Corps will determine the appropriate permit type for authorizing proposed activities.

MAXIMUM LIMITATIONS:

The following impact limitations apply to all activities authorized by the RGP, with the exception of bank stabilization and agricultural activities. For impact limitations pertaining to these activities, see the “Activity Categories and Conditions” section of this document for further discussion regarding maximum limitations.

1. Loss of waters of the United States (U.S.), including wetlands, is limited to 1.0 acre or less;
2. Loss of waters of the U.S. is limited to 1,500 linear feet of stream channel, not to exceed 1.0 acre;
3. Dredging in navigable waters is limited to 10,000 cubic yards;

December 15, 2014

4. Structures and fills for docking and mooring are limited to similar permitted structures and fills in the vicinity;
5. "Piecemealing" of projects in order to meet these thresholds will not be allowed.

RESTRICTIONS: The work authorized by this RGP would also be subject to the attached General Conditions and any other Special Conditions necessary to reduce impacts to the minimum level.

MITIGATION REQUIREMENTS

The District Engineer may determine that the adverse effects of the proposed activity are minimal, and require no mitigation. Otherwise, mitigation will be required as follows, with the exception of bank stabilization, minor discharges, excavation, and agricultural activities (see "Activity Categories and Conditions" section of this document for further discussion regarding mitigation requirements).

1. Impacts resulting from the loss of waters by relocation, encapsulation, or channelization of greater than 300 linear feet of ephemeral, intermittent or perennial stream shall require mitigation;
2. The loss of greater than 0.10 acre of special aquatic sites (including wetlands) and/or loss of waters of the U.S. causing more than minimal effects shall require mitigation;
3. Other work or structures in waters of the United States will be evaluated on a case-by-case basis and may include mitigation to reduce the impacts to minimal levels;
4. Any required compensatory mitigation must meet the standards set forth in Title 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources, as published April 10, 2008 in the Federal Register, Vol. 73, No. 70, and any district guidance.

AGENCY NOTIFICATION:

Applicants are required to submit the IDEM RGP Notification Form when notification is required to the Corps or applying for authorization under the RGP. See "Appendix" for the district boundaries map.

Louisville District - If the proposed loss of jurisdictional waters is more than 0.1 acre or work involves more than 300 linear feet of stream channel or shoreline impact, then an application must be submitted. No application/notification is required if the work is under these thresholds, and no jurisdictional determination of any kind is required. Notification is required for work in navigable waters. Contact the Louisville District Regulatory Branch here:

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U.S. Army Corps of Engineers
Louisville District
ATTN: CELRL-OPF-N
P.O. Box 59
Louisville, Kentucky 40201-0059
Phone: (502) 315-6733
Website: <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>

Detroit District - If there are proposed impacts to jurisdictional waters, then an application must be submitted. Contact the Detroit District Regulatory Branch here:

U.S. Army Corps of Engineers
Regulatory Michiana Branch
2422 Viridian Drive, Suite #200
South Bend, IN 46628-3561
Phone: (574) 232-1952
Website: <http://www.lre.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

Chicago District - If there are proposed impacts to jurisdictional waters, then an application must be submitted. Submit applications to:

chicagorequests@usace.army.mil
Contact the Chicago District Regulatory Branch here:

U.S. Army Corps of Engineers
Chicago District Regulatory Branch
231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604
Phone: (312) 846-5529
Website: <http://www.lrc.usace.army.mil/Missions/Regulatory.aspx>

Indiana Department of Environmental Management - If there are proposed impacts to any waters, then an application must be submitted.

The applicant must submit a Section 401 WQC Regional General Permit Notification Form (State Form 51937) for proposed waters impacts 0.10 acre or less, bank stabilization activities 300 linear feet or less on stream banks or lake shorelines, encapsulation activities 150 linear feet or less, or any activity that does not comply with the Section 401 Water Quality Certification which authorizes the use of the RGP in the state of Indiana.

The applicant must submit an Application for Authorization to Discharge Dredged or Fill material to Isolated Wetlands and/or Waters of the State (Form 51821) for proposed waters impacts greater than 0.10 acre, for bank stabilization impacts greater than 300 linear feet on stream banks and lake shorelines, and for encapsulation activities greater than 150 feet.

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Note: Certain construction activities in waters of the U.S. within the State of Indiana under Section 404 of the Clean Water Act that are also regulated by the IDNR as public freshwater lakes will be covered under the Programmatic General Permit (PGP) dated December 15, 2012, and will not be covered under this RGP.

