



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY**  
CHICAGO DISTRICT, CORPS OF ENGINEERS  
231 SOUTH LA SALLE STREET  
CHICAGO, ILLINOIS 60604-1437

May 13, 2025

Regulatory Branch  
LRC-2020-00007

**SUBJECT:** Request for Federal Consistency Determination for the Lake Michigan Regional General Permit (LMRGP) in Lake and Cook Counties, Illinois

Cody Eskew  
Illinois Coastal Management Program  
Illinois Department of Natural Resources  
160 North LaSalle Street, Suite 703  
Chicago, Illinois 60601

Dear Mr. Eskew:

The U.S. Army Corps of Engineers, Chicago District, (District) is proposing to reissue the LMRGP for activities which would have minimal individual and cumulative impacts on aquatic resources. The LMRGP would cover shoreline and off-shore waters of Lake Michigan within the State of Illinois in Lake and Cook Counties in Illinois.

The purpose of the LMRGP is to provide a simplified and expeditious means for review of activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act that meet the specified terms and conditions of the permit.

The LMRGP is scheduled to be issued on October 1, 2025, and will expire September 30, 2030. The District is requesting concurrence from the Illinois Coastal Management Program with the District's determination that the proposed activity complies with Illinois' approved coastal management program and will be conducted in a manner consistent with such policies.

If you have any questions, please contact Mr. Erich Ceisel, Project Manager, by telephone at \_\_\_\_\_ or email at \_\_\_\_\_

Sincerely,

**Soren Hall**

Digitally signed by Soren  
Hall  
Date: 2025.05.13  
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Soren G. Hall  
Team Leader  
Regulatory Branch

Enclosure



**DEPARTMENT OF THE ARMY**  
CHICAGO DISTRICT, CORPS OF ENGINEERS  
231 SOUTH LA SALLE STREET  
CHICAGO, ILLINOIS 60604-1437

DEPARTMENT OF THE ARMY PERMIT  
LAKE MICHIGAN REGIONAL GENERAL PERMIT (LMRGP)

PERMITTEE: The General Public in Lake and Cook Counties, Illinois

ISSUING OFFICE: Chicago District, U.S. Army Corps of Engineers (Corps)

EFFECTIVE DATE: October 1, 2025

EXPIRATION DATE: September 30, 2030

AUTHORITIES: The general public is hereby authorized to undertake the activity described below pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or Section 404 of the Clean Water Act (CWA) for discharges of dredged or fill material into waters of the United States, provided the activity-specific and general conditions are fully met.

AUTHORIZED ACTIVITY: The following activities are covered under this permit:

1. Installation, repair, and modification of permanent and seasonal piers/docks, boat ramps, boat hoists, and lifts;
2. Installation, repair, and modification of shore protection;
3. Maintenance of existing public harbors, public access facilities, and navigational features required for maintaining existing function;
4. Beach nourishment and in-water discharge of dredged material, including beneficial use of dredged material for beach nourishment, shore protection, or ecosystem restoration;

LOCATION OF THE AUTHORIZED ACTIVITY: Shoreline and offshore waters of Lake Michigan within the State of Illinois subject to regulation by the U.S. Army Corps of Engineers, Chicago District.

NOTIFICATION: The permittee must submit a pre-construction notification (PCN) to the district engineer prior to commencing the activity. PCN requirements are described under General Condition 2 beginning on page 5 of this document.

DEFINITIONS: Terms used in this permit are defined on page 13 of this document.

ACTIVITY-SPECIFIC CONDITIONS:

