



CWA 404 Letter of Permission Procedure

U.S. ARMY CORPS OF ENGINEERS

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LETTER OF PERMISSION PROCEDURE FOR DISCHARGES OF DREDGED MATERIAL INTO WATERS OF THE UNITED STATES FOR THE PURPOSE OF BENEFICIAL USE

EFFECTIVE: 26 May 2026

The U.S. Army Corps of Engineers (Corps), Galveston District, establishes this procedure for issuing a Letter of Permission (LOP) to efficiently authorize activities that involve a discharge of dredged or fill material into waters of the United States (U.S.) under Section 404 of the Clean Water Act (CWA) and work in navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899 (RHA) which have minimal or less than significant impacts on the human environment under the National Environmental Policy Act (NEPA).

ISSUING OFFICES: U.S. Army Corps of Engineers, Galveston District (Corps).

ACTION ID: SWG-2026-00079

AUTHORITY: Section 10 of the Rivers and Harbors Act (RHA 10) of 1899 for structures and/or work in navigable waters of the U.S. and Section 404 of the Clean Water Act (CWA) for the discharge of dredged material in waters of the U.S.

LOCATION: Within tidal and non-tidal waters adjacent to tidal waters of the U.S. located in Galveston District Area of Operations, excluding Louisiana.

BACKGROUND: In accordance with Title 33 of the Code of Federal Regulations (CFR) Part 325, district engineers are authorized to use alternative procedures, including LOPs, to authorize activities under the Corps' Regulatory Program. LOPs are a type of individual permit issued through an abbreviated processing procedure which includes coordination with federal and state fish and wildlife agencies, as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without publishing an individual public notice. In accordance with 33 CFR Part 325.2(e)(1), LOPs may be used in those cases subject to CWA 404 when:

1. The district, through consultation with federal and state fish and wildlife agencies, the Regional Administrator, Environmental Protection Agency, and the state water quality certifying agency, develops a list of categories of activities proposed for authorization under LOP procedures.
2. The district issues a public notice advertising the proposed list and the LOP procedures, requesting comments and offering an opportunity for public hearing; and,
3. A CWA 401 water quality certification (WQC) has been issued or waived and, if appropriate, Coastal Zone Management (CZM) consistency concurrence obtained or presumed either on a generic or individual basis.

Most discharges of dredged or fill material into waters of the U.S. with minimal impact are authorized under one or more general permits (nationwide, regional, or programmatic). Proposed discharges that could result in significant effects on the human environment require the preparation of an Environmental Impact Statement under the National Environmental Policy Act (NEPA). This procedure covers activities that cannot be authorized under a general permit but have less than significant impacts on the human environment.

Under NEPA, the lead federal agency determines whether a federal action has the potential to have significant effects on the human environment.

CATEGORIES OF ACTIVITIES: The LOP outlines the review procedures for activities related to site selection, construction, and the placement of dredged material for the purpose of beneficial use for habitat creation/enhancement and/or shoreline stabilization and erosion control.

MITIGATION: Prospective permittees are responsible for ensuring the proposed activity is designed to avoid and minimize effects to the aquatic environment to the maximum extent practicable. After all practicable steps to avoid and minimize adverse effects to waters of the U.S. have been considered, the Corps may require additional mitigated measures and/or compensatory mitigation to ensure that the regulated activity results in no more than minimal adverse environmental effects or will not be contrary to the public interest.

For permanent or temporary impacts (exceeding one growing season) to special aquatic sites, such as wetlands and submerged aquatic vegetation, the amount of compensatory mitigation required must be, to the extent practicable, sufficient to replace lost aquatic resource functions and services (see 33 CFR Part 332.3(f)). If a functional or condition assessment or other suitable metric is not used to determine how much compensatory mitigation is required, a minimum one-to-one acreage or linear foot compensation ratio must be used. Compensatory mitigation proposals must comply with the applicable provisions of 33 CFR Part 332.