Contact the Indiana Department of Environmental Management here:

Indiana Department of Environmental Management
Section 401 WQC Program
100 North Senate Avenue
MC 65-42 WQS IGCN 1255
Indianapolis, Indiana 46204

INFORMATION REQUIREMENTS:

Any request for authorization under the RGP must provide the following information:

1. Name, address, and phone number of the applicant;
2. Location of the proposed work to include Section, Township, Range, latitude and longitude or UTM;
3. A detailed description of the project, its purpose, the dimensions including the size of the structure or the fill area, fill quantity and type of fill being used. Please include a discussion of any temporary construction activities such as access roads or cofferdams if included as part of the scope of work;
4. Drawings on 8 1/2 x 11-inch paper must include a location map, plan and cross-section drawings illustrating all the work to be done. The application drawings must provide a scale and/or the exact dimensions given;
5. Legible and reproducible construction drawings on 8 1/2 x 11-inch paper showing all aspects of the proposed activity, including existing and proposed contours, utilities, the location of wetlands/waters of the U.S. to be impacted and not impacted (marked appropriately for identification purposes), the Ordinary High Water Mark (OHWM) of all waters and the observed outermost boundary of all wetlands. In addition, the drawings shall include a detailed plan and profile view of all structures AND/OR FILL to be installed in jurisdictional areas. The application drawings must provide a scale and/or exact dimensions given;
6. Submittal of photographs representing the existing site conditions;
7. Submittal of a mitigation and monitoring plan, if applicable.

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8. For any project that impacts jurisdictional wetlands, a wetland delineation report is required and must conform to the Corps of Engineers' 1987 Wetland Delineation Manual, Technical Report Y-87-1, and the appropriate regional supplement for the proposed review area. The regional supplements in Indiana are the Midwest Regional Supplement to the Corps 1987 Wetland Delineation Manual, the Northcentral and Northeastern Regional Supplement to the Corps 1987 Wetland Delineation Manual, or the Eastern Mountains and Piedmont Regional Supplement to the Corps 1987 Wetland Delineation Manual.

IMPLEMENTATION PROCEDURES:

1. Applicants proposing to conduct work or discharge dredged and/or fill material into all waters of the U.S., including wetlands, must submit the application or notification form to the IDEM and the Corps as described in the "Agency Notification" section above.
2. The Districts will review all applications for project compliance with the terms, maximum limitations, and general conditions identified in the attachment. The conditions have been adapted from the Corps' present standard permit conditions and the nationwide permit program. Any individual project that fails to comply with all conditions cannot be authorized under the RGP procedures. The Districts will also review the proposal to determine the coordination requirements with the USFWS in accordance with the Endangered Species Act and with the SHPO in accordance with the National Historic Preservation Act (see general condition numbers 11 and 12). Applicants will be notified if additional information or project modification were necessary to comply with these requirements.
3. The applicant must immediately provide a copy of the Section 401 WQC to the appropriate Corps District. Typically, the District will respond in writing to all requests within 60 days of the District's receipt of a complete application. However, any work conducted under the RGP must comply with all the terms of the Section 401 WQC as well as the RGP general conditions and any other special conditions that may be necessary to reduce the impacts to the minimal level, and to satisfy other environmental concerns and regulatory requirements.
4. The Districts may, at their discretion, determine that the RGP is not appropriate and require an individual permit review of the proposal.
5. The Districts may, at their discretion, insert additional special conditions to the RGP to ensure that only activities that have minimal individual and cumulative impacts on the aquatic environment are authorized.

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EXCLUDED ACTIVITIES:

1. Activities that are denied any required local, State or Federal authorization.
2. Activities that the Districts determine to have the potential to cause unacceptable adverse impacts on aquatic resources or other public interest factors. The Districts may, on a case-by-case basis, require an Individual Department of the Army (DA) permit. The Districts will notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under a standard Individual DA permit. The Districts may also require an Individual DA permit for any After-the-Fact application and/or any unauthorized activity regardless of whether or not the loss of waters meets the upper threshold limitation of 1.0 acre of impacts to wetlands or 1,500 linear feet (not to exceed 1.0 acre) of stream impacts threshold limitation.

ACTIVITY CATEGORIES AND CONDITIONS:**BANK STABILIZATION ACTIVITIES**

This activity includes bank stabilization necessary for erosion prevention. The District Engineer may require mitigation for this activity on a case-by-case basis.

1. The proposed bank stabilization activity shall be justified based on a demonstrated need for erosion prevention. This category does not include maintenance activities.
2. The district engineer may waive the RGP linear foot limitation by making a written determination concluding that the discharge will result in minimal adverse effects on the aquatic environment. IDEM will be notified by the Corps that the RGP linear foot limitation has been waived.
3. The District Engineer will decide, on a case-by-case basis, if projects involving the use of vegetative and biotechnical practices will be subject to length restrictions. Biotechnical practices are defined as bank stabilization practices that benefit the aquatic environment by incorporating organic materials to produce functional structures, provide wildlife habitat, and provide areas for revegetation. Examples of biotechnical practices include, but are not limited to: a) adequately sized riprap or A-Jack structures keyed into the toe of the slope with native plantings on the banks above; b) vegetated geogrids; c) coconut fiber (coir) logs; d) live, woody vegetative cuttings, fascines or stumps; e) brush layering; and f) soil lifts.
4. Riprap shall not be placed at a steeper slope than 2:1 (2 horizontal to 1 vertical) for dumped riprap, and 1.5:1 for hand placed riprap.
5. No more than two (2) cubic yards per running foot of material shall be used as backfill behind structures.

