

INDIANA DEPARTMENT OF TRANSPORTATION



INTER-DEPARTMENT COMMUNICATION
Standards Section C Room N642



Writer's Direct Line
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DESIGN MEMORANDUM No. 00-05 TECHNICAL ADVISORY

TO: All Design, Operations, and District Personnel, and Consultants

FROM: /s/ Anthony L. Uremovich
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Contracts and Construction Division

SUBJECT: Environmental Permit Requirements

EFFECTIVE: Immediately

ISSUED PERMITS - CONTRACT DOCUMENTS SUBMITTAL. Copies of issued environmental permits subject to the conditions as stated therein are to be included with the contract special provisions submittal. Such permits are as follows:

1. Section 404 Department of the Army (DA Permit), Individual or Nationwide
2. Indiana Department of Environmental Management Section 401 Water Quality Certification
3. Indiana Department of Natural Resources Certificate of Approval for Construction in a Floodway
4. State Trunkline Right-of Way Permit, for construction of temporary pavement across a state line

Samples of the portions of such permit documents to be included with the contract special provisions submittal are as follows:

ENVIRONMENTAL PERMITS AND REQUIREMENTS. The following information was compiled by the Design Division's Hydraulics Section. It is intended to help the designer determine environmental permit requirements or justifications for each project. This memorandum does not cover the designer's responsibilities for permit application forms nor the permit application procedure. Applications for

permits will still be made by the Design Division's Permits Coordinator in the Hydraulics Section.

Section 404 Department of the Army (DA Permit). This permit is required where a discharge of earth or construction material is made into waters or wetlands of the United States. The names and addresses of affected property owners are to be furnished when applying for a Section 404 Permit.

Individual Permit. An Individual Section 404 Permit application is required for all projects for which discharge material into waterways or wetlands is not covered by a nationwide permit.

Nationwide Permit. Many projects will be covered by a nationwide permit. The most common types of such permits are covered under Parts (3), (13), (14), Categorical Exclusion (23), and (33). Nationwide permits covered under Parts (13), (14), Categorical Exclusion (23), and (33) do require a separate IDEM Section 401 Water Quality Certification application. Nationwide permit Part (3) does not require a separate Certification application to make the nationwide permit valid. The IDEM Section 401 Water Quality Certification requirements are discussed below. A pre-discharge notification may be required for nationwide permits covered under Parts (14) and (33).

Where required by the terms of a nationwide permit, the applicant for a nationwide permit must notify the U.S. Army Corps of Engineers (Louisville or Detroit District) in writing as early as possible prior to the commencement of the project work. Specific information concerning the proposed project must be included in the notification. The Federal Register of Friday, November 22, 1991, Vol. 56, No. 226, pages 59145-46, 33 CFR 330, Appendix A, General Conditions (13) includes detailed information concerning what is to be included in the notification.

Definitions Used in Section 404 Permit Application Process.

Headwaters of the United States. These consist of rivers, streams, and their lakes and impoundments, including adjacent wetlands, which are part of a surface tributary system of navigable waterways of the United States, upstream of that point on such river or stream at which the average flow rate is less than 0.14 m³/s (5 cfs).

Ordinary High Water, or OHW. The line showing on the shore which is established by fluctuations of water and is indicated by physical characteristics such as clear, natural lines impressed on the waterway bank, shelving, changes in the character of the soil, destruction of terrestrial plants, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding area.

Special Aquatic Sites. These consist of mudflats, refuges, riffle and pool complexes, sanctuaries, vegetated shallows, and wetlands.

Waters of the United States. Each river, stream, creek, intermittent tributary, pond, impoundment, lake, or wetlands is considered to be part of the waters of the United States.

Wetlands. Bogs, marshes, sloughs, and swamps are other terms used to describe these areas. Floodplains, or areas where water stands on, at, or near the groundline may be considered as suspected wetlands. Guidelines as established by the U.S. Army Corps of Engineers indicate that a wetlands must have all of the following characteristics.

