

IEPA Log No.: **C-0193-16**  
CoE appl. #: **2016-0049**

Public Notice Beginning Date: **August 31, 2016**  
Public Notice Ending Date: **September 30, 2016**

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

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

**Public Notice/Fact Sheet Issued By:**

Illinois Environmental Protection Agency  
Bureau of Water  
Facility Evaluation Unit  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
217/782-3362

**Name and Address of Applicant:** U.S. Army Corps of Engineers, Rock Island District, Clock Tower Building, Post Office Box 2004, Rock Island, Illinois 61204-2004

**Discharge Location:** This regional general permit will authorize fill within waters of the U.S. throughout the State of Illinois within the regulatory boundaries of the Rock Island, St. Louis and Memphis districts of the U.S. Army Corps of Engineers.

**Name of Receiving Water:** General use waters of the State

**Project Description:** Re-Issuance of Regional General Permit 38 for Road Crossings (linear transportation projects) in the State of Illinois.

The Illinois Environmental Protection Agency (IEPA) has received a notification regarding Section 401 water quality certification to discharge into the waters of the state associated with a Section 404 Regional General Permit proposed by the U.S. Army Corps of Engineers. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. The last day comments will be received will be on the Public Notice period ending date unless a commenter demonstrating the need for additional time requests an extension to this comment period and the request is granted by the IEPA. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters shall provide their names and addresses along with comments on the certification application. Commenters may include a request for public hearing. The certification and notice number(s) must appear on each comment page.

The attached Fact Sheet provides a description of the project and the antidegradation assessment. Also attached are the Agency's proposed 401 water quality certification conditions for the regional permit.

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

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

## Fact Sheet for Antidegradation Assessment

U.S. Army Corps of Engineers Rock Island District, St. Louis District, Memphis District – Various Waters – Various Counties – General Permit 38 (RP 38) for Road Crossings (Linear Transportation Projects) in Illinois.

COE Log # CEMVR-OD-P-2016-0049

IEPA Log # C-0193-16

Contact: Bob Mosher 217/558-2012

August 31, 2016

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The U.S. Army Corps of Engineers, Rock Island District, St. Louis District and Memphis District (USACE) has proposed to reissue a regional permit for linear transportation projects that result in impacts to water of the United States. The proposed Regional General Permit 38 (RP38) would be effective in all areas within the regulatory boundaries of the Rock Island, St. Louis and Memphis Districts of the Corps of Engineers. This Antidegradation review covers the 401 Water Quality Certification for state application of this proposed Federal RP 38.

**Authorized Work; Proposed Permit Limits:** A. Activities required for the construction, expansion, modification, or improvement of linear transportation projects that result in impacts of up to 1 acre of water of the United States. B. Temporary fills for construction are authorized. C. The affected reach of stream must occur within 300 feet upstream and downstream of the centerline of the roadway (existing channel length), with a maximum distance of existing channel length impacted (filled or abandoned) not to exceed 500 feet).

Normal low flows will be maintained during construction by placing culverts under the causeways or by other applicable and appropriate water re-routing methods.

### **Identification and Characterization of the Affected Water Body.**

The RP 38 may be applied to those water bodies within the boundaries of the Corps of Engineers Rock Island District, St. Louis District, and Memphis District. These water bodies are General Use waters within the State of Illinois. The permit does not authorize construction in environmentally sensitive areas, such as mussel beds, fish spawning areas, waterfowl nesting areas, fens, bogs, seeps, or sedge meadows. The following conditions would apply to all projects receiving this regional permit:

- Permittees must take all practicable measures to avoid and minimize impacts to waters of the United States by both temporary and permanent fills. Once such measures are taken, no more than 1 acre of wetland area may be filled in conjunction with each road crossing project. Compensatory wetland mitigation is required at a ratio of 1.5:1 or more if the loss of wetland exceeds 0.10 acre.
- Mitigation for stream impacts will follow the USACE's Mitigation Rule requirements published in the Federal Register dated April 10, 2008 under 33CFR Parts 325 and 332 and 401 CFR Part 230 entitled "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule.". Based on the USACE mitigation rule, proposed projects designs resulting in reductions in stream length will require applicants to seek foot-for-foot stream length replacement, where practicable.