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6. Bank stabilization shall be constructed using clean fill materials. The following materials may be used: rock, quarry stone, fieldstone, clay, granular fill, broken concrete, steel or vinyl sheet piling, cellular blocks, fabric formed concrete, concrete filled fabric mats, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, non-invasive vegetation, and treated timber. If broken concrete is used, it must be free from asphalt and oils, in addition all protruding material such as reinforced rods shall be cut flush with the surface of the concrete and removed from the construction area.

7. All material utilized shall be properly sized or anchored to resist anticipated forces of wave action.

TRANSPORTATION PROJECTS

This activity includes the construction, expansion, modification or improvement of linear transportation projects. Temporary structures, fills, and work necessary to construct linear transportation projects are also included.

1. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, INDUSTRIAL AND RECREATIONAL DEVELOPMENTS

Activities include the construction or expansion of a single residence, a multiple unit residential development, a residential subdivision, commercial and institutional buildings, and recreational facilities. Attendant features may include but are not limited to roads, parking lots, garages, yards, infrastructure and utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, golf courses, hiking trails, bike paths, horse paths, nature centers and campgrounds. The maximum impact limitations will be applied on a cumulative basis for activities that are part of a larger common plan of development or sale.

BOAT RAMPS

Activities required for the construction of boat ramps.

1. The boat ramp does not exceed 60 feet in width, unless the district engineer waives this criterion by making a written determination concluding the discharge will result in

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minimal adverse effects.

MINOR DISCHARGES AND EXCAVATION ACTIVITIES

Activities include minor discharges of dredged or fill material into all waters of the U.S. and reshaping of existing drainage ditches. The District Engineer may require mitigation for this activity on a case-by-case basis.

1. Projects involving the grading or reshaping of existing drainage ditches may not increase the slope of the ditch banks, the drainage capacity, nor can they expand the area drained by the ditch (as originally constructed).
2. All dredged/excavated materials will be disposed of in upland location(s) landward of the OHWM with no placement in, or return to, any waterway or wetland. Any excess material that cannot be accommodated on the permittee's upland property shall be placed in an upland location without any return to a waterway or wetland.

AGRICULTURAL ACTIVITIES

Agricultural activities including the construction of building pads for farm buildings; installation, placement or construction of drainage tiles, ditches or levees; the relocation of existing serviceable drainage ditches constructed in waters of the U.S.; and similar activities. The District Engineer may require mitigation on a case-by-case basis, and may waive the RGP linear foot limitation by making a written determination concluding that the discharge will result in minimal adverse effects on the aquatic environment. IDEM will be notified by the Corps that the RGP linear foot limitation has been waived. This RGP does not affect those agricultural activities that are exempt in accordance with 33 CFR Part 323.4, or are exempt under CWA Section 404(f)(1)(A).

MINING ACTIVITIES

Mining activities are authorized under this category, except for coal mining activities. This RGP does not affect those mining activities that are exempt in accordance with 33 CFR Part 323.4.

1. If reclamation is required by other statutes, a copy of the reclamation plan must be submitted with the permit application.

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DEFINITIONS

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term “discharge” means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR Part 60).

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a

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waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for the RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation (pertaining to compensatory mitigation): The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: reestablishment and rehabilitation.

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Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Waterbody: For purposes of the RGP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent - meaning bordering, contiguous, or neighboring - to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)–(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

GENERAL CONDITIONS

1. ***Navigation:*** (a) No activity authorized by the RGP may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee’s expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army, or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. ***Aquatic Life:*** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity’s primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be

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suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. *Spawning Areas*: Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas*: Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds*: No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to an authorized shellfish harvesting activity, or is a shellfish seeding or habitat restoration activity.

6. *Suitable Materials*: No activity, including structures and work in waters of the U.S. or discharges of dredged or fill material, may use unsuitable material, including auto bodies, tires, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous material, broken concrete containing asphalt, or any material which would cause water pollution as defined by the Indiana Department of Environmental Management.

7. *Water Supply Intakes*: The permittee shall not perform any work under the RGP where the discharge of dredged and/or fill material will occur in the proximity of a public water supply intake except where the activity is for the repair or improvement of the public water supply intake structures or adjacent bank stabilization.

