

# Part 3700 Administrative Rules

## Summary of updates and changes

April 2017

- Pursuant to 2014 House Joint Resolution HJR0095, the Office of Water Resources proposes to amend the Part 3700 Administrative Rules to change the “worst case analysis” for floodwalls and levees to reflect limiting our regulatory authority to the 100-year frequency flood event profile. Statewide Permits Section has been eliminated to reflect the eventual elimination of existing Statewide Permits which are intended to be generally covered as exemptions to the rules in 3700.30. Additional changes to the Part 3700 Administrative Rules are also proposed to update, clarify or simplify the current rules as summarized in this document.

### 3700.10 Purpose

- No substantive changes

### 3700.20 Definitions

- Adds definitions for Applicant, Bridge or Culvert Crossing Modification, Flood Damage, Levee and Floodwall Modification, Permittee, and Undeveloped Floodplain Conditions.
- Levee Floodwall Modification definition also now includes caveat for abandoned/non-serviceable levee “maintenance”.
- Expands the definition of Worst-case Analysis to clarify for all projects that flood events up to and including the 1% annual chance of exceedance (100-year frequency) event shall be used in this analysis.
- Definition of Worst-Case Analysis has been expanded to require the analysis of impacts on downstream discharges and profiles for construction projects resulting in more than a 10% reduction in flood**plain**, or significant reduction if flood**way**, flood storage volume.
- Definitions of Applicant and Permittee were modified to clarify that these could include more than one person or entity and changed joint applicant/permittee to co-applicant/permittee. The joint permit application form uses the term co-applicant.
- Definition of Floodway has been expanded to document the basis of, and list the criteria for, floodway delineation in Illinois.

### 3700.30 Jurisdiction

- Expands explanations of exempted maintenance activities including authorized floodwall and levee repairs and defines exemption for restoring to pre-July 1, 1985 or permitted alignment, profile, and cross section.
- Expands explanations of exempted bridge deck widening.
- Expands explanations of exempted culvert extensions.
- Expands explanations of exempted structure removal.
- Includes exemption for certain flood fighting activities.
- The exemption for removing brush, woody vegetation, trash or other debris has been clarified to explain that the material should be removed from the floodway.
- Added exemption for barge fleeting facilities (Currently SWP 3).
- Added exemption for Aerial Utility Crossings (Currently SWP 4).
- Added exemption for Underground Pipelines or utility crossings (Currently SWP 8).
- Added exemption for Recreational Boat Docks (Currently SWP 5).
- Added exemption for items the following construction, currently covered by SWP 6:
  - underground wells and septic tanks
  - single post structures
  - construction of at grade sidewalks, driveways, patios and similar surfaces at grade
  - construction of one properly anchored, unwallled open structure
  - placement of one anchored auxiliary building less than 70 sq. ft.
  - Elevating existing buildings with no dimension change and no fill
  - Backfilling an existing basement to meet adjacent grades
- Added exemption for outfall structures (SWP 7).
- Added exemption for minor maintenance dredging (SWP 11).
- Added exemption for minor construction activities.

### 3700.40 Permit Application

- Updates website references.
- Adds a provision that the Department will respond to Initial application submittals within 45 calendar days of receipt of an application potential information included in such an initial response.
- Adds a reference to Technical guidance on preparing applications on the Department's website or upon request.

### 3700.45 Permit Application Review Fee

- Caps review fee at \$5000.
- Eliminates the annual permit application review fee escalation adjustment factor.
- Adds the ability for Federal agencies to offset the cost of fees by providing in-kind services in lieu of cash payments.
- Adds a provision for payment of the permit application review fees via electronic fee submittal through the Department's website and electronic payment vendor (vendor service charges apply).

- Increases review fee to \$3500 for construction activities such as levees, certain bridge/culvert crossings, and major floodway filling that the department determines will require review of a hydrologic and/or hydraulic analyses.

#### 3700.50 Notice to Interested Parties

- No substantive changes.

