



**U.S. Army Corps
Of Engineers
Galveston District**

Information Paper

Flood Recovery and Repair Activities in the
Galveston District, U.S. Army Corps of
Engineers

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF THIS INFORMATION PAPER

The purpose of this information paper is to provide guidance and a summary of exemptions and permits which may be required for the protection and repair of existing flood damaged structures, damaged land areas, and damaged fills under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

FLOOD RECOVERY AND REPAIR ACTIVITIES IN THE GALVESTON DISTRICT

In response to the severe flooding and other storm related damages in the Galveston District Area of Responsibility, it is anticipated that municipalities and owners of damaged property will want to conduct repair activities in the near future. A U.S. Army Corps of Engineers (Corps) Section 10 of the Rivers and Harbors Act and/or Section 404 Clean Water Act permit may be required for dredging or placing fill in waters of the United States, including rivers, lakes, streams, creeks, and wetlands. **However**, many of the permits have scopes of work and thresholds which allow you to accomplish your project without delay or waiting for an authorization.

Division engineers are authorized to approve special processing procedures in emergency situations. An emergency is defined as a situation that would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. For more information regarding emergency authorizations, click on Emergency Procedures located on our website at: <http://www.swg.usace.army.mil/BusinessWithUs/Regulatory/Permits.aspx>.

For any activities that are not emergency protective measures (i.e., permanent work or final reconstruction), all regular permitting and regulatory processes apply, as outlined below. Therefore, communities should keep the long-term recovery requirements in mind as they move through the initial construction stages of emergency protective measures. This advisory is a summary for municipalities and property owners of existing regulations which may streamline many activities within waters of the United States including repair and maintenance of existing facilities, bank stabilization, emergency watershed protection and rehabilitation, repair of upland areas, dredging in and around

water intake structures, boat slips, and docks. Clearing and removal of floating debris, such as tree trunks and limbs and trash, from around culverts, bridge crossings, boat docks or retaining walls, provided no material removed is placed permanently in a water of the U. S. does not require a permit.

Depending upon the size and location of your proposed work, you may be required to provide an application or preconstruction notification (PCN) for our review and prior to authorization of your project. Please note that all Regional and General Conditions, such as compliance with the Endangered Species Act and Section 106 of the National Historic Preservation Act still apply. For more information regarding each of the following permitting options go to:

<http://www.swg.usace.army.mil/BusinessWithUs/Regulatory/Permits.aspx>.

These permits do not authorize any damage to private property, invasion of property rights, or any infringement of federal, state, or local laws or regulations. Check with the local reservoir or water authority prior to any activities. *If you are unsure if the work you are proposing to accomplish may need a permit, email is at preapplication_swg@usace.army.mil and we will assign a project manager to you to provide additional guidance.*

MAINTENANCE EXEMPTIONS

Certain activities that result in a discharge of dredge or fill material may not require Section 404 authorization. Examples of activities meeting this exemption may include maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures, provided there is no change in the lines, grades or character of the original features. Exemptions are also available for the construction or maintenance of farm or stock ponds and construction of temporary sedimentation basins. See 33 CFR 323.4 for more information.

NATIONWIDE PERMITS (NWP)

Nationwide Permit 3 Maintenance

While this NWP is used to authorize the minor deviations associated with the repair, rehabilitation and replacement of currently serviceable structures or fills and temporary fills to undertake such work, it also authorizes the removal of accumulated sediments and debris that involve regulated discharges within 200 feet of existing structures such as bridges, culverted road crossings, and intake and outfall structures. The 200 feet limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall or intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall or intake structures. A PCN is required for the removal of sediments.

NWP 13 Bank Stabilization

Bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection;
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- (e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,
- (g) The activity is not a stream channelization activity.

This NWP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. Invasive plant species shall not be used for bioengineering or vegetative bank stabilization.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot along the bank below the plane of the ordinary high water mark or the high tide line. (See general condition 31.)

Linear Transportation Projects NWP 14

Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot

cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars. Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.)

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act.

NWP 19 Minor Dredging

This NWP allows for the dredging of no more than 25 cubic yards below the plane of the ordinary high water mark, the mean high water mark or reservoir conservation level from navigable waters of the United States (i.e., Section 10 waters). No PCN is required for this limited amount of dredging. *Best management practices must be used to control sediments from re-entering the water.* This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), anadromous fish spawning areas, or wetlands, or the connection of canals or other artificial waterways to navigable waters of the United States (see 33 CFR 322.5(g)).

NWP 37 Emergency Watershed Protection and Rehabilitation

Work done by or funded by:

- (a) The Natural Resources Conservation Service for a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR part 624);
- (b) The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13);
- (c) The Department of the Interior for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3);

(d) The Office of Surface Mining, or states with approved programs, for abandoned mine land reclamation activities under Title IV of the Surface Mining Control and Reclamation Act (30 CFR Subchapter R), where the activity does not involve coal extraction; or (e) The Farm Service Agency under its Emergency Conservation Program (7 CFR part 701).