1. Installation, repair, and modification of permanent and seasonal piers/docks: Piers/docks must be constructed in accordance with the following conditions and limitations:
  - a. The pier/dock must be situated within 125 feet of the toe of the bluff, as determined by this office. A variance in the maximum offshore distance of a structure may be granted in cases where exceptions would be reasonable due to the shoreline configuration or for specified public recreational uses. All variances will be approved by this office on a case-by-case basis;
  - b. The width of the pier/dock must not be greater than 10 feet;
  - c. For L-shaped or T-shaped piers/docks, the length of that portion parallel to the shoreline must not exceed 50 percent of the landowner's shoreline frontage, nor 50 feet;
  - d. Piers/docks must be aligned so as not to cross the projection of property lines into the waterway or come within 10 feet of the projection of the property line. A variance in this distance may be granted where there are natural limiting features or limited shoreline available. Coordination and agreement to the variance with adjacent property owners is required. All variances must be approved by this office on a case-by-case basis. Note that a dispute over property ownership will not be a factor in the Corps decision (see 33 CFR 320.4(g));
  - e. Pier/dock posts must be marked with reflective devices. If the display of lights and/or signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the Corps and/or the USCG must be installed and maintained by, and at the expense of, the permittee;
  - f. Piers/docks must be constructed in a manner which will minimize obstruction to littoral drift. Pre-fill sand at a volume of 120% of the calculated capture volume of the proposed structure(s) must be provided in conjunction with the construction of the structure. A pre-construction bathymetric survey must be completed within one (1) month of the start of construction to recalculate the pre-fill sand volume to account for changes in site conditions since the original survey. Surveys more than one (1) month old will be considered if the start of construction is delayed due to weather conditions. A copy of the survey and final pre-fill sand volume must be provided to this office prior to the start of construction activities;
  - g. The pier/dock, boat hoist, or boat lift must be constructed of steel or other suitable material and be securely anchored to prevent its detachment during times of high water, winds, or ice movement; and
  - h. Boat ramps must not exceed 60 feet in width and be constructed of steel or other suitable material. Boat ramps constructed of asphalt are not authorized under this permit.

2. Installation, repair, and modification of shore protection: Includes seawalls, revetments, bulkheads, groins, breakwaters, or other similar structures:
  - a. Acceptable materials to be used include poured (formed) concrete, clean quarried stone, fabric-formed concrete, gabions, steel (piling), and clean recycled concrete chunks with the reinforcement steel removed. Rubble, asphalt, pavement, debris, and other waste products may not be used for shore protection;
  - b. Shoreline structures must be designed to withstand the expected wave forces of the lake. Steepening of stone structure faces that include a stone toe design may be allowed by this office on a case-by-case basis;
  - c. For shoreline protection structures consisting of steel, the addition of stone may be required to reduce erosion of adjacent shorelines from reflected waves or induced eddies at the end of structures;
  - d. A site access plan is required. Water-based access is limited to the use of barges for the transport of heavy equipment and construction materials;
  - e. A contingency plan for temporary “dig-in” and sidecasting of lake substrate for access to the work area by barge is required. If temporary “dig-in” is needed, you must provide notification to this office of the change prior to sidecasting and relocating the substrate;
  - f. Any temporary stockpiles of sand, stone, or other construction materials must be located within the project site boundaries.
  - g. Revetments must be the minimum width below the Ordinary High-Water Mark (OHWM) necessary for completing the work and for structural integrity of the proposed design;
  - h. Groins and breakwaters must be situated within 125 feet of the toe of the bluff, as determined by this office. A variance in the maximum offshore distance of a structure may be granted for public facilities. All variances must be approved by this office on a case-by-case basis;
  - i. Pre-fill sand at a volume of 120% of the calculated capture volume of the proposed structure(s) must be provided in conjunction with the construction of the structure. A pre-construction bathymetric survey must be completed within one (1) month of the start of construction to recalculate the pre-fill sand volume to account for changes in site conditions since the original survey. Surveys more than one (1) month old will be considered if the start of construction is delayed due to weather conditions. A copy of the survey and final pre-fill sand volume must be provided to this office prior to the start of construction activities; and
  - j. Structures must provide reasonable accommodations, as determined by this office, to maintain public access to/along the shoreline.

