



**DEPARTMENT OF THE ARMY
REGIONAL/PROGRAMMATIC
GENERAL PERMIT:
SWG-2002-02904**



A. AUTHORIZATION:

Permit: Structures and Work in Navigable Waters of the United States (U.S.) for the Construction of Pile-Supported Structures.

Issuing Office: Department of the Army (DA), US Army Corps of Engineers (Corps), Southwest Division (SWD), Galveston District (SWG)

Effective Date: DATE

Expiration Date: DATE

Permittee: General Public

Project Description: This regional/programmatic general permit (R/PGP) authorizes structures and work in navigable waters of the US for the construction, repair, rehabilitation, maintenance, modification, and replacement of a single, pile-supported pier at single-family properties, multi-family properties, or at lodging facilities.

Geographic Location: Within navigable waters of the U.S. within the SWG boundaries, excluding waters located in Louisiana and the Gulf of America.

Completion of Activity: Work authorized under this permit for a project-specific verification must be completed by the permit expiration date or, if the verification is within six months of the expiration of this general permit, within 1 year of the verification.

B. APPLICABILITY:

This permit serves as both a regional and programmatic general permit. The State of Texas General Land Office (GLO), pursuant to Texas Natural Resources Code Ann. § 31.051, has responsibility and authority to execute and perform all acts and other things related to public real property of the state or right of individuals in public real property which is required by law, and requires lease agreements for structures on State-owned lands. As such, the SWG and GLO developed a cooperative agreement to streamline the permit evaluation process and avoid unnecessary duplication of federal and state permit requirements. Therefore, this permit serves as a programmatic general permit that transfers the permit evaluation process for most of the activities authorized under this general permit to the GLO. However, this permit also serves as a regional general permit under which the SWG retains its authority to evaluate these activities, as necessary. The SWG retains all authority to enforce any conditions under Corps jurisdiction, and its compliance and enforcement responsibilities. This permit applies to the activities in waters of the US as described herein.

1. **Corps Regulatory Authority:** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403, Section 10) regulating the authorization of certain structures or work in or affecting navigable waters of the US.
2. **Activity Limitations/Restrictions:** The following limitations and restrictions apply to the activities authorized by this permit.
 - a. This permit shall authorize only one pier on each parcel of littoral property.
 - b. Non-terminus pier structures, including walkways, and finger piers not associated with watercraft storage facilities or personal watercraft facilities, are limited to a width of 4 feet. *NOTE: Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS) compliant design of these structures is limited to 6 feet in width and requires submission of a Doctor's note.*
 - c. Pier height over special aquatic sites shall be a minimum of 5 feet above the mean high water line (MHWL) or ordinary high water mark (OHWM), as measured from the top surface of the decking. *Note: All references to special aquatic sites within this permit refer to the definition provided at 40 CFR 230.*
 - d. Terminal structures (i.e. those structures located at the terminus of a walkway including T-heads and L-heads) are limited to a maximum of 300 square feet; however, terminal structures over vegetated shallows and/or non-mangrove dominated wetlands are limited to a maximum area of 160 square feet. *Note: This restriction does not apply to normal appurtenances, personal watercraft ramps/platforms, and watercraft storage facilities.*
 - e. Rooftops over terminal structures shall cover no more than 50% of the terminal structure.
 - f. Decks and/or walkways constructed parallel and directly adjacent to existing shorelines/bulkheads shall be considered terminal structures and shall not exceed 300 square feet in area. These structures shall not be constructed within 10 feet from the common boundary line of adjoining properties that are under separate ownership. *Note: This setback is measured at the point where common boundaries intersect with the mean MHWL or OHWM on the shoreline.*
 - g. Normal appurtenances (e.g. step-downs, fish cleaning tables, and platforms) associated with piers authorized by this permit shall not exceed a combined maximum of 200 square feet in areas unoccupied by special aquatic sites or 50 square feet in areas over special aquatic sites.
 - h. This permit shall authorize only one watercraft storage facility (including moorings, shelter, mechanically and/or pneumatically operated boatlifts, cable or strap supported hoists, accessory walkways and platforms, open water within the facility, and the roof/cover of these facilities) limited to a maximum width of 20 feet with no sidewalls. *Note: The width of a watercraft storage facility constructed contiguous with a pier shall not include the width of the walkway used to access the terminal structure.*
 - i. Covered or uncovered personal watercraft facilities (including ramps/platforms and associated lifts/hoists) may be floating or fixed but shall not exceed a combined maximum area of 120 square feet.
 - j. Deck boards of structures constructed over special aquatic sites shall be spaced a minimum of one inch apart to allow sunlight penetration. *NOTE: ADA and TAS compliant structures are exempt from this restriction with submission of a Doctor's note.*
 - k. Installation of pilings shall be limited to jetting and/or pile driving. Pilings installed within areas delineated as a special aquatic site shall be limited to methods which will not result in formation of sedimentary deposits ("donuts" or "halos")

around the newly installed pilings. In this situation, pile driving is the preferred method; however, where special aquatic sites are more than 3 feet from the piling, low-pressure jetting may be used. In an area delineated as a special aquatic site, the number of pilings shall be limited to the minimum necessary, and the spacing of the pilings shall be a minimum of 10 feet on center unless shorter distances can further avoid the delineated special aquatic site.

