

Illinois DNR/OWR

Part 3700 Rules Update Status

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Overview

- New Personnel in Water Resource Management
- IDNR/OWR Permits Program
- Why update the Part 3700 Rules?
- Major Changes to 3700 Rules
- Comment Period
- Current Status
- What's Next



New Personnel

- Springfield
 - Gina Kramer
 - Started December 2017
 - Ron Davis
 - Started December 2017
 - Wes Cattoor
 - Transferred January 2018
- Bartlett
 - Mark Hoskins
 - Started June 2017
- Chicago
 - Jay Kessen
 - Started October 2017



IDNR/OWR Permit Programs

Adm. Rules

- **Construction in Floodways of Rivers, Lakes and Streams: Part 3700 Rules**
- Rules for Construction and Maintenance of Dams: Part 3702 Rules
- Regulation of Public Waters: Part 3704 Rules
- Floodway Construction in Northeastern Illinois: Part 3708 Rules
- Allocation of Water from Lake Michigan: Part 3730 Rules



IDNR/OWR Floodway Permit Program (Part 3700 Rules)

The IDNR/OWR exercises jurisdiction over **construction** in the **floodway** of watercourses which have a drainage area of:

- 1 square mile or more (640 acres) in an urban area, or
- 10 square miles or more (6400 acres) in a rural area.
- Consult with IDNR/OWR for assistance with determining jurisdiction (drainage area or urban v. rural).
- Exception: Exempt Activities



IDNR/OWR Floodway Permit Program (Part 3700 Rules)

The Part 3700 Rules are applicable to:

- All jurisdictional streams in downstate counties regardless of the floodway/floodplain mapping; or
- Jurisdictional streams in NE IL which do not have regulatory (designated) floodways.



Why Update the Part 3700 Rules

- Illinois House Resolution Joint Resolution 0095 (HJ0095) (2014)
 - Non-Binding Resolution
 - Defined Upper Limit for Worst Case Analysis as 500-Year
- Executive Order 2016-13
 - Consistency among Administrative Rules
 - Easily Understood
 - Should not be unduly burdensome
 - Reduce the following by 20%
 - Must
 - Shall
 - May not
 - Required
 - Prohibited



Why Update the Part 3700 Rules

- Issues with Current Version of Part 3700 Rules
 - Consistency with other IDNR Offices
 - Enhance Violations/Enforcement Section
 - Improve Definitions



Major Changes

- All Statewide Permits Rescinded
 - Other DNR Administrative Rule Conflicts
 - Ensure Compliance
- Expanded Exemptions
- Definition of Worst Case Analyses for Levees
- Elimination of 3700 Rules Guidelines



IDNR/OWR Floodway Permit Program (Part 3700 Rules)

Two types of permits are currently offered:

1. Statewide Permit

Statewide Permits are pre-authorizations of certain minor projects which are permissible per the Part 3700 rules.

A permit application submittal is usually not needed.

No fee

2. Formal Permit

Formal Permits are needed for significant projects which do not meet a Statewide Permit. These projects generally require an extensive project review of engineering data.

A permit application submittal is needed.

Fee payment is needed



IDNR/OWR Floodway Permit Program (Part 3700 Rules)

Two types of permits after rule revision:

1. General Permit

General Permits are needed for certain projects which meet specified standards. Extensive project review is not needed.

A permit application submittal is needed.

Fee payment is needed

2. Formal Permit

Formal Permits are needed for significant projects which do not meet a Statewide Permit. These projects generally require an extensive project review of engineering data.

A permit application submittal is needed.

Fee payment is needed



Part 3700 Rules Updates

- Definitions
- Jurisdiction
- Application and Review Fee
- Department Standards
- Standards for Bridges and Culverts
- Standards for Levees and Floodwalls
- Statewide Permits
- General Permits
- Violations and Enforcement



Definitions

- New Definitions
 - Applicant
 - Bridge/Culvert Modification
 - Flood Damage
 - Levee/Floodwall Modification
 - Structure



Definitions

- Expanded Definitions
 - Floodway
 - Worst Case Analyses
 - Up to and including 1%-annual-chance event for all projects (including levees)



Jurisdiction

- No Change to Drainage Areas
- No Change to Original 11 Exemptions
- 19 New Exemptions
- Appendix A



Jurisdiction

- Expanded Explanation of Current Exempted Activities
 - Bridge Deck Widening
 - Structure Removal
 - Maintenance and Repair Activities on Levees
- New Exemptions
 - Language from Statewide Permits 3, 4, 5, 6, 7, 8, 11 and 13
 - Flood fighting
 - Individual Buildings & Structures
 - Levees



Permit Application

- Updated Website reference
- 45 day response time from receipt of initial application
- Technical guidance on website.

JOINT APPLICATION FORM FOR ILLINOIS					
ITEMS 1 AND 2 FOR AGENCY USE					
1. Application Number:		2. Date Received:			
3. and 4. USE SPECIAL ESTRECHEN/CHARTER, RAILROAD, HIGHWAY AND TELEPHONE FEATURES					
5a. Applicant's Name:		5b. Co-Applicant/Property Owner Name (if named in it different from applicant):		5c. Authorized Agent (an agent is not required):	
Consent Name (if any):		Company Name (if any):		Consent Name (if any):	
Address:		Address:		Address:	
Street Address:		Street Address:		Street Address:	
Appl./Agent's Phone (no. where code):		Appl./Agent's Phone (no. where code):		Appl./Agent's Phone (no. where code):	
Business:		Business:		Business:	
Residence:		Residence:		Residence:	
Cell:		Cell:		Cell:	
Fax:		Fax:		Fax:	
6. I hereby authorize _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.					
Applicant's Signature _____ Date _____					
7. ALLUWIALS PROPERTY OWNERS (Upstream and Downstream of the water body and within visual reach of project):					
Name		Mailing Address		Phone (no. where code)	
a. _____		_____		_____	
b. _____		_____		_____	
c. _____		_____		_____	
8. PROJECT TITLE					
9. PROJECT LOCATION					
LATITUDE: _____ "N		Title			
LONGITUDE: _____ "W		Nothing			
STREET, ROAD, OR OTHER DESCRIPTOR LOCATION		Feeling		QUARTER SECTION TOWNSHIP NO. RANGE	
MUNICIPALITY NAME		TOWNSHIP		RANGE NO. (if applicable)	
COUNTY		STATE		ZIP CODE	