3. Maintenance of existing public harbor, public access facilities, and navigational features required for maintaining existing function:
  - a. This permit only applies to once annual maintenance dredging of existing areas that have received previous authorization to dredge from this office;
  - b. Dredging must be limited to those areas necessary to maintain existing authorized capacity and that are actively maintained;
  - c. Maintenance includes the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or footprint may be permitted, provided the environmental impacts resulting from such repair, rehabilitation, or replacement are minimal. This includes changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair, rehabilitation, or replacement.
4. Beach Nourishment and in-water discharge of dredged material, including beneficial use of dredged material for beach nourishment, shore protection, or ecosystem restoration:
  - a. Clean sand material from an upland source or suitable dredged material that meets the IEPA standards as outlined in the 401 WQC in Appendix 1 must be used for beach nourishment activities;
  - b. Any temporary stockpiles of sand, stone, or other construction materials must be located within the project site boundaries.
  - c. Nourishment is allowed once annually for the duration of the permit within the area authorized under the LMRGP determined on a case-by-case basis.
  - d. In-water discharge of dredged material includes placement of dredged sediment in less than 18 feet of water depth and on beaches below the OHWM. Dredged material must meet IEPA standards as outlined in the 401 WQC in Appendix 1 for this permit;
  - e. Materials may be placed for any purpose including disposal of excess materials, shoreline/beach nourishment, habitat creation, or other approved purpose;
  - f. Placement may not occur within, or be associated with, activities occurring in wetlands as defined in Title 33 CFR Part 320 unless specifically approved by this office.

GENERAL CONDITIONS:

1. The permittee must notify this office of the proposed activity by submitting a PCN as early as possible. This office shall determine if the PCN is complete within 30 calendar days of the date of receipt. If the PCN is determined to be incomplete, this office will

notify the permittee within the 30-day period to request the additional information needed to make the PCN complete. As a general rule, this office will request additional information necessary to make the PCN complete only once. However, if the permittee does not provide all requested information, this office will notify the permittee that the PCN remains incomplete and the PCN review process will not commence until all requested information is received.

- a. The permittee must not begin the activity until either:
    - i. they are notified in writing by this office that the activity may proceed under the SARGP with any special conditions imposed by this office; or
    - ii. 45 calendar days have passed from this office's receipt of the complete PCN and the permittee has not received written authorization from this office.
2. A PCN submitted to this office must include the following information:
- a. A completed pre-construction notification application form (ENG Form 6082) may be submitted online via the Regulatory Request System at <https://rrs.usace.army.mil/rrs>. Alternatively, the application form is available at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Regulatory-Program-Forms/>. If the applicant does not sign the application form, notification must include a signed, written statement from the applicant designating the agent as their representative.
  - b. Location map identifying the project site.
  - c. A detailed project description. Include the amount of fill in cubic yards and acres to be placed below the OHWM.
  - d. Determination of the Lake Michigan OHWM consistent with Regulatory Guidance Letter (RGL) 05-05.
    - i. The determination must be made on-site through observation of the physical characteristics of the OHWM listed in RGL 05-05 section 3(b). The OHWM boundary must be flagged or otherwise indicated utilizing an adequate physical marker.
    - ii. Photographs of the physical characteristics used to determine the OHWM must be provided, as well as photographs of the flagged OHWM boundary.
    - iii. A description of the characteristics identified on site must be included in the PCN. The format of this description is flexible but can typically be provided through data sheets, site visit memoranda, or written narrative. Applicants are encouraged to utilize Corps approved Rapid OHWM Identification Data Sheets found at <https://www.erdc.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/486085/ordinary-high-water-mark-ohwm-research-development-and-training/>
    - iv. Where the physical characteristics are inconclusive, misleading, unreliable, or otherwise not evident, applicants may determine the OHWM by using other appropriate means that consider the characteristics of the surrounding areas, provided those other means are reliable. Those other

