



US Army Corps  
of Engineers  
St Paul District

## **PUBLIC NOTICE**

April 10, 2009

**REGULATORY PROGRAMS:**  
**SEC. 404-Clean Water Act**  
**SEC. 10-Rivers and Harbors Act**

**REFER TO: GP-001-WI**

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### **RE-ISSUANCE OF REGIONAL GENERAL PERMIT FOR WISCONSIN**

1. INTRODUCTION. The purpose of this notice is to inform the public that regional general permit GP-001-WI has been modified and re-issued. The re-issued general permit (GP) becomes effective on April 10, 2009, and will expire on December 31, 2013, unless sooner suspended, modified or revoked.

2. BACKGROUND. GP-001-WI is a regional, programmatic general permit that has been used by the St. Paul District for more than 20 years. GP-001-WI provides Federal authorization under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act for the general public to conduct certain activities that are regulated and approved by the Wisconsin Department of Natural Resources (WDNR). The purpose of GP-001-WI is to reduce unnecessary regulatory duplication between the Federal and WDNR regulatory programs. On November 26, 2008, and on February 20, 2009, the St. Paul District issued a public notice proposing to modify and re-issue GP-001-WI.

3. THE IMPLEMENTED ACTION. A copy of GP-001-WI as re-issued is attached. After consideration of concerns that were received about the District's initial November 26, 2008, and February 20, 2009, modified proposal, the following modifications were made:

- GP-001-WI now includes a Part A and Part B. Please refer to the attached permit for detailed information.
- Under Project Description it is clarified that the limit of no more than 2 acres of impact (drain, fill, or inundate) to waters of the U.S applies to Department of Natural Resources/Department of Transportation liaison transportation projects. Further, it is clarified that the limit of no more than 0.1-acre applies to Trans 207 projects.

- Under Project Description Part B, a non-reporting section is added for activities that qualify for Chapter 30/31 exemptions.
- Under Excluded Activities, an item was added relating to hazardous wildlife attractants near airports.
- Other activities not specified in the permit that impact waters of the U.S. will be limited to impacts of no more than 0.5-acre.
- Under Permit Conditions, we have added language to the condition pertaining to erosion control.

4. GP-001-WI APPLICATION PROCEDURES. For projects under Part A, Permit applicants must submit a permit application to the WDNR and provide a copy of the WDNR application to the St. Paul District. The District will respond to applicants by sending a letter confirming the project's status for authorization under GP-001-WI or by requesting additional information that is necessary to complete the Corps evaluation of the application. Federal authorization under Part A is NOT valid for any activity UNLESS AND UNTIL the project proponent has received BOTH a WDNR authorization for projects reviewed under Wisconsin Statutes 30.1235 or 30.2022, or a state permit under chapter 30 or 31, and a Corps authorization letter for the project.

Applications are not required to be submitted for projects that qualify for GP-001-WI authorization under Part B.

Application forms and further information are available at Corps and WDNR offices. Contact information for St. Paul District regulatory offices and regulatory staff by area is available on the St. Paul District's Regulatory Web page at [www.mvp.usace.army.mil/regulatory/](http://www.mvp.usace.army.mil/regulatory/), by telephoning (651) 290-5263 or by writing:

Corps of Engineers, St. Paul District  
ATTN: CO-R  
190 Fifth St. East, 4<sup>th</sup> Floor  
St. Paul, Minnesota 55101-1638

5. ADDITIONAL INFORMATION. This action does not change the Corps of Engineers Section 10 or Section 404 jurisdiction in Wisconsin in any way. General permits that are in effect in Wisconsin and Minnesota and other regulatory information may be viewed on the District's web page at [www.mvp.usace.army.mil/regulatory/](http://www.mvp.usace.army.mil/regulatory/).

The St. Paul District thanks the public and the Federal and State agencies that participated in implementing this action.

A handwritten signature in cursive script, reading "Tamara Cameron", written over a horizontal line.

Tamara E. Cameron  
Chief, Regulatory Branch

**DEPARTMENT OF THE ARMY PERMIT**

Permittee: The General Public in Wisconsin

Permit No.: GP-001-WI

Issuing Office: St. Paul District  
U.S. Army Corps of Engineers

Issuance Date: April 10, 2009

Expiration Date: December 31, 2013

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with all terms and conditions specified below.

**Project Description:**

**Part A: Reporting General Permit.** The general public in the State of Wisconsin is authorized to perform work in waters of the U.S. that is regulated and approved by the Wisconsin Department of Natural Resources (WDNR) pursuant to Wisconsin Statutes Chapter 30 or 31, including but not limited to:

Trans. 207 projects, Wisconsin Statutes 30.1235 (construction of county, town, village, and city highway bridges, arches, and culverts in or over navigable streams) that would impact (drain, fill, or inundate) not more than 0.1 acre of waters of the U.S.;

Work for public transportation projects that are in compliance with the WDNR-Wisconsin Department of Transportation (WDOT) liaison procedure under Wisconsin Statute 30.2022 and in accordance with WDNR/WDOT cooperative agreement (November 2002) that would impact (drain, fill, or inundate) not more than 2 acres of waters of the U.S.;

subject to all exclusions and conditions that follow.

**NOTE: Federal authorization under Part A is NOT valid for any activity UNLESS AND UNTIL the project proponent has received BOTH a WDNR authorization for projects reviewed under Wisconsin Statutes 30.1235 or 30.2022, or a state permit under chapter 30 or 31, and a Corps authorization letter for the project.**

**Part B: Non-Reporting General Permit.** The general public in the State of Wisconsin is authorized to perform activities that are specifically exempted from regulation under Wisconsin Statutes Chapter 30.12 dated February 6, 2004 where the activities comply with State requirements to qualify for an exemption.

