



**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT:
SWG-2002-02405**



PERMIT: Maintenance dredge existing previously authorized facilities, including basins and berths, along the Corpus Christi Ship Channel, Rincon Canal, La Quinta Channel, and Jewel Fulton Canal.

ISSUING OFFICE: U.S. Army Corps of Engineers, Southwest Division, Galveston District Regulatory Division (Corps)

EFFECTIVE DATE: January 1, 2019

EXPIRATION DATE: December 31, 2024

A. AUTHORIZATION

Permittee: General Public

Project Location: Regulated activities conducted in accordance with all applicable terms and conditions of this Regional General Permit (RGP, or permit) are authorized within the Inner Harbor of the Corpus Christi Ship Channel from the US Army Corps of Engineers (Corps) Station (STA.) 1106+32 of the Corpus Christi Main Turning Basin to Corps STA. 1661+50 of the Viola Turning Basin. The Rincon Canal will be authorized within the Corps STA. 0+00 of the Approach Channel to Corps STA. 69+94.74 of the Turning Basin. The La Quinta Channel will be authorized within the Corps STA. 382+52.09 of the La Quinta Extension to STA. 7+39.45 of the Channel to La Quinta. The Jewel Fulton Canal will be authorized from Corps STA. 0+00 to STA. 46+00.

RGP Expiration: This permit will expire on **December 31, 2024**. If the work authorized by a specific site approval is not started within 1 year, or if it is not completed within 2 years from its approval date, the authorization, if not previously revoked or specifically extended, shall automatically expire.

B. REGIONAL GENERAL PERMIT APPLICABILITY

This RGP applies to certain activities in waters of the United States.

- 1. Regional General Permit Regulatory Authorities:** The geographical locations list in Part A are subject to the Corps jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The Corps regulates the placement of structures and/or work performed in/ or affecting navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899. The Corps also regulates the discharge of dredged and/or fill material into waters of the U.S., including navigable waters, under Section 404 of the Clean Water Act.

2. **Authorized Project Description:** This RGP authorizes applicants to maintenance dredge existing previously authorized facilities, including basins and berths, along the Corpus Christi Ship Channel, Rincon Canal, La Quinta Channel, and Jewel Fulton Canal. The dredged material will be deposited in areas with no waters of the U.S., unless authorized by the Corps by a separate permit.

C. PRE-CONSTRUCTION NOTIFICATION (PCN) REQUIREMENTS

1. All applicants shall submit a PCN to the appropriate Galveston District Regulatory Office, as early as possible, prior to initiation of work in navigable waters of the United States (US), including wetlands and other special aquatic sites defined in 40 CFR 230.4(q-1).
2. The PCN shall include:
 - a. A completed and signed DA application (Form ENG 4345), or other suitable means of submittal (i.e. letter, report, etc.) that has the following information detailed:
 - i. Name (Point of Contact), Address, Telephone, email (if applicable) of the applicant and consultant (if applicable);
 - ii. Signed statement acknowledging the use of a consultant if applicable;
 - iii. Location of the proposed activity(s) in decimal degrees;
 - iv. Description of the proposed activity, detailed description of construction methods in the order of commencement, purpose and need, direct and indirect adverse environmental effects the activity may cause in linear feet, acres, cubic yards, or other suitable means;
 - v. Detailed description of avoidance and minimization measures, including approved Texas Commission of Environmental Quality (TCEQ) Best Management Practices, and/or other mitigation measures, including a proposed compensatory mitigation for the loss of water of the US (if applicable), the applicant has undertaken;
 - vi. A copy of all DA authorizations previously issued for the work area.
 - b. A vicinity map, plan view, typical cross section detailing the proposed method of construction showing all impacts to waters of the United States, on 8 1/2 by 11-inch white paper. Engineered and/or colored drawings will be accepted on a case by case basis; however, general and typical drawings will be suitable if found legible. Drawings shall include:
 - i. A vicinity map with the precise location of the project so that its geographic coordinates (decimal degrees) can be determined;
 - ii. Plan view drawings that clearly depict the project site with Corps Station Numbers, boundaries of waters of the United States, upland, and special aquatic sites;

- iii. A cross-section drawing that clearly depict boundaries of waters of the United States, including but not limited to high water mark (OHWM)/Mean High Tide Line (MLT), Mean Lower Low Water (MLLW), any applicable special aquatic sites, AND all impacts to those areas with pertinent dimensions;
 - iv. Include appropriate labels and legends for each page submitted, including but not limited to, page number, project boundary, scale, north arrow, match lines, latitude and longitude for appropriate areas, table of impacts, etc.
- c. A statement that the work will be conducted in compliance with the terms and conditions of this RGP.
 - d. A statement of estimated start and completion dates.