- means may include, but are not limited to, lake and stream gage data, elevation data, and statistical evidence.
- e. A statement describing how the mitigation requirement will be satisfied or why compensatory mitigation should not be required;
  - f. Project plans and any construction drawings depicting all proposed work. The plans must include the following:
    - i. A plan view identifying the dimensions of all existing structures and prior fills, as well as dimensions of all proposed structures and fill;
    - ii. A cross-sectional plan that identifies the water level measured at the OHWM as it relates to the proposed activity(ies) and/or structures; and
    - iii. The OHWM clearly depicted on the plans.
  - g. Description of existing site conditions:
    - i. On-site constructed structures such as piers, revetments, breakwaters, etc.;
    - ii. Proximate structures potentially influencing site conditions or project design both on- and off-site;
    - iii. Assessment of shoreline morphology including shoreline orientation, condition and description of shoreline (ex. beach, bluff, maintained turf lawn, recent erosion, existing vegetation), and any other relevant features;
    - iv. Recent photographs of the shoreline and project area;
    - v. Applicable project history such as past permits, recent changes in site conditions or water levels, etc. Describe any significant recent storm events that may have influenced site conditions and the date that the qualitative assessment (item “g” below) was completed.
  - h. Qualitative assessment of the habitat near the project area:
    - i. Describe substrate composition, basic description of aquatic and terrestrial vegetation, and any other habitat features observed or known/documented;
    - ii. Distance from, and location of, nearest tributary, ravine, or other aquatic resource. If present in the project area, describe any potential impact to the aquatic resource and its flow conditions;
    - iii. Note that the Lake County Ravine Inventory web application depicts ravine locations. It can be found under the Lake Michigan Watershed section at this address: <https://www.lakecountyil.gov/2437/Watershed-Planning-Documents>
    - iv. Distance from, and location of, nearest known reef/shoal or other habitat feature. If present in the project area, describe any potential impact to the habitat feature; and
    - v. Bathymetric survey conducted within the last 12 months.
  - i. For maintenance and/or modification of an existing structure in Section 10 waters, provide the date the structure was originally constructed and a copy of the Department of the Army permit for the structure, if issued and available.
3. Verifications issued for activities covered under this permit are valid until the expiration date of the LMRGP (September 30, 2030). Activities which have commenced (i.e, are under construction) or are under contract to commence in reliance upon this permit will remain authorized provided the regulated portion(s) of the activity is completed within twelve months of the date of the LMRGP's expiration, modification, or revocation, unless

discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7.

4. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party.
5. In the event the property associated with the work authorized by this permit is sold or transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, the transferee must sign and date the last page of their authorization and forward a copy of the original authorization, along with the newly signed transferee signature page, to this office to validate the transfer of this authorization.
6. The activity must be a single and complete project. The same LMRGP cannot be used more than once for the same single and complete project.
7. No activity is authorized under the LMRGP 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 the LMRGP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation.

Federal agencies should follow their own procedures for complying with the requirements of the ESA. The Federal permittee must provide the district engineer with the appropriate documentation of ESA compliance. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

Non-federal permittees must identify in the pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must



include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. 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. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference 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.

8. WQC under Section 401 of the Clean Water Act may be required from the Illinois Environmental Protection Agency (IEPA). This office may consider water quality, among other factors, in determining whether to exercise discretionary authority and require an Individual Permit. Section 401 WQC is a requirement for projects carried out in accordance with Section 404 of the Clean Water Act. Projects carried out solely in accordance with Section 10 of the Rivers and Harbors Act of 1899 may not require Section 401 WQC. The IEPA granted Section 401 certification on (\*\*PENDING APPROVAL\*\*), with conditions, for the LMRGP. A copy of the Section 401 WQC is enclosed in Appendix 1. Conditions of the certification are hereby made conditions of this permit.
9. On (\*\*PENDING APPROVAL\*\*), the Illinois Department of Natural Resources Coastal Management Program granted the Federal Consistency Determination for the LMRGP. This determination is confirmation that the activities covered under the LMRGP are consistent with the policies of the Illinois Coastal Management Program (ICMP). PDF maps of the ICMP's Zone Boundaries can be found at the bottom of the page at: [www.dnr.illinois.gov/cmp/Pages/boundaries.aspx](http://www.dnr.illinois.gov/cmp/Pages/boundaries.aspx).
10. No activity is authorized under an LMRGP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

Federal permittees designated as the lead agency must follow agency-specific procedures for complying with the requirements of Section 106 of the NHPA. Federal permittees must provide this office with the appropriate documentation to demonstrate compliance with those requirements.

Non-federal permittees must identify in the pre-construction notification to the district

engineer if the LMRGP activity might 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 might have the potential to be affected by the proposed LMRGP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties.

When reviewing permit submittals, this office will comply with the current procedures for addressing the requirements of Section 106 of the NHPA. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted and these efforts, this office will determine whether the proposed activity has the potential to cause an effect on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)) Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: No historic properties affected, no adverse effect, or adverse effect.