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

Activities that would be authorized under the proposed permit may result in short-term, minor impacts to the waterbody. The activities allowed under this General Permit may cause a temporary increase in suspended solids. They are unlikely to result in a change in the existing uses of a water body.

**Fate and Effect of Parameters Proposed for Increased Loading.**

The increase in suspended solids will be local and temporary. Erosion control measures will be utilized to minimize any increase in suspended solids. The projects will be required to follow *Best Management Practices* (BMPs) and erosion control measures that will be installed to provide continuous control throughout the construction and post construction period. Flows from the site are to be maintained to existing conditions or less. The projects shall implement erosion control measures consistent with the "Illinois Urban Manual." Aquatic life uses in the affected streams may be negatively impacted, due to the local and temporary impacts of construction, but in time, they will recover and support approximately the same community structure as is now found in the existing streams. For projects that include a discharge to waters for which there is a TMDL allocation for any parameter, including sediment or parameters that address sediment (such as total suspended solids, turbidity, or siltation), that is proposed to be increased, the applicant shall develop an erosion control plan and BMPs that are consistent with the assumptions and requirements in the approved TMDL.

**Purpose and Social & Economic Benefits of the Proposed Activity.**

Projects authorized under the proposed permit will provide the community with improved transportation related facilities.

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

The assessment of the activities allowed under this permit finds that the general and special conditions and limitations as defined by the proposed permit would assure that the projects would be completed in a manner that minimized environmental degradation, including the following requirements:

- Native grass filter strips a minimum of 50 feet in width (measured from the top of the bank landward) shall be established along both sides of the realigned or modified channel unless there is a physical reason for not including one (such as a rock ledge). Filter strip establishment will be considered successful when there is at least 50% aerial coverage of native grasses and forbs in each 100 square foot area.
- Native trees and/or shrubs shall be planted along both sides of the realigned or modified channel. Replanting rates of trees and/or shrubs will be based on existing pre-project baseline vegetation conditions and the size of the selected tree/shrubs to be replanted. A survival rate of 100% of the replanted species shall be achieved each year (e.g. deceased or dying trees are replaced) for a period of 10 years from the establishment of the tree plantings.
- No activity is authorized under this RP 38 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.

**Summary Comments of the Illinois Department of Natural Resources, Regional Planning Commissions, Zoning Boards or Other Entities**

The 401 water quality certification will be conditioned to require utilization of the Illinois Department of Natural Resources' (IDNR) EcoCat tool regarding State listed threatened and endangered species. If potential impacts are identified, IDNR shall be consulted with.

Per a Memorandum of Understanding ("MOU") between the IDNR and the Illinois Department of Transportation ("IDOT"), IDOT Bureau of Design & Environment will continue to review all IDOT's projects for potential conflicts with Illinois endangered and threatened species, sites listed on the Illinois Natural Areas Inventory ("INI"), and wetlands in the vicinity of IDOT project areas. If any conflicts are identified IDOT will work with IDNR to resolve the conflicts before the project would be allowed to proceed.

**Agency Conclusion.**

With regard to potential 401 water quality certification issuance for General Permit 38 for transportation related activities in Illinois in waters of the U.S. issued by the U.S. Army Corps of Engineers, Rock Island District, St. Louis District, and Memphis District, the Illinois Environmental Protection Agency Water Quality Standards Section has tentatively determined that with the inclusion of the special conditions listed for the RP 38, projects meeting these conditions will comply with the Antidegradation standard found at 35 Ill. Adm. Code 302.105 (Antidegradation standard) and that projects covered by a 401 water quality certification of the RP 38 will meet water quality standards. Comments received during the 401 water quality certification public notice period will be evaluated before a final decision is made by the Agency.



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

BRUCE RAUNER, GOVERNOR

ALEC MESSINA, ACTING DIRECTOR

217/782-3362

## DRAFT

Rock Island District  
Corps of Engineers  
Regulatory Branch  
Post Office Box 2004  
Clock Tower Building  
Rock Island, IL 61204-2004

Memphis District  
Corps of Engineers  
Regulatory Branch  
167 North Main, B-202  
Memphis, TN 38103-1894

St. Louis District  
Corps of Engineers  
Regulatory Branch  
1222 Spruce Street  
St. Louis, MO 63103

Re: U.S. Army Corps of Engineers Districts: Rock Island District, St. Louis District, and Memphis District  
Issuance of Regional Permit 38 Fill Material Placed in Waters of the U.S. for Road Crossings or Linear Transportation Projects  
Log # C-0193-16 [CoE appl. # 2016-0049]

Gentlemen:

This Agency received a request on June 27, 2016 from the U.S. Army Corps of Engineers, Rock Island District, St. Louis District, and Memphis District requesting necessary comments concerning the re-issuance of Regional Permit 38 - Fill Material Placed in Waters of the U.S. for Road Crossings or Linear Transportation Projects. We offer the following comments.