1. A preponderance of water tolerant plants
2. Hydric soils
3. Water on, at, or near the surface of the ground during a specified portion of the growing season.

General Section 404 Department of the Army (DA Permit) Activities. The following is a listing of General Permits as established by the U.S. Army Corps of Engineers for the State of Indiana.

ACTIVITY	SCOPE OF WORK
Placement of poured in place concrete.	Construction of structures of 30 m (100 ft) in length or less using poured in place concrete as the primary building material.
Removal of sediment at intake structures.	Dredging limited to an area of less than 19 m ² (200 ft ²)
Construction or maintenance of utility lines.	Placement of fill is backfilled to original contours. The addition of a maximum of 230 m ³ (300 yd ³) of riprap bank protection is permitted.
Installing riprap fill material as bank protection and placement of other fill associated with the repair or restoration of levees.*	Primarily for slope protection on the riverward side of levees.

Placement of fill in connection with bridge construction.

Miscellaneous combination of fill not to exceed 760 m³ (1,000 yd³) in streams with drainage areas > 130 km² (50 mi²), or 380 m³ (500 yd³) in streams < 130 km² (50 mi²) drainage areas.

* The special conditions which apply to each General Permit are available from the Design Division's Permits Coordinator.

U.S. Army Corps of Engineers General Permit No. 14, issued by the Corps' Louisville District on February 3, 1993, expired on February 3, 1998. Therefore, this permit may no longer be applied to projects on Department-maintained routes nor local roads.

IDEM Section 401 Water Quality Certification. This permit is required on every project which is covered by a Section 404 Department of the Army (DA Permit), Individual or Nationwide, except for Nationwide Part (3).

The descriptions of cofferdams, work causeways, or temporary runarounds must be shown in the IDEM Section 401 Water Quality Certification application.

Necessary description information regarding these temporary work structures shall be entered in item 4, "Describe proposed project," of the application. For all metric projects, quantities must be shown in metric units, followed by the hard english equivalent in parentheses. An example of the information to be entered is as follows:

This project will have a riprap work causeway approximately 4.5 to 6 m (15 to 20 ft) wide with pipes sufficient to carry the low flow discharge of the stream.

The construction of the waterway piers will require the installation of cofferdams.

A temporary runaround will be required. It will be approximately 9 m (30 ft) wide with a 30 m (100 ft) long bridge located on the upstream side of the existing bridge.

The IDEM understands that the specific details required for these structures will be left for the contractor to determine.

IDEM Section 401 Water Quality Certification, Regional General Permit, or RGP. This permit is required if the project impacts are as follows:

1. Less than 0.04 ha (0.10 acre) of wetlands will be disturbed, and/or excavation or fill below the ordinary high water level will affect less than 0.04 ha (0.10 acre).

2. Less than 91 m (300 ft) of stream channel disturbance, measured along one side of the bank from beginning of impact through and including the structure to end of impact, affecting less than 0.04 ha (0.10 acre) will occur.
3. No channel relocation will be permitted.

If these project impacts will occur, the Design Division's Permit Coordinator will notify IDEM using the single-sheet form, along with a USGS map showing the project location. The Design Division's Permit Coordinator will also notify the appropriate Corps district and the INDR Division of Water, with the same single-sheet form.

IDNR Certification of Approval for Construction in a Floodway Permit. This permit is required where the drainage area is greater than or equal to 130 km²(50 mi²) in a rural area, or 2.6 km² (1 mi²) in an urban area.

The names and addresses of affected property owners must be furnished when applying for this permit.

Rule 5 Submission. This submission is required for construction activities where the area of grading, excavation, or other land disturbance encompasses 2 ha (5 acres) or more of land area. Any earth exposed counts toward the 2 ha (5 acres). Rule 5 applies to all State and local projects regardless of community size or funding type. An Erosion Control Plan must be filed, but a Notice of Intent letter is issued in lieu of a permit.