In general, the prospective permittee should wait until the district engineer issues an NWP verification or 45 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the emergency watershed protection and rehabilitation activity may proceed immediately and the district engineer will consider the information in the pre-construction notification and any comments received as a result of agency coordination to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

Notification: Except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31).

NWP 41 Reshaping Existing Drainage Ditches

Discharges of dredged or fill material into non-tidal waters of the United States, excluding nontidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the United States, for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. The reshaping of the ditch cannot increase drainage capacity beyond the original asbuilt capacity nor can it expand the area drained by the ditch as originally constructed (i.e., the capacity of the ditch must be the same as originally constructed and it cannot drain additional wetlands or other waters of the United States). Compensatory mitigation is not required because the work is designed to improve water quality.

This NWP does not authorize the relocation of drainage ditches constructed in waters of the United States; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch. This NWP does not authorize stream channelization or stream relocation projects.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity, if more than 500 linear feet of drainage ditch will be reshaped. (See general condition 31.)

NWP 45 Repair of Uplands Damaged by Discrete Events

This NWP authorizes discharges of dredged or fill material, including dredging or excavation, into all waters of the United States for activities associated with the restoration of upland areas damaged by storms, floods, or other discrete events. This

NWP authorizes bank stabilization to protect the restored uplands. The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or ordinary high water mark, that existed before the damage occurred. The district engineer retains the right to determine the extent of the preexisting conditions and the extent of any restoration work authorized by this NWP. The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the district engineer. This NWP cannot be used to reclaim lands lost to normal erosion processes over an extended period. This NWP does not authorize beach restoration or nourishment. Minor dredging is limited to the amount necessary to restore the damaged upland area and should not significantly alter the pre-existing bottom contours of the waterbody.

Notification: The permittee must submit a pre-construction notification to the district engineer (see general condition 31) within 12-months of the date of the damage. The preconstruction notification should include documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration.

Note: The uplands themselves that are lost as a result of a storm, flood, or other discrete event can be replaced without a section 404 permit, if the uplands are restored to the ordinary high water mark (in non-tidal waters) or high tide line (in tidal waters). (See also 33 CFR 328.5.) This NWP authorizes discharges of dredged or fill material into waters of the United States associated with the restoration of uplands.

REGIONAL GENERAL PERMITS

Regional General Permit (RGP) SWG-2010-00605 Texas General Land Office

The scope of work for this RGP authorizes the Texas General Land Office (GLO) to conduct work and temporarily excavate and place dredged and/or fill materials for the purpose of removing hazardous debris, derelict vessels and derelict structures from waters of the United States under the authority of the GLO, including state-owned submerged land and waters of the state of Texas.

RGP SWG-2010-00605 APPLICATION PROCEDURES

GLO will submit notification to the District Engineer (DE) for all projects authorized by this permit and, with the exception of emergency removals, no work shall be performed until GLO has received written authorization by the DE or if 45 calendar days have passed from the DE's receipt of the complete notification. Notification will be in accordance with the Special Conditions and General Conditions of this permit. GLO will submit notification as follows. The notification shall include:

1. A completed and signed Department of the Army (DA) application (ENG Form 4345) or a letter containing the required information may also be used, stating the number of the Regional General Permit under which the work is to be conducted.
2. A copy of DA authorizations previously issued for the removal site if available.

3. A vicinity map, typical plan view, typical cross-section, and a description of the proposed removal method. Drawings shall include:
 - i. A vicinity map with the precise location of the project so that its geographic coordinates can be determined. This map shall also include all ingress and egress routes and staging locations.
 - ii. A plan view drawing showing each the property, its owner(s), specific project location, and showing the areas to be temporarily excavated or filled, and their relative location to the waters of United States, including a delineation of special aquatic sites if applicable.
 - iii. A cross-section drawing showing the areas to be excavated and/or filled, the cubic yards of material to be removed and/or added, method of removal, plans for restoration, access route to the project, and any other relevant information and data required in the Special Conditions.
4. A statement that the work will be conducted in compliance with the terms and conditions of this GP.
5. A statement of estimated start and completion dates.
6. Applications involving Corps of Engineers property must include a letter requesting an easement.

Regional General Permit (RGP) SWG-2009-00123 Harris County Flood Control District

The scope of work for the RGP authorizes Harris County Flood Control District (HCFCD) to conduct work and place dredged and/or fill materials for the purpose of routine maintenance and emergency repair of existing stormwater management facilities. Maintenance includes repair, rehabilitation and replacement of structural and earthen features, removal of sediment and debris restoring previously authorized cross-sectional configurations, erosion protection, or emergency repairs required as a result of discrete natural events.

RGP SWG-2009-00123 APPLICATION PROCEDURES

HCFCD will submit notification to the District Engineer (DE) for all projects authorized by this permit and, with the exception of emergency repair, no work shall be performed until HCFCD has received written authorization by the DE or if 45 calendar days have passed from the District Engineer's receipt of the complete notification. Notification will be in accordance with the Special Conditions and General Conditions of this permit.

