

**Draft**  
**Clean Water Act Compliance**

for

**Sabine Pass to Galveston Bay**  
**Port Arthur and Vicinity**  
**Contracts 3B and 3C**

**August 2022**



**US Army Corps  
of Engineers** ®  
Galveston District

# EVALUATION OF SECTION 404(b)(1) GUIDELINES (SHORT FORM)

## Sabine Pass to Galveston Bay

### Port Arthur and Vicinity Contracts 3B and 3C

#### GUIDELINE COMPLIANCE:

1. Review of Compliance (230.10(a)-(d))		
A review of the proposed project indicates that:	Yes	No*
a. The placement represents the least environmentally damaging practicable alternative and, if in a special aquatic site, the activity associated with the placement must have direct access or proximity to, or be located in the aquatic ecosystem, to fulfill its basic purpose (if no, see section 2 and information gathered for EA alternative).		X
b. The activity does not appear to:		
1) Violate applicable state water quality standards or effluent standards prohibited under Section 307 of the Clean Water Act;	X	
2) Jeopardize the existence of Federally-listed endangered or threatened species or their habitat; and	X	
3) Violate requirements of any Federally-designated marine sanctuary (if no, see section 2b and check responses from resource and water quality certifying agencies).	X	
c. The activity will not cause or contribute to significant degradation of waters of the U.S. including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values (if no, see values, Section 2)	X	
d. Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (if no, see Section 5)	X	

<b>2. Technical Evaluation Factors (Subparts C-F)</b>	<b>Not Applicable</b>	<b>Not Significant</b>	<b>Significant*</b>
a. Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C)		X	
1) Substrate impacts		X	
2) Suspended particulates/turbidity impacts		X	
3) Water column impacts		X	
4) Alteration of current patterns and water circulation		X	
5) Alteration of normal water fluctuation/ hydroperiod		X	
6) Alteration of salinity gradients	X		
b. Biological Characteristics of the Aquatic Ecosystem (Subpart D)		X	
1) Effect on threatened/endangered species and their habitat		X	
2) Effect on the aquatic food web		X	
3) Effect on other wildlife (mammals, birds, reptiles and amphibians)		X	
c. Special Aquatic Sites (Subpart E)		X	
1) Sanctuaries and refuges	X		
2) Wetlands		X	
3) Mud flats	X		
4) Vegetated shallows	X		
5) Coral reefs	X		
6) Riffle and pool complexes	X		
d. Human Use Characteristics (Subpart F)		X	
1) Effects on municipal and private water supplies	X		
2) Recreational and commercial fisheries impacts	X		
3) Effects on water-related recreation	X		
4) Aesthetic impacts		X	
5) Effects on parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves	X		

\* Where a 'Significant' category is checked, add explanation below.

<b>3. Evaluation of Dredged or Fill Material (Subpart G)</b>		
a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill material (check only those appropriate)		
1) Physical characteristics	X	
2) Hydrography in relation to known or anticipated sources of contaminants	X	
3) Results from previous testing of the material or similar material in the vicinity of the project	X	
4) Known, significant sources of persistent pesticides from land runoff or percolation	X	
5) Spill records for petroleum products or designated (Section 311 of Clean Water Act) hazardous substances	X	
6) Other public records of significant introduction of contaminants from industries, municipalities or other sources	X	
7) Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	X	
<b>3. Evaluation of Dredged or Fill Material (Subpart G) (continued)</b>	<b>Yes</b>	<b>No</b>
b. An evaluation of the appropriate information in 3a above indicates that there is reason to believe the proposed dredged or fill material is not a carrier of contaminants, or that levels of contaminants are substantively similar at extraction and placement sites and not likely to degrade the placement sites, or the material meets the testing exclusion criteria.	X	

