

PUBLIC NOTICE



**US Army Corps
of Engineers
St. Louis District**

**Permit No. RGP-41 (2007-2078)
Issue Date: October 17, 2022
Expiration Date: November 16, 2022**

30-Day Notice

**PROPOSED REISSUANCE OF REGIONAL GENERAL PERMIT (RGP) NO. 41
FOR THE PERMANENT PROTECTION AND/OR REPAIR OF
FLOOD DAMAGED STRUCTURES, DAMAGED LAND AREAS AND/OR
DAMAGED FILLS IN THE STATE OF MISSOURI**

In accordance with the Corps of Engineers lead district initiative, within the State of Missouri, the Kansas City District is issuing this public notice jointly with the other Corps of Engineers Districts that have regulatory responsibilities in the State of Missouri. Each of the Missouri Corps Districts are issuing this public notice as notification of the intent to renew this permit for another five-year term.

The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the activities authorized by the proposed RGP-41. In accordance with Certification Rule part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

In accordance with Title 33 CFR 325.2 and 325.7(e), as published in the November 13, 1986, Federal Register, the U.S. Army Corps of Engineers, Kansas City District, the St. Louis District, the Rock Island District, the Little Rock District, and the Memphis District propose to reissue this RGP (Enclosure). This RGP was originally issued by the Kansas City District in March 2008, it was reissued on April 22, 2013, and on April 2, 2018. The current RGP 41 expires April 2, 2023. This RGP, if reissued by each Corps District in Missouri, will continue to authorize discharges of dredged or fill material in conjunction with the permanent protection and/or repair of flood damaged structures, damaged land areas, and/or damaged fills in waters of the United States throughout the State of Missouri.

AUTHORITY: The RGP-41 is proposed to be reissued under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and under the authority of Section 404 of the Clean Water Act (33 USC 1344). At the conclusion of the public interest review, each Corps District operating in the State of Missouri may issue the RGP to authorize the listed activities statewide.

PROJECT LOCATION: In waters of the United States throughout the State of Missouri, that are declared flood disaster areas by the Governor of these States and/or by the President of the United States of America.

CURRENT USE OF GP41: The number of flood repair projects authorized by the RGP-41, during this current five-year permit term, is as follows: Kansas City District, 15 projects; Saint Louis District, 14 projects; Little Rock District, one project; the Memphis and Rock Island Districts have not yet utilized the RGP during this permit period. Currently, the RGP-41 has been utilized by the public, and by local, state, and federal agencies to repair damages to federal, state, and private properties that include repair of levees to pre-damaged elevation and cross-section dimensions, including breach closure and borrow operations to obtain fill, the placement of rock for stream/ditch bank protection and bank restoration, and the restoration of stream channels/ditches to pre-flood capacity and alignment (removal of sediment and woody debris). In addition, repairs and replacement of bridges and public utilities infrastructure have been authorized by RGP-41. As demonstrated, this RGP provides protection to aquatic resources and wildlife habitats. It protects endangered species and historic properties through compliance with the general and special conditions included within RGP-41 while expediting the process for federal permit authorization for the needed repairs following disaster declarations for floods and various storm events. As a result, no modifications to the activities authorized by RGP-41 and no modifications to the special conditions of the existing RGP-41 are proposed. If reissued, the RGP-41 will be valid for an additional five-year period (2023-2028).

CRITERIA FOR AUTHORIZATION OF PROPOSED REPAIR WORK: When preconstruction notification (PCN) is required for the proposed flood repair project, the project will be reviewed on a case-by-case basis to ensure that the proposed activity is authorized by RGP-41. Applications for review must be received within two years of the end of the flood event (determined by when the nearest river gauge drops below flood stage for two months). The applicant must receive notification, from the appropriate Corps district, that the proposed work is authorized by RGP-41 prior to starting work within the Corps' regulatory jurisdiction. For proposed repair work listed in RGP-41 that does not require preconstruction notification to the Corps, the project proponent is authorized to complete the necessary work in compliance with the special conditions. However, the scope of the completed work must be reported to the Corps of Engineers, after the fact, as outlined in item three of Appendix 1 of RGP-41.