Revised (2010)

☐ Corps of Engineers
 ☐ U.S. Dept. of Natural Resources
 ☐ U.S. Environmental Protection Agency
 ☐ Applicant's Copy



Permit Application Review Fee

- Eliminates Yearly CPI changes
- Caps Review Fee at \$5000
- Hydraulic Analyses Review
 - Fee increased to \$3500
- 90 days to submit fee



Department Standards

- Adds Language regarding General Permits
- Ensures Compliance
 - Illinois Endangered Species Act
 - Illinois Natural Areas Act
 - State Agency Historic Resources Act



Bridges and Culverts

- Adds new sections
 - New Construction
 - Reconstruction
 - Modification
- Includes Language
 - General Permits



Standards for Levees and Floodwalls

- Adds new sections
 - New Construction
 - Modification



Levees and Floodwalls

- Worst Case Analyses up to and including 1%-annual-chance event
- Consistent Statewide
- Promotes Uniform Standards with Border States
- Jurisdiction to the landside toe
 - Levee modifications require permit



Statewide Permits

- All Part 3700 rules-related SWP will be rescinded
- Work currently authorized by SWP 3, 4, 5, 6, 7, 8, 11 and 13 to be converted to exempt activities
- Work currently authorized by SWP 2, 9 and 12 to be converted to General Permits



General Permits

- Fee = \$500
- Satisfies necessary consultation requirements
 - Illinois Endangered Species Act
 - Illinois Natural Areas Act
 - State Agency Historic Resources Act
- Appendix B
- Special Conditions for each GP
- Authorization letter issued by the Section Chief
- Authorization expires three years from Dec. 31 of the year it was issued (same as most formal permits).



General Permits

- GP 1 - Construction of Parallel Shoreline Protection Projects and Beach Nourishment Projects in Lake Michigan (Not Applicable to Part 3700)
- **GP 2 - Authorizing Construction of New Bridge and Culvert Crossings of Streams in Rural Areas (was SWP2)**
- **GP 3 - Authorizing Specified Bridge and Culvert Reconstruction and Modifications (was SWP 12)**
- GP 4 - Authorizing Special Uses in Public Waters (Not Applicable to Part 3700 – was SWP14)
- GP 5 - Authorizing the Construction of Marine Structures

General Permits

- **GP 6 - Authorizing Minor Shoreline, Stream Bank, and Channel Protection Activities (was SWP 9)**
- GP 7 - Authorizing the Reconstruction and Elevation of Existing Buildings and the Construction of Second Story Additions
- GP 8 - Minor Floodway Construction
- More in Future???



Violations and Enforcement

- Notice of Non-Compliance
- Notice of Violation
- Enforcement Hearing
- Decision and Orders
- Final Administrative Decision by the Director of IDNR
- Civil Penalties
 - Up to 2 times the permit application review fee but not more than \$5000 per violation



Comment Period

NOTICE OF DRAFT ADMINISTRATIVE RULE CHANGES

Prior to initiating the formal rule making process through the Illinois Joint Committee on Administrative Rules, the Office of Water Resources has posted the draft Part 3700 rules and changes on the IDNR/OWR website for review and comment as PDF documents. Changes proposed are intended to update, clarify or simplify the current rules as summarized in the supplemental summary change document.

Please provide any written comments by May 10, 2017 to:

Loren A. Wobig, P.E., CFM, Manager,
Division of Resource Management,
IDNR Water Resources.

steve.altman@illinois.gov

https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules2017_ChangesSummary.pdf

https://www.dnr.illinois.gov/WaterResources/Documents/Part3700AdministrativeRules-2017_Proposed.pdf

- Draft 3700 Rules on DNR Website
 - Posted on April 9, 2017
- Comments
 - 157 Total
 - Private Citizens
 - Public
 - Federal
 - State
 - Local
 - Private Companies
 - Advocacy Groups



Current Status

- Updated Draft Rules sent to DNR Legal for review – February 6, 2018
- SB 2824
 - Introduced On February 13, 2018
 - Amends Rivers, Lakes, and Streams Act
 - Defines Worst Case Scenario for Levees
 - Assigned to Environment and Conservation Committee
 - Passed out of Committee for Second Reading on March 1, 2018
 - March 13, 2018 Meeting



Current Status

- HB 5130
 - Same proposed changes in SB2824
 - Introduced on February 16, 2018
 - Assigned to Agriculture and Conservation Committee



What's Next

- Nothing will happen until 615 ILCS 5/29a (Rivers, Lakes and Streams Act) proposed changes are determined.
- Once determined, OWR will:
 - Update Draft 3700 Rules to incorporate new updated law
 - Initiate 10-Day IDNR-Legal Review
 - Submit to JCAR
 - Initiate updates to Other IDNR/OWR Administrative Rules
 - Part 3708
 - Part 3704
 - Part 3702
 - Part 3730





Questions?

