



**DEPARTMENT OF THE ARMY  
REGIONAL GENERAL PERMIT:  
SWG-2024-00538**



**A. AUTHORIZATION:**

1. **Permit:** Regional General Permit (RGP) for the Discharge of Dredged or Fill Material into Tidal and Adjacent Non-tidal Waters of the United States (US) for the Construction of Residential or Commercial Development.
2. **Issuing Office:** Department of the Army (DA), U.S. Army Corps of Engineers (Corps), Southwest Division (SWD), Galveston District (SWG)
3. **Effective Date:** DATE, *(TBD, issue date)*
4. **Expiration Date:** DATE, *(5 years from issue date)*
5. **Permittee:** General Public
6. **Geographic Limits:** Within tidal and adjacent non-tidal waters of the US located in the SWG Area of Responsibility, excluding only those areas located in the State of Louisiana.
7. **General Permit Expiration:** This permit will expire on DATE. If the work authorized by a specific site approval is not started, or if it is not complete within 2 years from the approval date, the authorization, if not previously revoked or specifically extended, shall automatically expire.
8. **Completion of Activity:** Work authorized under this permit for a project-specific verification must be completed by the RGP expiration date. However, if the project-specific verification is issued within two years prior to the RGP expiration date, the verification expires two years from the verification date.

**B. REGIONAL GENERAL PERMIT (RGP) APPLICABILITY:**

1. **RGP Regulatory Statutes:** Work and/or the placement of structures in/or affecting navigable waters of the US authorized under this general permit is subject to jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403; Section 10). The placement of clean dredged and/or fill material in non-tidal waters of the US is subject to jurisdiction pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; Section 404).
2. **RGP Regulated Activities Description:** This general permit authorizes the discharges of dredged or fill material below the high tide line (HTL) of tidal and the ordinary high water mark (OHWM) of adjacent non-tidal waters of the US for the construction or expansion of a single residence, multiple unit residential development, residential subdivision, and commercial and institutional building foundations and building pads and attendant features that are necessary for the

use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, bulkheads, utility lines, storm water management facilities, septic fields, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

3. **RGP Restrictions:** This RGP **does not** authorize:
  - a. Direct and/or indirect impacts resulting in temporary or permanent losses to tidal and adjacent non-tidal waters of the US greater than 1 acre.
  - b. The discharge of more than 100 cubic yards below the HTL or OHWM.
  - c. Does not authorize construction of new golf courses.
4. **Single and Complete Project:** The authorized work must be part of a single and complete project.
5. **Regulatory Discretion:** If the determination is made that the applicant's proposed activity would result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest, the applicant will be notified that either:
  - a. the proposed activity does not qualify for authorization under this permit and instruct the applicant on the procedures to seek authorization under an Individual Permit; or,
  - b. the proposed activity is authorized under this permit subject to the applicant's submission of an approved mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or,
  - c. the proposed activity is authorized under this permit with specific modifications or conditions that reduce the adverse environmental effects so that they are no more than minimal.

## C. PRECONSTRUCTION NOTIFICATION (PCN):

1. **Application Review Process:** A PCN is a request submitted by the project proponent (applicant) to the Corps for confirmation that a particular activity is authorized by a general permit. The request may be a permit application (DA Form 4345), letter, or similar document that includes information about the proposed work and its anticipated environmental effects. A PCN is required by the terms and conditions of this general permit. Work in waters of the US cannot begin until written approval has been obtained by the applicant from the DE. All applicants shall submit a complete PCN via:
  - a. Regular mail – US Army Corps of Engineers, Galveston District  
ATTN: Regulatory Division – Evaluation Branch  
2000 Fort Point Road  
Galveston, Texas 77553
  - b. Email – [CESWGRegulatoryInbox@usace.army.mil](mailto:CESWGRegulatoryInbox@usace.army.mil)
  - c. Regulatory Request System (RRS) – <https://rrs.usace.army.mil/rrs>.