8. *Safety of Impoundment Structures*: To ensure that all impoundment structures are safely designed, the District Engineer may require non-federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons, i.e., a licensed engineer. The District Engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

9. *Adverse Effects from Impoundments*: If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

10. *Management of Water Flows*: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or

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manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

11. *Fills Within 100-Year Floodplains*: The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

12. *Equipment*: All construction equipment shall be refueled and maintained on an upland site away from existing streams, drainage ways and wetland areas. Heavy equipment working in wetlands must be placed on mats, or other measures taken to minimize soil disturbance.

13. *Soil Erosion and Sedimentation Controls*: Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

14. *Removal of Temporary Fills*: Temporary fills must be removed in their entirety and the affected areas returned to pre-construction conditions (i.e., elevation, contours, re-establishment of vegetation, etc.).

15. *Proper Maintenance*: Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable general conditions, as well as any activity-specific conditions added by the District Engineer to an RGP authorization.

16. *Single and Complete Project*: The activity must be a single and complete project. The same RGP cannot be used more than once for the same single and complete project.

17. *Endangered Species*: (a) No activity is authorized under the RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under the RGP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the RGP activity, or whether additional ESA consultation is necessary.

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20. *Historic Properties:* The permittee shall not perform any activity under the RGP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the RGP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the IDNR, Division of Historic Preservation and Archaeology.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the RGP, work must be immediately stopped and the Corps immediately notified. The District will initiate the Federal, tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

21. *Discovery of Previously Unknown Remains and Artifacts:* If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Mitigation:* The permittee shall provide a mitigation/monitoring plan for any activity where the adverse impact (i.e., loss of waters) on special aquatic sites (including wetlands) exceeds 0.10 acre (4,356 sq. ft.) or is determined to be more than minimal impact. The permittee shall also provide a mitigation/monitoring plan for any channelization, encapsulation, or relocation of greater than 300 linear feet of stream, unless there is no net loss of function, in which case the District Engineer will determine, on a case-by-case basis, if mitigation is required. All mitigation plans will include a minimum 50-foot wide buffer between the edge of the mitigation project site and the waters and/or wetlands to be affected unless a shorter distance has been specifically approved under the RGP. If a shorter distance is approved, it is incumbent on the applicant to demonstrate that no practicable alternatives are available in meeting the required buffer widths. If mitigation is required, the permittee shall develop the mitigation site concurrently with permitted impacts. The mitigation proposal must be in compliance with Title 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources, as published April 10, 2008 in the Federal Register, Vol. 73, No. 70.

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(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work. The District Engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-federal applicant of the Corps determination within 45-days of receipt of a complete pre-construction notification. In cases where the non-federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the USFWS the District Engineer may add species-specific regional endangered species conditions to the RGP.

(e) Authorization of an activity under the RGP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS Service, the ESA prohibits any person subject to the jurisdiction of the United States to take listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS or their webpages on the Internet.

18. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for obtaining any "take" permits required under the USFWS' regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

19. Migratory Bird Breeding Areas: Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

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20. *Historic Properties:* The permittee shall not perform any activity under the RGP which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The permittee must notify the District Engineer if the activity authorized by the RGP may affect any historic properties listed, determined to be eligible or which the permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin construction until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the IDNR, Division of Historic Preservation and Archaeology.

If the permittee discovers any previously unknown historic or archaeological remains while accomplishing the activity authorized by the RGP, work must be immediately stopped and the Corps immediately notified. The District will initiate the Federal, tribal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

21. *Discovery of Previously Unknown Remains and Artifacts:* If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Mitigation:* The permittee shall provide a mitigation/monitoring plan for any activity where the adverse impact (i.e., loss of waters) on special aquatic sites (including wetlands) exceeds 0.10 acre (4,356 sq. ft.) or is determined to be more than minimal impact. The permittee shall also provide a mitigation/monitoring plan for any channelization, encapsulation, or relocation of greater than 300 linear feet of stream, unless there is no net loss of function, in which case the District Engineer will determine, on a case-by-case basis, if mitigation is required. All mitigation plans will include a minimum 50-foot wide buffer between the edge of the mitigation project site and the waters and/or wetlands to be affected unless a shorter distance has been specifically approved under the RGP. If a shorter distance is approved, it is incumbent on the applicant to demonstrate that no practicable alternatives are available in meeting the required buffer widths. If mitigation is required, the permittee shall develop the mitigation site concurrently with permitted impacts. The mitigation proposal must be in compliance with Title 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources, as published April 10, 2008 in the Federal Register, Vol. 73, No. 70.

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23. *Water Quality*: If an individual 401 WQC is required, the permittee must provide a copy of it to the Corps. The permittee must comply with any case specific special conditions added by the Corps or by the Section 401 WQC. The conditions imposed in the Section 401 WQC are also conditions of this RGP.