Where the non-Federal applicant has identified historic properties to which the activity may have the potential to cause effects and so notified this office, the non-Federal applicant must not begin the activity until notified by this office either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

This office must take into account the effects on such properties in accordance with 33 CFR Part 325, Appendix C, and 36 CFR 800. If all issues pertaining to historic properties have been resolved through the consultation process to the satisfaction of this office, Illinois SHPO, and the Advisory Council on Historic Preservation, this office may, at its discretion, authorize the activity under the LMRGP.

Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the Illinois State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer, as appropriate, and the NRHP (see 33 CFR 330.4(g)).

Applicants are encouraged to obtain information on historic properties from the SHPO and the NRHP at the earliest stages of project planning. For information, contact:

Illinois State Historic Preservation Office  
Illinois Department of Natural Resources  
Attn: Review & Compliance

Old State Capital  
1 Natural Resources Way  
Springfield, IL 62701  
(217) 782-4836  
<https://www2.illinois.gov/dnrhistoric/Pages/default.aspx>

Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) 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 permitted activity on historic properties.

If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity, you must immediately notify this office of what was found, and to the maximum extent practicable, stop activities that would adversely affect those remains and artifacts until the required coordination has been completed. This office 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 NRHP.

11. Regulated activities or their operation may not impair reserved Tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. The area covered by this permit is within the aboriginal homelands of several American Indian Tribes. If any human remains, Native American cultural items, or archaeological evidence are discovered during any phase of this project, interested Tribes request immediate consultation with the entity of jurisdiction for the location of discovery. In such case, please halt all activity and contact this office immediately upon discovery.
12. Regulated activities may not cause more than a minimal adverse effect on navigation. Safety lights and signals prescribed by the U.S. Coast Guard (USCG), through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities within navigable WOUS. 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 will 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 will be made against the United States on account of any such removal or alteration.

13. Discharges of dredged or fill material may not occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
14. All activities must minimize disruption to the life cycle movements of those species of aquatic life indigenous to the waterbody to the greatest extent possible, including those species that normally migrate through the area.
15. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
16. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
17. 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).
18. The activity must comply with applicable Federal Emergency Management Agency (FEMA)-approved State or local floodplain management requirements.
19. Heavy equipment working in wetlands or mudflats must be placed on construction matting or utilize other suitable measures to minimize soil disturbance to the maximum extent practicable.
20. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being accomplished in accordance with the terms and conditions of your permit.
21. 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 OHWM or high tide line, 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.
22. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
23. Any authorized structure or fill must be properly maintained, including maintenance to ensure public safety and compliance with applicable general conditions and activity-

specific conditions.

24. You are responsible for all work authorized herein and for ensuring that all contractors are aware of the terms and conditions of this authorization.
25. A copy of this authorization must be present at the project site during all phases of construction.
26. You must notify this office of any proposed modifications to the project, including revisions to any of the plans or documents cited in this authorization. You must receive approval from this office before work affected by the proposed modification is performed.
27. For repair and/or modification of a marine structure, provide the date the structure was originally constructed and a copy of the Department of the Army permit for the structure, if one was issued.
28. Each permittee that receives an LMRGP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of 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 LMRGP verification letter. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.
29. An activity that requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), is not authorized by an LMRGP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written LMRGP verification.

**STATEMENT ON MITIGATION:** In accordance with the Federal Mitigation Rule (33 CFR part 332), the Section 404(b)(1) guidelines (40 CFR part 230), and current Corps policies and guidelines for compensatory mitigation, regulated activities must be designed and constructed to avoid and minimize (mitigate) adverse effects, both temporary and permanent, to WOUS to the maximum extent practicable at the project site. Mitigation includes actions which may avoid, minimize, rectify, reduce, or compensate for adverse environmental effects or activities which may otherwise be contrary to the public interest. Regulated activities which the Corps believes do not mitigate adverse environmental effects or are contrary to the public interest are ineligible for authorization by the LMRGP and will be evaluated by the Corps using individual permit procedures.