EXCLUSIONS:

1. This procedure does not apply to activities subject to Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA).
2. The procedure does not apply to activities categorized as beach nourishment when the beach is on the Gulf of America.
3. This procedure does not apply to any activities in waters of the U.S. that have a potential to significantly impact the human environment under the NEPA, as determined by the Corps.

TERMS:

1. Activities proposed under this LOP procedure will result in no more than one 300 acres of impact at the placement site. The Permittee shall not anchor, place pipeline, or stage equipment in a manner that will cause any damage to wetlands, oyster reefs, or seagrass.
2. The authorized work includes activities associated with dredging including transportation methodology and use of pipelines, booster pumps, and associated dredged material

transfer mechanisms. Pipelines may be submerged or floating, typically constructed of steel or high-density polyethylene (HDPE) with connecting steel collars. Dredging may require strategically locating booster pumps to facilitate pipeline disposal of the dredged material. Work vessels and activities typically include: the dredge vessel; booster pumps/small barges; push boats; scows/barges; crew transport/work vessels; spudding, anchoring, staging, and stockpile areas; loading/unloading areas; and associated vessel movements.

3. Direct impacts to wetlands, oyster reefs, and seagrass located outside of the project footprint are not authorized by this permit. The Permittee shall not anchor, place pipeline, or stage equipment in a manner that will cause any damage to wetlands, oyster reefs, or seagrass.
4. Damage to wetlands, oyster reefs, or seagrass shall be reported to the Corps within 48 hours of discovery. If the post-construction survey or project monitoring reveals that unintentional impacts have occurred as a result of project-related activities (e.g., anchoring impacts, pipeline impacts, sedimentation and/or burial impacts, side slope sloughing, propeller wash, etc.), the Permittee shall immediately coordinate with the Corps to quantify the impact, assess the ecological functional loss, and provide an in-kind compensatory mitigation plan in accordance with 33 CFR Part 332.
5. No activity is authorized which is likely to directly or indirectly, jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation as identified under Section 7 of the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation.
6. No activity is authorized which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
7. No activity may proceed if previously unknown historic, cultural, or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the permittee shall immediately notify the Corps of what was found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the Federal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
8. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.
10. No activity may significantly disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies must be suitably culverted, bridged, or otherwise

designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

11. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. The activity must be constructed to withstand expected floods and storms. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment.
12. The activity must comply with the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the MBTA or BGEPA for any LOP activity.
13. The activity must comply with the terms and conditions of the 29 April 2026 Texas Commission on Environmental Quality (TCEQ) Clean Water Act Section 401 water quality certification.
14. The activity must comply with the terms and conditions of the 15 April 2026 Texas General Land Office Coastal Management Program (CMP) consistency determination, CMP: 26-1070-F2.

PROCEDURES: Applications must be submitted through the Corps' Regulatory Request System (<https://rrs.usace.army.mil>) using the "Apply for a Permit" function. To be considered for authorization under this LOP procedure, the application must include all information required for a standard permit application, pursuant to 33 CFR Part 325.1, as well as the following:

Projects Placing Material in Existing Designated Beneficial Use Sites

1. Site location map(s), including the boundaries of the proposed placement site, with latitudes and longitudes for the site(s), as well as all appropriate available aerial and other imagery.
2. Site location map(s), including the boundaries of the dredge site, with latitudes and longitudes for the site(s), as well as all appropriate available aerial and other imagery.
3. Plan and Cross-Section view drawings of the dredge site and the placement site(s) that clearly depicts boundaries of waters of the United States, including but not limited to High Tide Line (HTL) / Mean High Water (MHW), Mean Lower Low Water (MLLW), existing and proposed site elevations, and any applicable special aquatic site boundaries, as appropriate, and all impacts to those areas with pertinent dimensions. Drawings shall indicate what the impact is, if the impact is temporary or permanent, size of impact with length/width, acreage, or square foot as it relates to the waters of the United States. Include location of staging areas, workspaces, and stringing areas, if applicable. Indicate any avoided water of the United States.