24. *Minimization/Avoidance*: Discharges of dredged or fill material into waters of the U.S. must be minimized or avoided to the maximum extent practicable at the project site (i.e. on-site). In determining the minimal impact threshold, the Districts will consider the direct and secondary impacts of the fill or work and any mitigation measures.

25. *Access*: Representatives from the Corps of Engineers and/or IDEM may inspect any authorized activity or mitigation site at any time deemed necessary to ensure compliance with the terms and conditions of the RGP, Section 401 WQC, and applicable laws.

26. *Construction Period*: If construction of the project has commenced, or is under contract to commence prior to the expiration date, the applicant must complete the project within one (1) year of the RGP expiration date. If you find you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 3 months prior to the expiration date.

27. *Reporting*: The permittee, after completion of work under the RGP, shall submit a signed certification letter regarding the completed work and required mitigation, if applicable. The certification letter will include a statement that the work was done in accordance with the RGP authorization including compliance with all general and special conditions and completion of mitigation work.

401 / 404 RGP – REGIONAL GENERAL PERMIT - CHECKLIST



404/401 Regional General Permit (RGP) Checklist | 2013

INDOT Environmental Services (ES), Ecology and Waterway Permitting Office (EWPO)

1. PROJECT SPECIFIC INFORMATION

Project Route/Type	
INDOT Des. Number	
County	
Letting Date	

2. APPLICATION BACKGROUND

Designer/Firm			
Submittal Date		Submittal Number	
ES Reviewer/Contact Info.			
Review Date			

Review columns are abbreviated as follows: Sufficient (S), Deficient (D), and Not Applicable (NA). All items marked deficient require resolution from the designer prior to INDOT acceptance of the application.

3. REGIONAL GENERAL PERMIT (RGP) VERIFICATION

S	D	NA	RGP Requirements*
			A) Are there less than 0.1 acres of total impact to streams and wetlands (considered cumulatively)? Are there any nearby projects that IDEM may consider for cumulative impacts? <i>Reviewer Notes:</i>
			B) Will less than 300' of streams be impacted (considered cumulatively)? Are there any nearby projects that IDEM may consider for cumulative impacts? <i>Reviewer Notes:</i>
			C) No state designated salmonid waters, Outstanding State and/or Natural Resource Waters, Exceptional Use Waters, or critical special aquatic sites will be impacted by the project. <i>Reviewer Notes:</i>
			D) There will be no permanent change to sinuosity, flow path, velocity, or cross sectional area under the Ordinary High Water Mark (OHWM) elevation or to the slope of the stream (i.e. activities such as stream relocations cannot be authorized by the RGP program per Condition 17). <i>Reviewer Notes:</i>
			E) Stream encapsulations must meet all of the following requirements: <input type="checkbox"/> Encapsulation must not exceed 150'; <input type="checkbox"/> Cross sectional area of any encapsulation is 20% larger than the area under OHWM immediately upstream and downstream of the encapsulation; <input type="checkbox"/> Structure must be a single opening; <input type="checkbox"/> Embedded structure per IDEM sumping requirements or a three-sided structure (no bottom). <i>Reviewer Notes:</i>
			F) For bank stabilization activities, does the application include information demonstrating that the bank (or shoreline) in question is unstable (Condition 19)? In general, this information is typically not required for stabilization activities associated with new structures such as riprap outlet protection. <i>Reviewer Notes:</i>

*If any of the above requirements are not met, the RGP program will not apply and a different level of permitting will be required. Further review of the application is not required until a revised application on the appropriate form has been submitted to INDOT-ES

S	D	NA	Additional Considerations
			A) Does the project qualify under the 404 Nationwide Permit (NWP) Program (see the NWP checklist for details)? If so, a NWP permit should be pursued instead. <i>Reviewer Notes:</i>