HCFCD will submit notification as follows. The notification shall include:

- (1) A completed and signed DA application (ENG Form 4345) or a letter containing the required information may also be used, stating the number of the Regional General Permit under which the work is to be conducted.
- (2) A copy of all DA authorizations previously issued for the work area.
- (3) A vicinity map, typical plan view, typical cross-section, and a description of the proposed method of construction. Drawings shall include:
 - a) A vicinity map with the precise location of the project so that its geographic coordinates can be determined

- b) A plan view drawing showing the property, its owner(s), specific project location, and showing the area to be excavated, the location of any trenches, cofferdams, equipment ramps, any bank stabilization, and their relative location to the waters of United States, including wetland and oyster reefs
- c) A cross-section drawing showing the areas to be excavated and/or filled, the cubic yards of material to be removed and/or added, method of removal, location and method of bank stabilization and any other relevant information and data required in the Special Conditions.

(4) A statement that the work will be conducted in compliance with the terms and conditions of this GP

(5) A statement of estimated start and completion dates.

(6) Applications involving Corps of Engineers property must include a letter requesting an easement

Regional General Permit (RGP) SWG-2011-00629 Harris County Public Infrastructure Division

Among other activities, the scope of work for this RGP authorizes Harris County Public Infrastructure to discharge of dredged or fill material for the repair, rehabilitation, or replacement of structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In general, the permittee should wait until the district engineer issues a RGP verification or 45 calendar days have passed before proceeding with the emergency repair activity. However, in cases where there is an unacceptable hazard to life or a significant loss or property or economic hardship will occur, the emergency repair activity may proceed immediately and the district engineer will consider the information in the pre-construction notification and any comments received as a result of agency coordination to decide the authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

LETTERS OF PERMISSION

Letter of Permission Procedure for Activities at Certain Reservoirs and Federal and State Sponsored Projects

The scope of work that may be authorized by this Letter of Permission (LOP) procedure includes *any activity at a CORPS, Bureau of Reclamation, state river authority, regional water district, city, county, or utility reservoir, including, but not limited to, bank stabilization, beach nourishment, property protection, and sediment removal.* Work authorized by this LOP may also include any projects conducted, sponsored, or funded, in whole or in part, by the CORPS, U. S. Fish and Wildlife Service (FWS), U. S. Environmental Protection Agency (EPA), Natural Resources Conservation Service (NRCS), Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), or the Texas Water Development Board (TWDB). Activities associated with such programs as the Water Resources Development Act of 1986, as amended, Section 1135 Project Modifications for Improvement of

Environment, Partners for Wildlife, the North American Waterfowl Management Plan, and the Wetlands Reserve Program and activities at National Wildlife Refuges, State Wildlife Management Areas, and State Parks are eligible for authorization under this procedure.

Letter of Permission Procedure for Excavation Activities (20204)

The scope of work for LOP 20204 is limited to discharges of dredged or fill material associated with excavation activities in waters of the United States, including navigable waters of the United States. *Activities that may be authorized by LOP under this procedure include, but are not limited to, removal of accumulated sediment at road crossings, dredging of new and maintenance dredging of boat slips, boat access lanes and channels, intake and outfall structures, mining of sand and gravel, and work associated with these activities, such as the construction of temporary coffer dams to perform such work.* This procedure may be used to authorize the disposal of material excavated under authority of a LOP into waters of the United States provided the purpose of the disposal is not land reclamation. Impacts to waters of the United States, including wetlands, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States shall be required. Work that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States shall not be authorized by LOP under this procedure.

LOP APPLICATION PROCEDURES:

An application for authorization of work under this LOP procedure must include a written description of the entire project, proposed work schedule, and the address and telephone number of a point of contact who can be reached during working hours. The information may be submitted on an Application for Department of the Army Permit form or in any other form convenient to the applicant. A description of the project must include at least the following information, as applicable:

1. A vicinity map showing the location of the entire project, including all disposal site(s).
2. Plan and typical cross-section views of the proposed work.
3. A description of the type, amount, and location of all permanent and temporary fills and excavations that would be located in waters of the United States, including adjacent wetlands. A description of each disposal site shall also be included.
4. A statement disclosing whether any species listed as threatened or endangered under the Endangered Species Act might be affected by or found in the vicinity of the proposed project should be included. Direct coordination with the U.S. Fish and Wildlife Service (FWS) regarding the entire project is encouraged. A written response from the FWS should be included in the application whenever possible.
5. Any other available relevant information, such as information regarding cultural resources, the proximity of the project to ecologically sensitive areas, results of previous sediment sampling, and project impacts on local/regional hydrology should be included.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, Galveston District, P.O. Box 1229 Galveston, TX 77553-1229, telephone 409-766-3982, <http://www.swg.usace.army.mil/BusinessWithUs/Regulatory.aspx>.

