



US Army Corps
of Engineers®
St. Paul District

Special Public Notice

28 August 2024

SUPPLEMENTED REGIONAL GENERAL PERMITS IN MINNESOTA AND WISCONSIN, AND FEDERALLY RECOGNIZED AMERICAN INDIAN RESERVATIONS

Authorities:
Section 404 Clean Water Act and
Section 10 Rivers and Harbors Act

2022-01870	Minor Discharges Regional General Permit
2022-01873	Utility Regional General Permit

This notice announces the availability of the Utility and Minor Discharges regional general permits (RGP's) for use within the Lake Superior Hydrologic Unit Codes (HUCs) previously excluded as part of the Clean Water Act (CWA) Section 401(a)(2) process (401(a)(2) process). These two RGP's are now available for use in Minnesota, Wisconsin, and within the exterior boundaries of Federally recognized American Indian reservations in both states without exception. Regulated activities, applicable terms and conditions are described in each RGP pursuant to Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act (Section 10). The RGP's provide streamlined authorization for regulated activities in waters of the United States determined to result in no more than minor individual and cumulative adverse environmental effects.

BACKGROUND: On January 20, 2023, the St. Paul District Corps of Engineers Regulatory Division (Corps) issued a Public Notice announcing the availability of eight RGP's for use in Wisconsin and Minnesota and on Indian Reservations in Wisconsin and Minnesota, excluding Section 404 activities in specified HUC's in the Lake Superior Basin of Wisconsin (not including the Red Cliff and Bad River Band reservations). The Corps excluded these HUC's to comply with the 401(a)(2) process. Specifically, during its 401(a)(2) review of the Wisconsin Department of Natural Resources' Water Quality Certification decision, the U.S. Environmental Protection Agency (EPA) determined that Section 404 RGP issuance in certain HUC's in the Lake Superior Basin may affect the downstream water quality within the Bad River Band of Lake Superior Chippewa (Bad River Band) reservation. Bad River Band subsequently notified EPA and the Corps of its view that RGP issuance would affect downstream water quality within the reservation.

After informal discussions with the Bad River Band, the Corps opted to add new requirements to the six of the eight RGP's, which prompted the Bad River Band to withdraw its objection to issuance of these RGP's in the Lake Superior Basin HUC's previously excluded. These six RGP's were published for use on 12 December 2023 and include: Bank Stabilization and Habitat Improvement, Beach Creation and Nourishment, Beach Raking, Piers and Docks, Transportation, and Wildlife Ponds RGP's.

Following the procedures specified in 40 CFR 121.15, 33 CFR 325.2(b)(1), and 33 CFR Part 327, the Corps conducted a public hearing on 27 February 2024 at the Bad River Lodge and Casino in Ashland, WI. The purpose of the public hearing was to collect information or evidence for the Corps to consider related to the proposed Utility and Minor Discharges RGP's effects on the quality of Bad River Band's waters. Specifically, the Corps sought information on how the proposed use of the either RGP within watersheds neighboring the Band's reservation would or would not result in water quality violations within the Band's reservation, and whether there are conditions that could be added to the RGP's to ensure compliance with applicable water quality requirements of the Band. The hearing was open to the public and included comments from the Bad River Band and their designees and EPA. Following the public hearing, written comments were accepted through 19 March 2024.

DECISION: After careful consideration of all comments, the Corps concludes that the information provided during the 401(a)(2) process does not demonstrate that discharges from projects eligible for the Utility and Minor Discharges RGP's will affect the quality of the Bad River Bands waters to violate any of its water quality

requirements. While not necessary to protect water quality within the Bad River Band reservation, the Corps has increased reporting and coordination with Bad River Band within an area shown on Map 1 of the final Utility RGP. Spills within this area must also be reported to the Bad River Band. Additional exclusions and spill reporting requirements have been added to the Minor Discharges RGP. No RGP changes have been implemented outside the HUCs subject to the 401(a)(2) process.

ADDITIONAL INFORMATION: All eight RGP's may be viewed at:
<https://www.mvp.usace.army.mil/missions/regulatory/rgp/>. Persons may obtain additional information by calling Rebecca Graser in our Brookfield, Wisconsin office at (651) 290-5728. Alternatively, Ms. Graser may be contacted via email at rebecca.m.graser@usace.army.mil.

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