Comments: _____

4. STATE FORM 51937			
S	D	NA	I: General Application Requirements
			A) Was the most recent State Form 51937 application used (version R3/8-08)? If your project is in USACE Chicago District, was Corps Form 4345 included in the designer's submittal for the 404 application? The USACE Chicago District will not accept application on the state's form. <i>Reviewer Notes:</i>
			B) Was a waters of the U.S. report and/or wetland delineation included with the application and did this include the appropriate approved JD or pre-JD form signed by the preparer of the report or a representative of INDOT-ES? <i>Reviewer Notes:</i>
			C) Does the application reflect the waters report and/or wetland delineation prepared for this project? This includes:
			<input type="checkbox"/> The waters report and/or wetland delineation is less than five years old;
			<input type="checkbox"/> Accounting of all streams, wetlands, and/or other waters located within the project limits (including confirmation of any avoided waters);
			<input type="checkbox"/> Correct wetland boundary or boundaries used to calculate impacts;
			<input type="checkbox"/> Correct ordinary high water mark/s (OHWMs) used to calculate impacts;
			<input type="checkbox"/> Correct wetland types (emergent, scrub-shrub, forested) referenced in the application. <i>Reviewer Notes:</i>
S	D	NA	II: Applicant Information
			A) Does the applicant contact information reflect the appropriate EWPO Team Lead or Manager? <i>Reviewer Notes:</i>
			B) Are the agent blocks complete and accurate? <i>Reviewer Notes:</i>
S	D	NA	III: Project Location
			A) Are the blocks in this section complete and accurate? <i>Reviewer Notes:</i>
			B) Do the driving directions include distances (mileage)? <i>Reviewer Notes:</i>
S	D	NA	IV: Existing Conditions on the Project Site
			A) Are the appropriate boxes checked for lake, stream, and/or wetland impacts? <i>Reviewer Notes:</i>
			B) Are the correct names (USGS 7.5 minute series) provided for any lakes or streams that are located within the project site? <i>Reviewer Notes:</i>
			C) Is the total acreage of any wetlands located within the project site listed accurately (note that this acreage is not necessarily the same as the impact acreage)? <i>Reviewer Notes:</i>
			D) Is the date of the wetland delineation provided (if necessary)? <i>Reviewer Notes:</i>
			E) Is the date of USACE jurisdictional correspondence included if wetlands will be impacted (note that IDEM will require this in the 401 application submittal)? <i>Reviewer Notes:</i>
S	D	NA	V: Project Impacts
			A) Does the "Activity Description" meet the following requirements:

[2]

			<input type="checkbox"/> Overall description clarifies the waters resource(s) that will be impacted and is not solely focused on the roadway or structure work;
			<input type="checkbox"/> Existing structure dimensions (length, width, and height);
			<input type="checkbox"/> Proposed structure dimensions (length, width, and height);
			<input type="checkbox"/> Total cumulative impacts to streams (linear feet);
			<input type="checkbox"/> Total cumulative impacts to streams and wetlands (acres);
			<input type="checkbox"/> A short description of any temporary impacts associated with the project and a brief statement regarding the restoration of any areas impacted by temporary fill. <i>Reviewer Notes:</i>
			B) Does the “Purpose of Project” detail why the project is necessary? <i>Reviewer Notes:</i>
			C) Does the “For Lake Impact” box meet the following requirements:
			<input type="checkbox"/> Cumulative linear feet of shoreline that will be impacted;
			<input type="checkbox"/> Type of permanent fill, volume of fill (cumulative), and acres of fill (cumulative) below OHWM (temporary impacts should be quantified in an attached exhibit);
			<input type="checkbox"/> Appropriate box checked for presence/absence of vegetation;
			<input type="checkbox"/> Type of permanent fill and acres of fill (cumulative) beyond the shoreline. <i>Reviewer Notes:</i>
			D) Does the “For Stream Impact” box meet the following requirements:
			<input type="checkbox"/> Cumulative linear feet of permanent impacts to streams;
			<input type="checkbox"/> Type(s) of permanent fill material and volume of this material that will be placed below OHWM;
			<input type="checkbox"/> Proposed start and end date that are consistent with the project’s letting date (Note that a fish spawning waiver will be needed during construction for work in-stream between April 1 and June 30 but this is not required for submittal of the application);
			<input type="checkbox"/> Channel width and depth are provided and match those listed in the waters report;
			<input type="checkbox"/> Structure type that will be installed;
			<input type="checkbox"/> Structure dimensions;
			<input type="checkbox"/> Type of permanent fill material for any open water impacts;
			<input type="checkbox"/> The cumulative permanent acres of impact below the OHWM for all stream impacts. <i>Reviewer Notes:</i>
			E) Does the “For Wetland Impact” box meet the following requirements:
			<input type="checkbox"/> Type of permanent fill material;
			<input type="checkbox"/> Cumulative permanent acres of wetland impacted with a breakdown of impacts by wetland type (emergent, scrub-shrub, and forested). <i>Reviewer Notes:</i>
S	D	NA	VI: Application Attachments
			A) Was a location map provided and did it meet the following requirements:
			<input type="checkbox"/> Location displayed sufficiently for regulatory agencies to locate project (include landmark);
			<input type="checkbox"/> A north arrow, scale bar, title block, and appropriate references included on the map. <i>Reviewer Notes:</i>
			B) Project Plans met the following requirements:
			<input type="checkbox"/> Plans represent both the existing and proposed project conditions (this can be addressed on the same plan page so long as each can be clearly reviewed);
			<input type="checkbox"/> All jurisdictional streams and wetlands are labeled on the plans with the appropriate USGS 7.5