After all practicable steps to avoid and minimize adverse effects to WOUS have been considered, the Corps may require compensatory mitigation to ensure that the regulated activity

results in no more than minimal adverse environmental effects, or will not be contrary to the public interest. In reviewing the complete notification for the proposed activity, the Corps will determine whether the activity authorized by the LMRGP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest.

The Corps will issue the verification for that activity if it meets the terms and conditions of the LMRGP, unless the Corps determines, after considering compensatory mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest. When this occurs, the Corps will exercise discretionary authority to require an individual permit evaluation for the proposed regulated activity.

The notification request must include a statement describing how compensatory mitigation requirements will be satisfied, or an explanation why compensatory mitigation should not be required for proposed losses to WOUS. Project proponents may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the project proponent must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of the current Corps policies, guidelines, and 33 CFR 332 (the Mitigation Rule).

DEFINITIONS: The term "you" and its derivatives, as used in this permit, refer to the permittee or any future transferee. The term "this office" refers to the U.S. Army Corps of Engineers Chicago District Regulatory office having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer. The term "activity", as used in this permit, includes all structures and work authorized under this permit.

Definitions found at 33 CFR Parts 320-332 and 40 CFR Part 230 are applicable to the LMRGP and are incorporated by reference herein.

1. *Authorization* is written verification by this office that an activity qualifies for, and may proceed under, the LMRGP provided the terms and conditions of the program are followed. Verification under the LMRGP is valid for a period of three (3) years from the date of verification unless otherwise specified in the verification.
2. *Compensatory mitigation* is 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.
3. *Dredged material* is material that is excavated or dredged from waters of the United States.

4. *Discharge of dredged material* is any addition of dredged material into, including reposit of dredged material other than incidental fallback within, the waters of the United States. A complete definition can be found at 33 CFR 323.2(d).
5. *Discharge of fill material* is the addition of fill material into waters of the United States. A complete definition can be found at 33 CFR 323.2(f).
6. *Fill material* is material placed in waters of the United States where the material has the effect of replacing any portion of a water of the United States with dry land; or changing the bottom elevation of any portion of a body of water of the United States. A complete definition can be found at 33 CFR 323.2(e).
7. *Individual permit* means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this part and [33 CFR part 325](#) and a determination that the proposed discharge is in the public interest pursuant to [33 CFR part 320](#).
8. *Pre-Construction Notification* is the submission of application materials by the applicant to this office.
9. *Ordinary high water mark (OHWM)* is that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas (33 CFR 328.3(c)(4), 33 CFR 329.11(a)(1), and RGL 05-05).
10. *Permittee* is the individual, organization or company authorized to complete an activity under the LMRGP.
11. *Pre-fill sand* is the volume of sand equal to the holding capacity of a constructed structure.
12. *Structure* includes, 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 obstacle or obstruction.
13. *Waters of the United States (WOUS)* is an all-encompassing term referring to lakes, rivers, streams, wetlands, and other aquatic resources that are regulated by the Corps under Section 404 of the Clean Water Act. A complete definition can be found at 33 CFR 328.3.
14. *Work* includes, without limitation, any dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water of the United States.

FURTHER INFORMATION:

1. Limits of this Authorization:
  - a. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law;
  - b. This permit does not grant any property rights or exclusive privileges;
  - c. This permit does not authorize any injury to the property or rights of others; and
  - d. This permit does not authorize interference with any existing or proposed Federal project.
2. Limits of Federal Liability. The Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on the behalf of the United States in the public interest;
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
  - d. Design or construction deficiencies associated with the permitted work; and
  - e. Damage claims associated with any future modifications, suspension, or revocation of this permit.
3. The District Commander reserves the right to include additional special conditions to activities authorized under this permit or require the project to be reviewed under an individual permit as necessary to safeguard the public interest, or to protect important public resources.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in the reliance on the information you provided.
5. Reevaluation of Permit Decision. The office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit;



- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above); and
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

Approved by:

\_\_\_\_\_  
Kenneth P. Rockwell  
Colonel, U.S. Army  
District Commander

\_\_\_\_\_  
Date

DRAFT

Appendix 1

Approved Section 401 WQC to be attached here.

DRAFT