Based on the information included in this submittal, it is our engineering judgment that the proposed project may be completed without causing water pollution as defined in the Illinois Environmental Protection Act, provided the project is carefully planned and supervised.

These comments are directed at the effect on water quality of the construction procedures involved in the above described project and are not an approval of any discharge resulting from the completed facility, nor an approval of the design of the facility. These comments do not supplant any permit responsibilities of the applicant toward the Agency.

This Agency hereby issues certification under Section 401 of the Clean Water Act (PL 95-217), subject to the applicant's compliance with the following conditions:

1. The applicant shall not cause:
  - a. A violation of applicable provisions of the Illinois Environmental Protection Act;
  - b. violation of applicable water quality standards of the Illinois Pollution Control Board, Title 35, Subtitle C: Water Pollution Rules and Regulations;
  - c. water pollution defined and prohibited by the Illinois Environmental Protection Act; or
  - d. interference with water use practices near public recreation areas or water supply intakes.

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2. The applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.
3. Any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area in compliance with all state statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by this Agency. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.
4. All areas affected by construction shall be mulched and seeded as soon after construction as possible. The applicant shall undertake necessary measures and procedures to reduce erosion during construction. Interim measures to prevent erosion during construction shall be taken and may include the installation of staked straw bales, sedimentation basins and temporary mulching. All construction within the waterway shall be constructed during zero or low flow conditions. The applicant shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control, Permit Section.
5. The applicant shall implement erosion control measures consistent with the "Illinois Urban Manual" (IEPA/USDA, NRCS; 2015).
6. Prior to proceeding with any work in accordance with Regional Permit 38, potential impacts to threatened or endangered species shall be identified through use of the State's Ecological Compliance Assessment Tool (EcoCAT) at <http://dnr.illinois.gov/ecopublic/EcoPublicHome.aspx>. If potential impacts to State threatened or endangered species are identified, the Illinois Department of Natural Resources shall be consulted with.
7. The applicant shall implement Best Management Practices (BMPs) to protect water quality, preserve natural hydrology and minimize the overall impacts to aquatic resources during and after construction. If the project involves a water with an approved Total Maximum Daily Load (TMDL) allocation for any parameter, measures which ensure consistency with the assumption and requirements of the TMDL shall be included. TMDL program information and water listings are available at [www.epa.state.il.us/water/tmdl/](http://www.epa.state.il.us/water/tmdl/). If the project involves an impaired water listed on the Illinois Environmental Protection Agency's Section 303(d) list for suspended solids, turbidity, or siltation, measures designed for at least a 25-year, 24-hour rainfall event shall be incorporated. Impaired waters are identified at [www.epa.state.il.us/water/tmdl/303d-list.html](http://www.epa.state.il.us/water/tmdl/303d-list.html).

This certification becomes effective when the Department of the Army, Corps of Engineers, includes the above conditions # 1 through # 7 as conditions of the requested permit issued pursuant to Section 404 of PL 95-217.

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

Sincerely,

**DRAFT**

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

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cc: IEPA, Records Unit  
IEPA, DWPC, FOS, Rockford  
IEPA, DWPC, FOS, Des Plaines  
IEPA, DWPC, FOS, Peoria  
IEPA, DWPC, FOS, Champaign  
IEPA, DWPC, FOS, Springfield  
IEPA, DWPC, FOS, Collinsville  
IEPA, DWPC, FOS, Marion  
IDNR, OWR, Springfield  
USEPA, Region 5  
Corps of Engineers, Louisville District  
Corps of Engineers, Louisville District (Newburgh Regulatory Office)  
Corps of Engineers, Louisville District (Indianapolis Regulatory Office)  
Corps of Engineers, Chicago District