Federal Aviation Administration (FAA) Navigable Airspace Permit. This permit is required where a permanent installation such as a high mast lighting tower, or construction equipment such as cranes or derricks, is adjacent to a public airport. Such installation or equipment extends to a greater height than an imaginary surface extending outward and upward at one of the slopes as follows:

100 to 1 for a horizontal distance of 6100 m (20,000 ft) from the nearest runway of an airport which has at least one runway equal to or exceeding 975 m (3,200 ft) in length.

50 to 1 for a horizontal distance of 3050 m (10,000 ft) from the nearest runway of an airport whose longest runway is under 975 m (3,200 ft) in length.

25 to 1 for a horizontal distance of 1525 m (5,000 ft) from the nearest landing or takeoff area of a heliport.

United States Coast Guard Section 9 Navigable Waters Bridge Permit. This permit is required for the construction, modification, replacement, or removal of any bridge over a navigable waterway. The list of such navigable waterways within Indiana is shown below. The Design Division's Hydraulics Unit will provide the location of the Upper Limit of the navigable waterways.

Second Coast Guard District

WATERWAY	UPPER LIMIT
Anderson River	Kilometer 9.7 (Mile 6.0)
Crooked Creek	Kilometer 12.4 (Mile 7.7)
Cypress Creek	Kilometer 1.3 (Mile 0.8)
Great Miami River	Only on bend of the river which is in the State of Indiana from about Kilometer 0.8 to Kilometer 2.4 (Mile 0.5 to Mile 1.5)
Indian Creek	Kilometer 7.7 (Mile 4.8)
Little Blue River	Kilometer 17.1 (Mile 10.6)
Little Oil Creek	Kilometer 7.1 (Mile 4.4)
McFadden Creek	Kilometer 3.7 (Mile 2.3)
Ohio River	Entirely within navigable limit
Wabash River	Kilometer 152.9 (Mile 95.0)

Ninth Coast Guard District

WATERWAY	UPPER LIMIT
Grand Calumet River	Kilometer 38.5 (Mile 23.9)
Indiana Harbor Canal	Kilometer 6.3 (Mile 3.9)
Indiana Harbor Canal, Lake George Branch	Kilometer 4.7 (Mile 2.9)\
Little Oil Creek	Kilometer 4.3 (Mile 2.7)
Trail Creek	Kilometer 2.4 (Mile 1.5)

United States Coast Guard Section 10 Navigable Waters Construction, Dumping, and Dredging Permit. This permit is required for structures or work other than bridges or causeways affecting a navigable waterway. Examples of such work include dredging, channelization, and filling.

United States Army Corps of Engineers (USACOE) Levee Permit. This permit is required where construction affects a levee system which is owned by the U.S. Army Corps of Engineers.

Section 402 National Pollutant Discharge Elimination System (NPDES) Point-Source Permit. This permit is required for all point-source discharges into the nation's waters other than those addressed by the Section 404 Permit. Such a point-source discharge could include sewage treatment plants at rest areas where an outlet pipe for other than storm water is required. An individual permit will be required where the discharge points are into waters categorized as outstanding state resource waters or exceptional use waters. Such waters are listed in the INDOT Construction Activities Environmental Manual, Laws and Regulations portion, Rule 5 Erosion Control, Appendix A.

Marion County Drainage. The Department is no longer bound by the requirements of the Indiana Code to obtain a Marion County Drainage Permit for its projects within Marion County. However, the Department will not ignore its responsibilities related to drainage from its right of way. In the interest of cooperation with local governments on projects within Marion County, the designer should send a set of preliminary field check plans to the Indianapolis Department of Public Works (DPW), Division of Flood Control, for their comments. Such information is to be sent to:

Permit Manager
Division of Flood Control
Indianapolis Dept. of Public Works
129 E. Market St., Ste. 700
Indianapolis, IN 46204

The designer should review all comments received from the Indianapolis DPW in conjunction with the Design Division's Hydraulics Unit for possible changes to the plans when deemed necessary.

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