			<p>minute series name;</p> <p><input type="checkbox"/> Cross sections are provided for all wetland impacts with labels showing the boundary of the wetland;</p> <p><input type="checkbox"/> Cross sections are provided for stream impacts with labels for the OHWM and flow-line elevation;</p> <p><input type="checkbox"/> Plans do not contain excessive detail that prevents review of impacts (designers can remove specific layers to assist INDOT-ES and regulatory agency reviews);</p> <p><input type="checkbox"/> Flow direction of any stream is noted on the plans;</p> <p><input type="checkbox"/> Length (linear feet) of riprap placed below the OHWM is noted in the plans.</p> <p><i>Reviewer Notes:</i></p>
			<p>C) At least three photographs are provided in the application with captions that include the following:</p> <p><input type="checkbox"/> Direction taken,</p> <p><input type="checkbox"/> Statement of the image's content;</p> <p><input type="checkbox"/> Description of any unusual circumstances shown in the photograph.</p> <p><i>Reviewer Notes:</i></p>
			<p>D) Was correspondence from IDNR Division of Nature Preserves provided with the application stating the presence of any endangered, threatened, or rare (ETR species)? This correspondence must meet the following:</p> <p><input type="checkbox"/> The ETR clearance is less than five years old (Note that new coordination will be needed for all clearances greater than five years old);</p> <p><input type="checkbox"/> The ETR clearance states that no species were noted in the vicinity of the project or correspondence has been received from IDNR that the project is not likely to impact any ETR species.</p> <p><i>Reviewer Notes:</i></p>
			<p>E) Was a summary table provided for projects with multiple impacts to the same type of resources (for example: a project with impacts to multiple stream crossings)? Did this table meet the following requirements:</p> <p><input type="checkbox"/> Itemization of the impacts to each individual stream (length and acres below OHWM);</p> <p><input type="checkbox"/> Itemization of impacts to each individual wetland (acres);</p> <p><input type="checkbox"/> Volume of fill below OHWM (cubic yards) to each stream;</p> <p><input type="checkbox"/> Volume of fill that will be placed in each wetland;</p> <p><input type="checkbox"/> Existing structure dimensions (length, width, and height);</p> <p><input type="checkbox"/> Proposed structure dimensions (length, width, and height).</p> <p><i>Reviewer Notes:</i></p>
			<p>F) Were temporary impacts included in the application attachments (these should not be listed with the permanent impacts in State Form 51937)? The following must be included:</p> <p><input type="checkbox"/> Type of temporary fill material (should be non-erosive);</p> <p><input type="checkbox"/> Volume (cubic yards) and area (acres) associated with temporary measures below OHWM;</p> <p><input type="checkbox"/> Temporary acres of impact to any wetland(s);</p> <p><input type="checkbox"/> Plan or drawing showing the approximate location and dimensions of the proposed temporary measure(s);</p> <p><input type="checkbox"/> Expected amount of time the temporary measures will be in place;</p> <p><input type="checkbox"/> Number and dimensions (diameter and length) of pipes required for a temporary stream crossing;</p> <p><input type="checkbox"/> Restoration plan including an appropriate seed mix.</p> <p>Note that temporary measures should be designed to handle a two-year storm event.</p> <p><i>Reviewer Notes:</i></p>

SECTION 10 NAVIGABLE WATERS OF THE U.S.

LOUISVILLE DISTRICT OHIO RIVER AND TRIBUTARIES

OHIO RIVER MILE	STREAM	JURISDICTION ABOVE MOUTH
451.3	Ohio River (mouth to Foster, Kentucky)	543.0 miles
491.0	Great Miami River	117.0 miles
494.2	Tanners Creek	10.6 miles
495.8	Wilson Creek	1.9 miles
496.7	Hogan Creek	0.4 miles
	North Hogan Creek	4.9 miles
	South Hogan Creek	5.0 miles
498.7	Laughery Creek	10.2 miles
501.4	Island Branch	1.0 miles
504.0	Buck Run	1.1 miles
508.7	Arnold Creek	4.4 miles
508.8	Grants Creek	2.5 miles
518.2	Goose Creek	1.5 miles
518.7	Wade Creek	0.6 miles
527.0	Bryant Creek	2.6 miles
	Sand Creek (tributary to Bryant Creek)	0.9 miles
529.0	Turtle Creek	1.3 miles
532.9	Log Lick Creek	2.3 miles
535.8	Plum Creek	2.9 miles
540.0	Indian Creek	4.1 miles
550.4	Indian Kentuck Creek	3.8 miles
569.3	Big Saluda Creek	1.0 miles
578.3	Camp Creek	1.7 miles
584.5	Bull Creek	1.1 miles
589.3	Fourteen Mile Creek	2.9 miles
597.7	Lancassange Creek	0.3 miles
606.8	Silver Creek	3.0 miles
634.5	Mosquito Creek	2.8 miles
647.3	Buck Creek	5.8 miles
657.0	Indian Creek	4.8 miles
661.3	Potato Run	0.4 miles
662.9	Blue River	57.15 miles
	Dly Creek (tributary to Blue River)	1.4 miles
678.6	Little Blue River	10.6 miles
691.7	Oil Creek	10.6 miles
	Clover Lick Creek (tributary to Oil Creek)	0.7 miles
	Little Oil Creek (tributary to Oil Creek)	4.4 miles
	Webb Branch (tributary to Oil Creek)	0.9 miles
	Bull Hollow (tributary to Oil Creek)	0.7 miles
	Indian Fork (tributary to Oil Creek)	1.4 miles
	Bald Knob Creek (tributary to Oil Creek)	0.5 miles
692.4	Knob Creek	0.2 miles
696.6	Big Poison Creek	6.3 miles
	Caney Branch (tributary of Big Poison Creek) Little	0.2 miles
	Poison Creek (tributary of Big Poison Creek) Bear	1.2 miles
703.25	Creek	1.6 miles
703.9	Fannys Creek	0.8 miles
704.2	Buck Creek	0.7 miles
705.1	Kingly Creek	0.2 miles
705.5	Tates Hollow	0.3 miles
706.1	Sample Run	0.2 miles