<b>4. Placement Site Delineation (230.11(f))</b>		
a. The following factors as appropriate, have been considered in evaluating the placement site:		
1) Depth of water at placement site		X
2) Current velocity, direction, and variability at placement site		X
3) Degree of turbulence		X
4) Water column stratification		X
5) Discharge vessel speed and direction		X
6) Rate of discharge		X
7) Fill material characteristics (constituents, amount, and type of material, settling velocities)		X
8) Number of discharges per unit of time		X
9) Other factors affecting rates and patterns of mixing (specify)		
<b>4. Placement Site Delineation (230.11(f)) (continued)</b>	<b>Yes</b>	<b>No</b>
b. An evaluation of the appropriate factors in 4a above indicates that the placement site and/or size of mixing zone are acceptable.	X	

<b>5. Actions to Minimize Adverse Effects (Subpart H)</b>	<b>Yes</b>	<b>No</b>
All appropriate and practicable steps have been taken, through application of recommendations of 230.70-230.77 to ensure minimal adverse effects of the proposed discharge.	X	

**List actions taken:**

- 1) Best available practical techniques and BMPs would be utilized during construction activities to avoid and minimize potential temporary and long-term adverse impacts, such as storing fuels and other hazardous materials in locations which would not be introduced to surface waters if spilled, using silt curtains when appropriate to minimize movement of sediments, etc.
- 2) Movement of heavy equipment and support vehicles would utilize placement pipeline corridors to the greatest extent possible. Staging areas, access corridors, and general ground disturbance not related to construction would utilize the smallest footprint possible to maintain a safe work environment.
- 3) Only clean material free of contaminants would be placed in the construction area. Placed material for construction of Contract features (levee, floodwall, etc.) will be of such composition that it will not adversely affect the biological, chemical or physical properties of the receiving waters.

<b>6. Factual Determination (230.11)</b>	<b>Yes</b>	<b>No*</b>
A review of appropriate information as identified in items 2-5 above indicates that there is minimal potential for short- or long-term environmental effects of the proposed discharge as related to:		
a. Physical substrate at the placement site (review Sections 2a, 3, 4, and 5 above)	X	
b. Water circulation, fluctuation and salinity (review Sections 2a, 3, 4, and 5)	X	
c. Suspended particulates/turbidity (review Sections 2a, 3, 4, and 5)	X	
d. Contaminant availability (review Sections 2a, 3, and 4)	X	
e. Aquatic ecosystem structure and function (review Sections 2b and c, 3, and 5)	X	
f. Placement site (review Sections 2, 4, and 5)	X	
g. Cumulative impacts on the aquatic ecosystem	X	
h. Secondary impacts on the aquatic ecosystem	X	
<b>7. Evaluation Responsibility</b>		
a. This evaluation was prepared by: <b>Justyss Watson</b> Position: <span style="margin-left: 150px;">Biologist</span> <span style="margin-left: 150px;">Regional Planning and Environmental Center</span>		

8. Findings (Select One)		Yes
a. The proposed placement site for discharge of or fill material complies with the Section 404(b)(1) Guidelines.		X
b. The proposed placement site for discharge of dredged or fill material complies with the Section 404(b)(1) Guidelines with the inclusion of the following conditions: Mitigation of loss of freshwater emergent wetland habitat.		X
c. The proposed placement site for discharge of dredged or fill material does not comply with the Section 404(b)(1) Guidelines for the following reason(s): 1) There is a less damaging practicable alternative 2) The proposed discharge will result in significant degradation of the aquatic ecosystem 3) The proposed discharge does not include all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem		
_____ Date	_____ Jeffrey F. Pinsky Chief, Environmental Branch	

NOTES:

\* A negative, significant, or unknown response indicates that the permit application may not be in compliance with the Section 404(b)(1) Guidelines.

Negative responses to three or more of the compliance criteria at the preliminary stage indicate that the proposed projects may not be evaluated using this “short form” procedure. Care should be used in assessing pertinent portions of the technical information of items 2a-e before completing the final review of compliance.

Negative response to one of the compliance criteria at the final stage indicates that the proposed project does not comply with the Guidelines. If the economics of navigation and anchorage of Section 404(b)(2) are to be evaluated in the decision-making process, the “short form” evaluation process is inappropriate.