D. GENERAL CONDITIONS

1. **Cultural and Historic Resources:** The Corps will review all activities proposed under this RGP for cultural resources requirements, and, when appropriate, coordinate these activities with the Texas Historical Commission (THC).
 - a. In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act have been satisfied.
 - b. If potential historic properties are located in the project area, permit specific conditions may be implemented for additional protection to avoid these resources by a sufficient margin as designated by the Corps and the THC. If avoidance of the potential historic is not feasible, further archeological investigations shall be required.
 - c. The activity shall not begin until the Corps has notified the prospective permittee that the activity has no potential to cause effects to historic properties and/or that NHPA section 106 consultation has been completed.
2. **Unknown Historic and Archeological Remains:** If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, the permittee must immediately cease and desist any activity and notify the district engineer, or his authorized representative(s) or designee(s). The Corps staff archaeologist will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. No work shall continue until all required coordination has been completed and written notification by the Corps has been provided.
3. **Tribal Rights:** Any activity proposed under this RGP may not cause no more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

4. **Threatened and Endangered Species:** No activity proposed under this RGP is authorized that 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 the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species.
- a. The Corps will review all proposed activities for Endangered Species Act requirements, and, when appropriate, coordinate these activities with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.
 - b. No activity is authorized under this RGP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed.
 - i. Direct effects are the immediate effects on listed species and critical habitat caused by the General Permit activity.
 - ii. Indirect effects are those effects on listed species and critical habitat that are caused by the General Permit activity and are later in time, but still are reasonably certain to occur.
 - c. Authorization of an activity by this RGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species:
 - i. “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.
 - ii. “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
 - d. Work shall not begin on the activity until the Corps has notified the permittee that the requirements of the ESA have been satisfied and that the activity is authorized.
 - e. As a result of formal or informal consultation with the FWS or NMFS, the District Engineer may add species specific permit conditions to the General Permit authorization.
5. **Migratory Bird Act and Bald and Golden Eagle Protection Act:** For any activity proposed under this RGP, the applicant is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The applicant is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

6. **Migratory Bird Breeding Areas:** Activities in waters of the United States that serve as a rookery, breeding areas for migratory birds, must be avoided to the maximum extent practicable.
 - a. Work is prohibited within 1,000 feet of an identified bird rookery between February 15th and September 1st.
7. **Minimal Effects Determination:** If the determination is made that the adverse effects of the proposed work are more than minimal, then the applicant will be notified that either:
 - a. That the project does not qualify for authorization under the General Permit and instruct the applicant on the procedures to seek authorization under an individual permit; or...
 - b. That the project is authorized under the General Permit with specific modifications or conditions.

Navigation and Other Federal Interests:

1. **Activities Affecting Structures or Works Built by the United States:** If the activity authorized by this General Permit requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) Federally authorized Civil Works project (a "USACE project"), the activity is not authorized by this General Permit until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USACE project, and the District Engineer sends a written notice to the applicant of approval.
2. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized here in.
3. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
4. When structures or work authorized by this permit are determined by the District Engineer to have become abandoned, or obstructive to navigation, or cease to be used for the purpose for which they were permitted, such structures or other work must be removed and the area cleared of all obstructions, and written notice given to the Corpus Christi Regulatory Field Office, within 30 calendar days of completion.
5. The permittee must install and maintain, at the permittee's expense, any safety lights, signs and signals required by the U.S. Coast Guard, through regulations or otherwise, on the permittee's fixed structures. To receive a U.S. Coast Guard Private Aids to Navigation marking determination, at no later than 30 days prior installation of any fixed structures in navigable waters and/or prior to

installation of any floating private aids to navigation, you are required to contact the Eighth Coast Guard District (dpw), 500 Poydras St. Suite 1230, New Orleans, LA 70130, (504) 671-2328 or via email to: D8oanPATON@uscg.mil. For general information related to Private Aids to Navigation please visit the Eighth Coast Guard District web site at: <http://www.uscg.mil/d8/waterways/PATON.Home.asp>.

Other Laws:

1. Section 401 of the Clean Water Act: Effluent from an upland contained dredged material placement area shall not exceed a TSS concentration of 300 mg/L unless a site-specific TSS limit, or a site specific correlation curve for turbidity (nephelometric turbidity units (NTU)) versus TSS has been approved by Texas Commission on Environmental Quality.
2. Coastal Zone Management Act: The activity authorized by this General Permit will be conducted in a manner that is consistent and complies with the compliance with the Texas Approved Coastal Management Program.

Post Authorization and Construction Requirements:

1. All dredged material must be deposited and retained in an area that has no waters of the United States, unless otherwise specifically approved by the district engineer under separate authorization.
2. Proper sediment controls must be used for the dredged material placement area.
3. No new work will be authorized by this General Permit. Any new work proposed in this area must apply for an individual permit. However, once authorized, maintenance dredging associated with this authorized activity may be authorized under this General Permit.
4. No impact to seagrasses, oyster reefs, or other special aquatic sites, such as wetlands or mudflats, is authorized by this General Permit.
5. Prop/wheel washing is not authorized by this general permit.
6. The permittee must allow representatives from the appropriate Corps office to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of the permit.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.
 - a. Authorization under this General Permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. Authorization under this General Permit does not grant any property rights or exclusive privileges.
 - c. Authorization under this General Permit does not authorize any injury to the property or rights of others.
 - d. Authorization under this General Permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In authorizing a project under this General Permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office to authorize the activity under this General Permit as not contrary to the public interest will be made in reliance on the information provided by the applicant.
5. Reevaluation of Permit Decision. This office may reevaluate its decision to authorize an activity under this General Permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. The applicant fails to comply with the terms and conditions of this permit.
 - b. The information provided by the applicant to support their permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contain 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the applicant to comply with the terms and conditions of their authorization under this General Permit and for the initiation of legal action where appropriate. The applicant will be required to pay for any corrective measures ordered by this office, and if they fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you the applicant for the cost.

This General Permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

FOR THE GALVESTON DISTRICT ENGINEER:

**ROBERT HEINLY
GALVESTON DISTRICT REGULATORY DIVISION
CHIEF, POLICY ANALYSIS BRANCH
FOR COLONEL LARS N. ZETTERSTORM**

DATE