717.2	Milestone Creek	1,4 miles
	Kelly Hollow (tributary to Millstone Creek)	1.0 miles
718.75	Deer Creek	5.9 miles
	Little Deer Creek (tributary to Deer Creek)	3.9 miles
	Caney Branch (tributary to Deer Creek)	0.8 miles
	Neglie Branch (tributary to Deer Creek)	0.5 miles
	East Deer Creek (tributary to Deer Creek)	0.6 miles
731.4	Anderson Creek	14.2 miles
	Middle Fork Anderson Creek (tributary of Anderson Ck.)	3.3 miles
733.2	Crooked Creek	7.7 miles
741.3	Little Sandy Creek	2.0 miles
742.1	Sandy Creek	2.6 miles
744.25	Honey Creek	1.8 miles
746.8	Lake Drain	1.6 miles
759.4	Caney Creek Garret	0.9 miles
760.5	Creek Jackson	2.2 miles
763.2	Creek Little Pigeon	1.8 miles
772.8	Creek	15.8 miles
	Clear Creek (tributary to Little Pigeon Creek)	2.4 miles
	Baker Creek (tributary to Little Pigeon Creek)	1.8 miles
775.3	Cypress Creek (diversion channel)	6.6 miles
793.0	Pigeon Creek	5.9 miles
	Locust Creek (tributary to Pigeon Creek)	1.5 miles
815.0	Bayou Creek	1.5 miles
828.9	McFadden Creek	2.3 miles
845.9	Harris Ditch	0.9 miles
	Little Pitcher Lake (tributary to Harris Ditch)	1.2 miles
848.0	Wabash River (mouth to Wells/Adams County Line)	441.9 miles

WABASHRIVERANDTRIBUTARIES

WABASH RIVER		JURISDICTION
MILE	STREAM	ABOVE MOUTH
95.6	White River	66.2 miles
	East Fork White River (tributary to White River)	21.9 miles
405.9	Little Wabash River (mouth to the junction with Ellison Rd.)	20.2 miles

DETROIT/CHICAGO DISTRICT

NAME OF WATERWAY	HEAD OF NAVIGATION
Grand Calumet River	navigable throughout
Indiana Harbor Canal	navigable throughout
Calumet River Branch of Indiana Harbor Canal	navigable throughout
Lake George Branch of Indiana Harbor Canal	from the main branch of Grand Calumet River to White Oak Ave. in East
Iroquois River	Chicago navigable throughout
Kankakee River	navigable throughout
Little Calumet River	navigable throughout
Lake Michigan	navigable throughout
Maumee River	Hosey Dam at Ft. Wayne
Trail Creek	E. St. bridge at Michigan City, 1 mi. above mouth

All embayments or backwater areas on all tributaries to streams listed above are considered navigable for administrative purposes. If anyone is now contemplating work or activity on a waterway, whether or not such waterway is listed above, or whether such proposed work or activity is above the jurisdictional limit shown above on a listed waterbody, it is suggested that the appropriate Corps of Engineers Office be contacted prior to commencement of such work or activity. Such contact may prevent a subsequent determination that such work or activity is illegal based upon a final determination of navigability.

As mentioned before, **the above listed stream limits define where permits are required, for work or construction, under Section 10 of the River and Harbor Act of 1899.** The Corps of Engineers has permitting jurisdiction pursuant to Section 404 of the Clean Water Act for all waters of the United States. Section 404 regulates the placement of dredged or fill material into streams and their adjacent wetlands areas. Therefore, should you anticipate placing material into any streams, lakes, wetlands you should contact the Corps of Engineers to determine the authorization required prior to the placement of the dredged or fill material.