#### 3700.60 General Departmental Standards

- Added standards that meet terms and conditions of active General Permits.
- Clarifies the Standard to differentiate between circumstances where there are buildings or other structures outside the project right-of-way that would be damaged by a project-induced increase in water surface profile, and for circumstances where there are no buildings or other structures outside the project right-of-way that would be damaged.
- Clarifies that water surface increases must be compared to undeveloped floodplain conditions.
- Eliminates the ability to demonstrate compliance by containing water surface profile increases within the design grade of existing floodwalls or levees.
- Eliminates the phrase “absent contrary evidence”.

#### 3700.70 Standards for New Bridge and Culvert Crossings

- Added standards that meet terms and conditions of active General Permits.
- Amends the Section to address standards specific to new bridge and culvert crossings.
- Clarifies the Standard to differentiate between circumstances where there are buildings or other structures outside the project right-of-way that would be damaged by a project-induced increase in water surface profile, and for circumstances where there are no buildings or other structures outside the project right-of-way that would be damaged.
- Clarifies that water surface increases must be compared to undeveloped floodplain conditions.
- Eliminates the ability to demonstrate compliance by containing water surface profile increases within the design grade of existing floodwalls or levees.

#### 3700.71 Standards for Bridge and Culvert Crossing Reconstruction

- Added standards that meet terms and conditions of active General Permits.
- New Standard that clarifies regulatory requirements specific to bridge and culvert crossing reconstruction.
- Reconstruction must be no more restrictive to flood flows than the existing bridge or culvert crossing; and the existing crossing has not caused flood damage or generated a record of complaint of flood damage.
- Eliminates current rule requirement for engineer certifications.
- Clarifies the standard for circumstances where the existing bridge or culvert crossing has caused flood damage.

- Clarifies the standard for circumstances where reconstructed bridge or culvert crossing would be more restrictive to flood flows than the existing bridge or culvert crossing.

#### 3700.72 Standards for Bridge and Culvert Crossing Modification

- Added standards that meet terms and conditions of active General Permits.
- New Standard that clarifies regulatory requirements specific to bridge and culvert crossing modifications.
- Adds language for exception for projects exempted in accordance with subsection (b) of Section 3700.30.
- Specifies that the modified crossing would be no more restrictive to flood flows than the existing bridge or culvert crossing or that the modified crossing complies with the standards for new bridge and culvert crossings.

#### 3700.75 Standards for New Levees and Floodwalls

- Amends the Section to address standards specific to New Levee and Floodwalls.
- Added standards that meet terms and conditions of active General Permits.
- Clarifies the Standard to differentiate between circumstances where there are buildings or other structures outside the project right-of-way that would be damaged by a project-induced increase in water surface profile, and for circumstances where there are no buildings or other structures outside the project right-of-way that would be damaged.
- Adds language regarding structures that are subjected to flood damage by levee construction identified by the worst case (1%) analyses, applicant shows that flood easements have been obtained on the buildings and structures subject to increased flood damage.

#### 3700.76 Standards for Levee and Floodwall Modification

- New Standard that clarifies regulatory requirements specific to Levee and Floodwall modifications.
- Provides standard for levee/floodwall modification provided modification is no more restrictive than previously authorized levee/floodwall or meets requirements of 3700.75.
- Added standards that meet terms and conditions of General Permits.

#### 3700.80 General Permits

- Replaces previous Statewide Permits Section to reflect the eventual elimination of existing Statewide Permits which are intended to be generally covered as exemptions to the rules in 3700.30.
- Added General permits to Appendix A. (General Permits to be added)

#### 3700.85 Permits Not Transferrable

- No substantive changes from previous designation as 3700.88

- Replaces previous General Permits Section that is proposed to be re-designated as Section 3700.80

#### 3700.88

- The Permits Not Transferrable is proposed to be re-designated as Section 3700.85.

#### 3700.90 Denial of Applications

- No substantive changes.

#### 3700.100 Final Administrative Decisions, Violations and Enforcement

- Formalizes Violations/Enforcement process.
- Adds ability of Department to impose civil penalties if unauthorized activity or permit violation is not remediated.
- Adds in provisions from the former Section 3700.110

#### 3700.110 Final Administrative Decision

- This section has been eliminated as a standalone section and combined with Section 3700.100

#### Appendix A –Proposed General Permits

- An index of anticipated General Permits is provided for future reference.