DURATION OF THE GENERAL PERMIT: The RGP-41 will expire five years from the date of issuance unless it is specifically modified, suspended, or revoked prior to that date. Upon its expiration, the RGP-41 will again be considered for renewal. The RGP-41 may be modified, suspended, or revoked, in whole or in part, at any time if it is determined that the cumulative effects of the activities would have a significant environmental impact or are otherwise not in the public interest.

If issued, the RGP-41 does not obviate the need for the project proponent to obtain other Federal, state, or local authorizations required by law.

PROCEDURE FOR APPLYING: Individuals desiring to perform activities in accordance with the criteria of the RGP-41 must determine if the flood repair project requires a PCN. If a PCN is required, the project proponent must notify the appropriate Corps district and provide the information requested in Appendix 1 of RGP-41. The notification must include drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RGP-41. An ENG Form 4345 and instructions are available at:

<http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>.

The Form may be used for the purpose of notification. Copies of the ENG Form 4345, the instructions or additional assistance may also be obtained by writing or calling the appropriate Corps district.

If the Corps district determines that the work meets the provisions of the RGP-41, and no extraordinary conditions exist that would warrant the submittal of Form 4345 for an individual permit, the proponent would be notified to proceed. If the Corps determines that the subject work does not meet the provisions of the RGP-41, or that extraordinary conditions exist, the applicant will be notified that an individual permit will be necessary.

Flood repair activities, supervised by the Corps of Engineers, pursuant to Public Law 84-99 and/or supervised by the United States Department of Agriculture, pursuant to the emergency Watershed Protection Program or the Emergency Conservation Program do not require PCN to the Corps of Engineers, Regulatory Branch. It is the responsibility of the federal agencies to comply with all environmental laws and Presidential Executive Orders.

COMPLIANCE WITH OTHER LAWS: No potential adverse environmental effects related to the use of GP-41 have been identified or are anticipated from the reissuance of the RGP-41. All applicable statutes, regulations, and administrative policies and agreements, including the National Environmental Policy Act of 1969, the Endangered Species Act, and the National Historic Preservation Act, which are currently applicable to the RGP-41 will be considered and satisfied. **All comments in response to this public notice should be submitted to or forwarded to the Kansas City District at the address included in the Additional Information Section on page three of this notice.**

PUBLIC INTEREST REVIEW: The decision to reissue RGP-41 will be based on an evaluation of the probable impact of this proposed permit on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the reissuance of RGP-41 must be balanced against the reasonably foreseeable detriments. All factors which may be relevant to the proposed RGP will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, mineral needs, and, in general, the needs and welfare of the people. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider reissuance of RGP-41. All requests for a public hearing must include the specific reasons for holding a public hearing.

COMMENTS: Any interested party, particularly officials of any community, county, state or Federal agency, local association, or individual, is invited to submit to the Kansas City District written facts or objections to the proposed RGP-41 on or before the public notice expiration date. Comments, both favorable and unfavorable, will be accepted and made a part of the public record and will receive full consideration in determining whether it is in the public interest to reissue the RGP-41 for another five-year term.

ADDITIONAL INFORMATION: Additional information about RGP-41 may be obtained by writing to the following address: Chief, Regulatory Branch, U.S. Army Corps of Engineers, Federal Building, 601 East 12th Street, Room 402, (ODR), Kansas City, Missouri 64106 or by calling **Mr. Douglas R. Berka** at **816-389-3657** (FAX 816-389-2032) or email at douglas.r.berka@usace.army.mil. All comments concerning the reissuance of RGP-41 should be directed to the above address and to the state water quality certification agencies as described on page one of this notice.

Enclosure