2. **Completeness Determination:** If the application is determined to be incomplete, the applicant will be notified requesting specific information surrounding the activity. The applicant will have a 30-day period to gather and submit the requested information back to the Corps. If the requested information is not submitted in full after that 30-day period, the Corps will withdraw the permit application without prejudice for the applicant's right to reapply at a later date. However, once the application has been withdrawn, the Corps will only accept a resubmitted application if the applicant can provide all the information previously requested.
3. **Requirements for a Federally Complete PCN:** To be considered federally complete, the PCN shall include:
  - a. A completed and signed DA application form (Appendix B: DA Form ENG 4345), or other suitable means of submittal (i.e. letter, report, etc.) that has the following information detailed:
    - i. The official designated point of contact (POC) for the application to be named on the final permit decision, address, telephone, and email (if applicable);
    - ii. Signed statement acknowledging the use of a consultant with their contact information (if applicable);
    - iii. Longitude and Latitude of the proposed project location in decimal degrees with a detailed description of the construction methods in the order of commencement including the purpose and need; and,
    - iv. A copy of all DA authorizations previously issued for the work area (including blanket permits if applicable).
  - b. A vicinity map, plan view, and typical cross section drawings detailing the proposed method of construction showing all impacts to waters of the US. 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 work corridor of the proposed activity along with plan views of the upland DMPAs and/or temporary workspaces so that geographic coordinates (decimal degrees) can be verified;
    - ii. A top plan view map showing the work corridor's precise length and width dimensions of all dredge areas, dredged pipeline routes, temporary workspaces, temporary structures, and any other work authorized under this general permit;
    - iii. Top plan view and cross section plan view drawings depicting the proposed depths in the following datum: mean lower low water (MLLW), mean high water (MHW), and high tide line (HTL). The plan views shall also depict the proposed dredging dimensions, temporary workspaces, temporary structures, dredged pipeline layout with temporary structures; and
    - iv. An aquatic resource delineation map that clearly demonstrates the locations and boundaries of any aquatic resources (i.e. wetlands, submerged aquatic vegetation (SAV), mudflats, and/or other special aquatic sites defined in 40 CFR 230.3(q-1)) located within 500 feet of any portion of the proposed project. The size of each aquatic site (in acres or

square feet) and its distance to the edge of the project boundary must be depicted on this map.

- c. A statement that the work will be conducted in compliance with the terms and conditions of this general permit; and
- d. A statement of estimated start and completion dates for the activity.

#### **D. MITIGATION:**

1. In accordance with the Federal Mitigation Rule (33 CFR part 332), the Section 404(b)(1) guidelines (40 CFR part 230), and current Corps policies and guidelines for compensatory mitigation, regulated activities must be designed and constructed to avoid and minimize (mitigate) adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site (i.e., onsite). Mitigation includes actions which may avoid, minimize, rectify, reduce, or compensate for adverse environmental effects or activities which may otherwise be contrary to the public interest.
2. Examples of avoidance and minimization activities may include but are not limited to reducing the project footprint to the minimum necessary to meet the project purpose and need, incorporating permeable pavement into construction designs, and utilizing erosion and stormwater control structures and procedures (e.g. silt fence, filter socks, etc.) to minimize pollutant and sediment water runoff to protect water quality. Additional information pertaining to BMPs can be found at the following link:  
[https://www.tceq.texas.gov/permitting/401certification/401certification\\_definition.html](https://www.tceq.texas.gov/permitting/401certification/401certification_definition.html).
3. After all practicable steps to avoid and minimize adverse effects to waters of the US 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. In reviewing the complete PCN for the proposed activity, the Corps will determine whether the activity authorized by the permit will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The Corps will issue the permit verification for that activity if it meets the terms and conditions of the RGP.
4. After considering compensatory mitigation, the Corps will make the determination whether the regulated activities fully mitigate for the individual and cumulative adverse environmental effects on the aquatic environment and other aspects of the public interest. If the Corps determines that the overall activities proposed under this general permit are contrary to the public interest, the proposed activities are ineligible for verification under this general permit and the Corps will exercise discretionary authority by elevating the proposed activities to an individual permit evaluation which will be evaluated using standard permit procedures.
5. Information regarding current Corps policies and guidelines about avoidance and

minimization measures, and compensatory mitigation can be found at the following link: <https://www.swg.usace.army.mil/Business-With-Us/Regulatory/>.

#### **E. GENERAL CONDITIONS:**

- 1. Navigation:** No activity authorized by this permit may cause more than a minimal adverse effect on navigation.
  - a. Aids to navigation shall be permitted and placed in accordance with USCG regulation 33 CFR 66.
  - b. Any safety lights and signals prescribed by the USCG, through regulation or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S.
  - c. The permittee understands and agrees that, if future operations by the U.S. 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 U.S. No claim shall be made against the U.S. on account of any such removal or alteration.
- 2. Cultural and Historic Resources:** The Corps will review all activities proposed under this general permit for cultural resources requirements, and, when appropriate, coordinate these activities with the Texas State Historic Preservation Officer (SHPO).
  - 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 (NHPA) 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 SHPO. If avoidance of the potential historic property is not feasible further investigations may be required.
  - c. The activity shall not begin until the Corps notifies 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 and that the activity is authorized.
- 3. Discovery of Previously Unknown Remains and Artifacts:** If any 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 district engineer 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 district engineer 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.

