

**GUIDELINES FOR THE SUBMITTAL OF APPLICATIONS FOR
ILLINOIS DEPARTMENT OF NATURAL RESOURCES, OFFICE OF WATER RESOURCES
PERMITS FOR PROJECTS IN PUBLIC WATERS**

Introduction

Both private and public development activities within the State of Illinois' public rivers, lakes and streams require Illinois Department of Natural Resources, Office of Water Resources (IDNR/OWR) authorization pursuant to the Rivers, Lakes and Streams Act and IDNR/OWR's Part 3704 "Regulation of Public Waters" rules (attached). Many minor, routine construction projects, such as boat docks and bank stabilization activities, are authorized by IDNR/OWR Statewide Permits and do not require the submittal of an application. Other activities, such as boat ramps and similar small-scale structures, require the submittal of an application and project plans and the issuance of an individual permit, but are generally permissible without additional support information. More extensive projects, such as barge loading facilities, marinas, water withdrawal, and impounding structures, have greater potential to adversely affect the body of water, its natural resources and other public and private interests. An application for permit for these types of activities often requires additional documentation in support of the application.

Purpose

This document has been developed, in consideration of the planning and design phases of those more significant projects, to aid applicants and their agents in understanding the rules and the permit application process, thereby assisting in their efforts to demonstrate compliance with the Part 3704 rules, particularly Sections 3704.80b and 90. While this guidance does not supplant the rules, preparation of permit applications following these guidelines will help IDNR staff understand the proposed project as well as help both the applicant and the reviewer assess the project's impacts, thus making a timely and favorable review more likely. The rules and other materials cited herein are available through the Department's web site at the address <http://dnr.state.il.us/owr/resman/permitprogs.htm> and from any of the following OWR offices: Springfield (217/782-3863), Schaumburg (847/705-4341), or Chicago (312/793-3123).

General Information and Guidance

The public waters of the state are listed in Appendix A of the Part 3704 rules. In the case of public rivers and streams, the extent of public water includes all bayous, sloughs and backwater lakes connected by water to the main channel during normal flows and stages (even if severed by permitted or non-permitted construction). Public waters are not limited in their expansion during high water events, i.e., the public's lawful rights, interests, and uses follow the surface of the water even during flood stages, regardless of ownership of the land beneath the water. However, both the determination of whether a project site is at a jurisdictional location within a public water, as well as the evaluation of the project's impacts on the public water, are based on the normal flows and stages of the body of water.

Application for Permit Preparation

An applicant should first ensure that the proposed project would not include any conversion of public water to private land. Such action is specifically prohibited (Section 3704.70a). Applicants should also be aware that activities which would obstruct commercial navigation or cause shoreline instability cannot be permitted (Section 3704.90a & b). Applicants must also be sure their project meets the applicable requirements noted in the rules entitled “Construction in Floodways of Rivers, Lakes and Streams”, “Floodway Construction in Northeastern Illinois” and “Rules for Construction and Maintenance of Dams.”

In preparing a permit application it should be recognized that, while an applicant may have a clear idea of the project proposal and the public water site, IDNR personnel who review the information will not necessarily be familiar with the concept of the project or any unique characteristics or historical uses of the site. Therefore, it is important that, in addition to including a completed and signed application form and detailed construction plans, the application submittal be as clear and complete as possible. If standardized design plans are used, they should be reviewed by the applicant to assure that they adequately define the site and project.

If the proposal includes a request for any restriction to use by the public or the construction of any impounding or other water level manipulation structures, such as those typically requested for wetland enhancement, restoration and/or management activities, detailed operation and management plans must be provided. Operation and management plans would include, as applicable: the anticipated seasonal use(s) of the site including the period of any requested restrictive use, expected pool elevations including any pumping and/or drawdown plans, vegetation plans, and any public notification or advisory signage.

In addition, the following support documentation should be provided to address Sections 3704.80 and 90 of the rules:

a) Discharges, elevations, and/or stages of the body of water at the site and the basis for the determination(s). For many public bodies of water this information is available from the U.S. Army Corps of Engineers or the U.S. Geological Service. For the normal flows and stages of the Mississippi and Illinois Rivers and their connected backwaters, the Department has generally accepted those which are present 50% of the time (the 50% duration value). The 50% value should be seen as a guideline; for any specific public water site another value may be more appropriate for the determination of “normal” based on historic discharges and elevations. Other discharge and elevation information should be provided to assess seasonal fluctuations and impacts. For water withdrawal facilities the $Q_{7,10}$ and the Q_{75} values at the nearest USGS gage should be provided. The $Q_{7,10}$ value is the lowest expected flow for a 7-day period once in every ten years and can be obtained from documents published by the Illinois State Water Survey (ISWS). The Q_{75} value is the 75% duration flow value;

b) An evaluation of the project’s potential impacts on public and private uses of the public water. Uses that should be considered include, at a minimum, commercial and recreational fishing, boating, skiing, swimming, wading, hunting, trapping, ice fishing, and snow mobiling;

c) An evaluation of the project's potential impacts on the natural resources associated with the public water. Natural resources that should be considered include, at a minimum, fisheries, waterfowl, wildlife, mussels, and vegetation;

d) An evaluation of the project's potential impacts on sediment transport and on bank/shoreline stability; and

e) Detailed plans and or narrative explanation of all specific project components that will minimize, mitigate or offset any project induced negative impact (e.g., a structure to be provided for boat access across or through an embankment).

The evaluations called for in items b) through d) should include both the negative and positive impacts of the project and account for expected seasonal fluctuations in stages. Note that the offsetting benefit required by Section 3704.90c)2) must be to the public, not the applicant. A private boat dock, for example, can provide significant benefits for the applicant but might be an obstruction to other navigation interests and would therefore not provide benefits to the public water or its uses. Depending on the nature and magnitude of the proposal, the evaluations may also need to consider the combined effects of similar activities which exist or could reasonably be anticipated to be undertaken in the vicinity of the proposed project. Because of the complexity of these evaluations, the Department highly recommends that an applicant seek the services of an individual or firm with requisite experience and expertise.

IDNR/OWR Review Process:

Once an application for permit is received it is assigned to an OWR staff engineer for processing. The engineer will initially review the submittal to determine whether sufficient information has been provided to describe the project and to meet the requirements noted in the rules. If additional information is necessary, the applicant will be notified of that need.

When sufficient information has been submitted a public notice will be issued. If the project is also subject to the U. S. Army Corps of Engineers review and notice requirements, a joint federal/state public notice may be issued. At a minimum, the notice will be provided to all adjoining and potentially affected property owners (as noted in the application form). Other individuals, groups, and public agencies that have expressed an interest in the body of water and/or the type of project, or from which OWR desires comments, may also be notified. The notice provides a specific time period (usually 21 days) for persons to comment to OWR (and the Corps, as applicable) about the project. If any valid requests for clarification, objections, or other comments are received which are within the regulatory purview of OWR, they will be forwarded to the applicant for resolution.

After receipt of all requested information and comments the Office of Water Resources staff will make their permit approval or denial recommendation based on the information which has been submitted and acquired.