4. A Tier I Evaluation of the proposed dredge material in accordance with the *Evaluation of Dredge Material Proposed for Discharge in Waters of the U.S. – Testing Manual* (AKA the Inland Testing Manual (ITM)).
 - a. Tier I is a comprehensive analysis of all existing and readily available, assembled, and interpreted information on the proposed dredging project, including all previously collected physical, chemical, and biological monitoring data and testing for both the dredged material excavation site and the proposed disposal site. Only limited testing, to determine the applicability of exclusions, may be necessary in this tier.
 - b. For an evaluation to be completed within Tier I, the burden of evidence of the collected information must be adequate to make factual determinations relevant to Sections 230.60 (a), (b), (c), and (d) of the Guidelines.
 - c. If adequate information is not available for a Tier I evaluation, the process moves to Tier II.

Projects Requiring Beneficial Use Site Designation

1. Site location map(s), including the boundaries of the proposed placement site, with latitudes and longitudes for the site(s), as well as all appropriate available aerial and other imagery.
2. Plan and profile views of the proposed work to construct the placement site, relative to potential or approved waters of the U.S. (e.g., wetlands, tidal waters below or seaward of the high tide line, and open waters below the ordinary high-water mark), showing areas, types, and acreages of waters of the U.S. to be impacted by the proposed activity. All available drawings must show proposed impacts on appropriately scaled figures and include the volumetric capacity of the site.
3. An aquatic resources delineation for the proposed placement site, conducted in accordance with the Corps' minimum standards for aquatic resource delineations, or information that an aquatic resources delineation has been verified (including Corps file number) and is still valid.
4. Information, in report form, concerning the practicability of alternative placement sites in accordance with 33 CFR Parts 325.1(e) and 323.6(a). The information must address compliance with U.S. Environmental Protection Agency's (USEPA's) Section 404(b)(1) Guidelines (404(b)(1) Guidelines) for Specification of Disposal Sites for Dredged or Fill Material at 40 CFR Part 230. The report should include all applicable information for the Corps to determine whether an alternative meets the overall project purpose and is available, practicable (considering cost, existing technology, and logistics), would result in fewer adverse effects to the aquatic environment, or would have other significant adverse environmental consequences. Other site uses and potential conflicts with other activities (e.g., sport or commercial fisheries, shipping lanes, and military use) shall be included.
5. Information, in report form, documenting the placement site's baseline characteristics including: 1) currents and wave climate; 2) water depth and bathymetry; 3) bottom sediment physical characteristics including sediment grain-sizes; and 4) chemical and biological characterization of the site and environment (e.g., relative abundance of various

habitat types in the vicinity, relative adaptability of the benthos to sediment deposition, presence of submerged aquatic vegetation, and presence of unique, rare or endangered, or isolated populations).

6. Information, in report form, documenting the changes in baseline characteristics resulting from construction of the placement site. Factors included shall be those identified for the baseline as well as: 1) changes in salinity and temperature distributions; 2) potential changes in circulation patterns or erosion patterns; and 3) potential changes in sediment deposition versus erosion in surrounding area.
7. A description of how impacts to waters of the U.S. and associated functions (e.g., water quality and habitat) have been avoided and minimized to the maximum extent practicable within the permit area.
8. A description of potential indirect (secondary) and cumulative impacts to waters of the U.S. and the public interest in the watershed and vicinity of the proposed activity. The description of impacts and any proposed mitigation measures should be sufficiently detailed to allow the Corps to determine that the adverse environmental effects of the activity will be less than significant on the human environment, and to determine the need for compensatory mitigation or other mitigation measures.