4. **Tribal Rights:** Any activity proposed under this general permit may not cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.
5. **Essential Fish Habitat:** Applications proposed under this general permit will be evaluated on a case-by-case basis for activities that may or may not adversely affect essential fish habitat (EFH); and if warranted, the Corps will consult with National Marine Fisheries Service (NMFS) Habitat Conservation Division (HCD) on a case-by-case basis for project specific EFH recommendations.
6. **Threatened and Endangered Species:** Work authorized under this general permit will not directly or indirectly jeopardize the continued existence of a listed threatened and/or endangered (T&E) species and/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 authorized under this general permit for ESA requirements, and, when appropriate, coordinate these activities with the US Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) Southeast Regional Office (SERO) Protected Resources Division (PRD).
  - b. No activity authorized under this general permit “may affect” a listed species and/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 activity.
    - ii. Indirect effects are those effects on listed species and critical habitat that are caused by the activity and are later in time, but still are reasonably certain to occur.
  - c. Authorization of an activity by this general permit does not authorize the take of a threatened or endangered species as defined under the ESA. The ESA prohibits any person subject to the jurisdiction of the US 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 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 USFWS and/or NMFS, the Corps may add species specific permit conditions to the general permit authorization.
7. **Migratory Birds:** The permittee is responsible for ensuring their activity complies

with the Migratory Bird Treaty Act. The permittee is responsible for contacting the appropriate local office of the FWS to determine applicable measures to reduce impacts to migratory birds, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act for a particular activity.

- 8. Proper Maintenance:** Any authorized structure shall be properly maintained by the permittee, including maintenance to ensure public safety and compliance with the terms and conditions of this permit, as well as any special conditions added to project-specific authorizations. The permittee shall only be relieved of this requirement if the permittee makes a good faith transfer to a third party in compliance with General Condition 10 of this permit. Should the permittee wish to cease to maintain the authorized activity/structure(s) for the use described in Part A of this permit or abandon without a good faith transfer, the permittee shall seek alternative authorization from the Corps.
- 9. Texas Coastal Management Program Consistency:** Work authorized under this general permit shall be conducted to remain consistent with the Texas Coastal Management Program’s Goals and Policies outlined in the Texas Administrative Code Title 31, Part 16, Chapter §501, Subchapter B.
- 10. Activities Affecting Structures or Works Built by the United States:** If an activity authorized under this general permit also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project (a “USACE project”), the activity is not authorized by this permit until the appropriate Corps office issues the Section 408 permission or completes its review to alter, occupy, or use the USACE project.
- 11. Compliance:** The permittee shall be responsible for ensuring compliance with all the terms and conditions of this permit, including the following:
  - a. The permittee shall notify SWG, in writing, of the date that the work authorized herein commences.
  - b. The permittee shall be responsible for ensuring that whoever performs, supervises or oversees any portion of the work associated with the construction of the project has a copy of and is familiar with all the terms and conditions of this permit and any special conditions included in the project-specific verification.
  - c. The permittee shall allow representatives from SWG to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of the permit.
  - d. The permittee shall be responsible for any materials that are moved by sea conditions or that break loose from authorized structures and any damage caused by such materials.
  - e. When structures or work authorized by this permit are determined by the district engineer to have become abandoned or cease to be used for the purpose for which they were permitted, the permittee is required to remove these structures and clear the area of all obstructions and submit written notice to SWG within 30 calendar days of completion.

**12. Transfer of Permit:** If the permittee sells the property associated with this permit verification, the permittee may transfer the permit verification to the new owner by submitting a letter to the SWG to validate the transfer. A copy of the permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

## **F. FURTHER INFORMATION:**

### **1. Limits of this Authorization:**

- a. This permit does not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

### **2. 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 US 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; or,
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

### **3. Reliance on Applicant's Data:** The determination 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.

### **4. Re-evaluation of Permit Decision:** The Corps may re-evaluate its decision to authorize an activity under this general permit at any time the circumstances warrant. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7. Circumstances that may warrant a re-evaluation 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; and/or,
- c. Significant new information surfaces that this office did not consider in reaching the original public interest decision.

**5. Enforcement:** The Corps will, at its discretion, take reasonable measures to inspect permitted activities, as required, to ensure that these activities comply with the specified terms and conditions herein. If the Corps determines that a permittee has violated the terms and conditions of this permit, such noncompliance may result in a determination that it is appropriate to use the enforcement procedures contained in 33 CFR 326.4. In accordance with these procedures, attempts to resolve the non-compliance state of the permit may take the form of the permitted project being voluntarily brought into compliance by the permittee or a permit modification (33 CFR 325.7(b)). The referenced enforcement procedures also provide for the issuance of a written order requiring compliance. However, issuance of an order is not a prerequisite to legal action. If the permittee fails to comply with the order, the Corps may consider using the suspension/revocation procedures in 33 CFR 325.7(c) and/or recommend legal action in accordance with 33 CFR 326.5.

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

**FOR THE DISTRICT ENGINEER:**

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**ROBERT W. HEINLY**  
**CHIEF, POLICY ANALYSIS BRANCH**  
**REGULATORY DIVISION, GALVESTON DISTRICT**  
**FOR COLONEL RHETT A. BLACKMON**

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**DATE**