For details and checklists specifying the requirements to qualify for an exemption, see the WDNR Waterway & Wetland Permit Process website: <http://dnr.wi.gov/org/water/fhp/waterway/permitprocess.html#exemptions>;

subject to all exclusions and conditions that follow.

**Grandfather Clause:** The following activities are grandfathered in and authorized by this general permit, and unless modified, do not require further authorization: Any activity for which the Corps provided a letter between February 6, 2004 and the date of issuance of this GP-001-WI determining that the work is eligible for authorization under GP-001-WI, and that would have met the project description in part B or part A of this general permit.

**Project Location for Part A and Part B:** Waters of the U.S. in Wisconsin that are regulated by the WDNR pursuant to Wisconsin Statutes Chapter 30 or 31, excluding wetlands (except for those wetlands reviewed under procedures for chapters 30.1235 and 30.2022 in Part A).

**EXCLUDED ACTIVITIES.** The following activities are not eligible for authorization under Part A or Part B, GP-001-WI:

1. Activities that are part of a proposed stormwater pond, landscape pond, wildlife pond, or wetland creation, restoration, or enhancement that would have the potential to create a hazardous wildlife attractant within the area established by application of the separation criteria described in Section 1 (1-2, 1-3, 1-4) of Federal Aviation Administration (FAA) Advisory Circular (AC) No: 150/5200-33B, unless the project is coordinated with FAA and FAA makes a determination that the project, including any feasible modifications, would not be a significant hazard to airport safety.
2. Structures attendant to fleeting of barges are not authorized by this GP in any case.
3. Activities that are denied any required local, State, Tribal or Federal authorization.
4. Activities authorized by a WDNR permit decision that is no longer valid.
5. For Part B, activities which the WDNR has determined do not qualify for an exemption under Wisconsin Statutes Chapter 30.12.
6. Activities in Navigable Waters of the U.S. (Federal "Section 10" waters) that, in the opinion of the St. Paul District of the Corps of Engineers, would have an unacceptable adverse effect on navigation.
7. Activities that the St. Paul District of the Corps of Engineers has determined may be contrary to an important public interest factor, including but not limited to activities that require further evaluation of the government's tribal trust responsibility, activities that may result in unacceptable adverse impacts to a special aquatic site, or activities that would have an unresolved

adverse effect on a known archaeological site or cultural resources, or on Federally-listed endangered or threatened wildlife or plants or their critical habitat.

8. Unless otherwise specified above, activities that impact (drain, fill, or inundate) more than 0.5-acre of waters of the U.S.

**PERMIT CONDITIONS:**

1. The time limit for completing the work authorized under Part A ends 3 years from the date of the WDNR authorization unless otherwise specified in the WDNR authorization or is extended by WDNR. The time limit for completing the work authorized under Part B ends upon expiration of this general permit.
2. All work or discharges to a watercourse resulting from permitted construction activities, including hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.
3. Measures must be adopted to prevent pollutants from entering waters of the U.S., including but not limited to the placement of erosion control structures. In addition, construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.
4. If material dredged or excavated as part of an activity authorized by this general permit is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by some acceptable method that prevents the return of material or other pollutants to waters of the U.S. by surface runoff or by leaching. The containment area, either bulkhead or upland disposal site, must be completed prior to the placement of any dredged material.
5. Prior to and during earthwork operations, including clearing and grubbing, or other such removal of vegetation, proper erosion control measures must be in place per the WDNR Technical Standards and applicable local municipality standards. Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion, per the WDNR Technical Standards and applicable local municipality standards.
6. All dredged or fill material (including riprap), if authorized under this permit, must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or other material used for activities authorized by this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain material, you must notify the Corps at least five working days before start of work.

7. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and you must notify this office of your findings. We will initiate the Federal and state coordination required to determine if the finding(s) warrants a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

8. An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in waters of the U.S. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

9. A contingency plan must be formulated that would be effective in the event of a spill of a pollutant. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any pollutant occurs, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Department of Natural Resources and the National Response Center at telephone number (800) 424-8802.

10. The following special condition is a part of all Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act, regardless whether the permit provides such authorization under Section 10 alone or in combination with authorization under other laws:

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.

#### **HOW TO APPLY FOR AND RECEIVE AUTHORIZATION UNDER GP-001-WI Part A:**

To receive authorization under this general permit, the applicant must submit a permit application to the WDNR and provide a copy of the application to the St. Paul District. The District will review the application to determine whether or not the project is eligible for authorization under GP-001-WI Part A. This review will include a determination of compliance with all of the above permit terms and conditions, including those concerning cultural resources, Federally-listed endangered or threatened wildlife or plants and the government's trust responsibility to American Indian Tribes. This review may include coordination with appropriate state or Federal agencies and/or Indian Tribes and will include coordination with the National Park Service for all projects on or in Federal Wild and Scenic Rivers.

**HOW TO APPLY FOR AND RECEIVE AUTHORIZATION UNDER GP-001-WI Part B:**

Part B is a non-reporting general permit. Non-reporting activities authorized by this general permit may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all State requirements to qualify for an exemption under Wisconsin Statutes Chapter 30, and all other terms and conditions of this general permit. No application to the Corps is required.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to (as applicable):

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. 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.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, 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 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.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reevaluation of Decision. This office may reevaluate its decision on an authorization at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. The applicant fails to comply with the terms and conditions of this general permit.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
- 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, or revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and upon failure to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

5. This office may also reevaluate its decision to issue General Permit 001 - WI at any time circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: 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 suspend, modify or revoke this permit under the procedures set out in 33 CFR 325.7.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
Jon L. Christensen  
Colonel, Corps of Engineers  
District Engineer

  
(DATE)