All Projects

1. For non-Federal permittees, if the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places (collectively "historic properties"), the application must state which historic property(s) might have the potential to be affected by the proposed activity and include a vicinity map indicating the location of the historic property(s) relative to the proposed activity in waters of the U.S. so the Corps may determine the potential effect on historic properties and if necessary, consult with the State Historic Preservation Officer or Tribal Historic Preservation Officer (as appropriate) in accordance with Section 106 of the NHPA. Federal permittees must provide documentation demonstrating compliance with Section 106 of the NHPA.
2. For non-Federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the application must include:
 - a. a description of the action to be considered;
 - b. a description and map of the specific area that may be affected by the action;
 - c. a description of any listed species or critical habitat that may be affected by the action;
 - d. a description of the manner in which the action may affect any listed species or critical habitat and an analysis of any cumulative effects and a recommended determination of effect for each species and critical habitat; and,

- e. any other relevant available information on the action, the affected listed species, or critical habitat. Federal permittees must provide documentation demonstrating compliance with Section 7 of the ESA.
3. For proposed activities where another Federal agency is the lead, the applicant must provide the Corps with the appropriate documentation to demonstrate compliance with all applicable federal laws, including Section 106 of the NHPA and/or Section 7 of the ESA, and if available, documentation demonstrating compliance with the National Environmental Policy Act, such as a Categorical Exclusion, Environmental Assessment/Finding of No Significant Impact, or Environmental Impact Statement/Record of Decision.
4. A statement confirming if the proposed activity will require permission from the Corps pursuant to 33 U.S.C. 408 (Section 408) because it would (or “proposes to”) alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. If yes, describe if a written request for Section 408 has been submitted. LOP decisions for activities that require Section 408 permission must be rendered concurrent with or following the final Section 408 permission decision and will be processed consistent with existing Corps policy (e.g., EC-1165-2-220), including the Corps’ procedures for integrating Regulatory and Section 408 programs, as applicable.

REVIEW AND DECISION:

1. The Corps will review each application package to determine if it is complete within 30 calendar days of receipt. If the application is not complete, the Corps will notify the project proponent within 45 calendar days of application package receipt of the missing information. Pursuant to 33 CFR Part 325.2(d)(5), if the applicant does not respond to the request for additional information, or fails to provide the necessary information, within 30 calendar days, the application will be withdrawn.
2. When the Corps determines an application is complete, but the activity cannot be authorized by a LOP, the Corps will notify the project proponent within 15 calendar days of the determination with guidance on a potential alternate permit type (general permit or standard permit) and the application will be withdrawn.
3. If at any time during the process the Corps determines the activity does not meet the requirements for authorization under a LOP, the Corps will immediately notify the applicant, terminate the LOP process, and proceed to an alternate permitting process. Reasons for terminating the LOP process include the potential for the proposed activity to result in significant impacts on the human environment, non-compliance with USEPA’s 404(b)(1) Guidelines, public interest, appreciable opposition, or controversy.
4. If the application is determined complete and appears to meet the requirements for authorization under a LOP, the Corps will notify the applicant that the proposed activity is being evaluated for a LOP.
5. The Corps will notify the applicable state and federal resource and permitting agencies of the proposed application for a LOP by email and request comments within 15 calendar days of receipt of the email notice. The Corps may extend the comment period at the request of a reviewing agency due to extenuating circumstances, by no more than seven (7) calendar days. Concurrently, the Corps will initiate consultation(s) as necessary under

Section 106 of the NHPA and/or Section 7 of the ESA with the appropriate state and federal agencies and/or Tribal governments. Any concerns identified during the notification process with the state and federal review agencies and/or Tribal governments will be resolved before a decision on the LOP application is made.

6. The Corps will notify the project proponent of any additional information needed to complete its evaluation, including sufficient information to initiate any required consultation(s) under Section 106 of the NHPA and/or Section 7 of the ESA. If the project proponent does not respond to the request for additional information, or fails to provide the necessary information, within 30 calendar days, the application will be withdrawn.
7. In most circumstances, the Corps will make an LOP decision within 120 days of receipt of a complete application. If consultation is required and extends the evaluation schedule past 120 days, the Corps will make the LOP decision within 30 days of conclusion of consultation. The decision will be based on whether the activity meets the terms of this procedure, complies with USEPA's 404(b)(1) Guidelines and with other applicable laws, and would not be contrary to the public interest. To ensure less than significant effects and compliance with applicable laws, the Corps may add special conditions to the LOP.

CONTACTS AND ADDITIONAL INFORMATION:

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