- l. Structures constructed on canals or adjacent to channels shall not extend more than 25 percent of the waterway width or may not extend beyond neighboring existing structures, whichever is less.
- m. Structures near Federal channels shall be constructed in accordance with the setback requirements specified in the authorizing Federal project document or SWG's Federal project channel setback standard operating procedures.
- n. This permit authorizes the repair and rehabilitation of any previously authorized, currently serviceable, structure in association with new work eligible for authorization under this permit.
- o. This permit authorizes modification of existing structures that continue to meet the terms and conditions of this permit.
- p. This permit authorizes the removal of existing, unserviceable structures in association with new work eligible for authorization under this permit; however, the unserviceable structure shall be removed prior to construction of the replacement structure.

3. Excluded Activities: The following activities are ineligible for authorization by this permit.

- a. Construction of commercial or municipal fishing piers.
- b. The discharge of dredged and/or fill material into waters of the US, including special aquatic sites.
- c. The permanent loss of waters of the US, including special aquatic sites.
- d. Construction of structures over existing oyster reefs.
- e. Construction of any terminal structures over mangroves.
- f. Construction of decks and/or walkways constructed parallel and directly adjacent to existing shorelines/bulkheads over special aquatic sites.
- g. Construction of any portion of a watercraft storage facility or personal watercraft facility over special aquatic sites.
- h. Construction of any portion of a watercraft storage facility or personal watercraft facility within 20 feet of existing vegetated shallows.
- i. Dredging or prop-washing.
- j. Construction of enclosed buildings, living quarters, toilets, fuel-dispensing or sanitary pump-out facilities.
- k. Construction of floating piers or terminal structures.
- l. High-pressure jetting of pilings in or within 3 feet of special aquatic sites.
- m. Construction of any structure that would obstruct navigation channels or otherwise prevent public access to navigable waters at or adjacent to the structure.

4. Compliance: The permittee shall be responsible for ensuring compliance with all the terms and conditions of the permit.

- a. The permittee shall be responsible for ensuring that whomever 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 general permit and any special permit-specific conditions included in the project-specific verification.

- b. The permittee shall allow representatives from the GLO and/or the SWG to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of this permit.
- c. When structures or work authorized by this permit are determined by the SWG to have become abandoned or cease to be used for the purpose for which they were permitted, the permittee will be required, upon due notice from the SWG, to remove these structures or work and clear the area of all obstructions.
- d. The GLO and SWG will coordinate compliance and/or enforcement matters with one another and determine whether individual or joint action by both agencies is necessary.

5. Single and Complete Project: The activity must be a single and complete project.

6. Mitigation: The following factors will be considered when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects of the proposed activity are no more than minimal.

- a. Activities authorized under this permit must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site.
- b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effect are no more than minimal.
- c. Where the determination is made that mitigation is required to ensure no more than minimal adverse environmental effect, the activity shall be authorized with project-specific special conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal.
- d. Where the determination is made that compensatory mitigation is required, no work in waters of the U.S. may occur until a specific mitigation plan has been approved or it has been determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

7. 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:

notification (PCN). A PCN is a request submitted by the project proponent (applicant) to the GLO or SWG, as specified below, for verification that a particular activity is authorized by this permit. The request may be a permit application (DA Form 4345), letter, or similar document that clearly indicates that the application is a PCN for this general permit and must include information about the proposed work and its anticipated environmental effects, as specified below. Written verification from GLO or SWG to the project proponent is required prior to commencing activities authorized by this permit.

1. **PCN Submission:** Prior to initiation of the activities authorized by this permit, all applicants shall submit a PCN to the appropriate GLO Permit Service Center. If an application is received by the SWG for the activities authorized under this permit, the SWG will forward the application to the appropriate GLO Permit Service Center. Any permit application received by the GLO which requests authorization of work not located on State-owned lands, or where construction on the pier has already begun, or which does not seem to meet the conditions of this general permit of GLO's structure registration requirements, or which requests transfer of ownership of a pier will be forwarded to the SWG within 30 days of receipt without further action by the GLO. Upon receipt of a permit application that has been forwarded by the GLO, the SWG will determine whether the work is authorized under this permit or whether an individual permit is required.
2. **Contents of PCN:** The PCN must be in writing and include the following information:
 - a. A completed and signed DA application (DA Form 4345) or letter containing:
 - i. The applicant's name, address, telephone, and email. If the applicant is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title.
 - ii. Although an agent is not required, if the applicant chooses to utilize an agent, provide their name, address, telephone, and email, and a signed statement authorizing the agent to act on behalf of the applicant.
 - iii. Longitude and latitude (decimal degrees) of the proposed activity in decimal degrees. If applicable, also provide the street address.
 - iv. A description of construction methods, including piling installation and construction equipment ingress/egress methods, and sequence of activities.
 - v. A statement of estimated start and completion dates and/or construction timeframes.
 - b. A copy of all DA and/or GLO authorizations previously issued for the work area.
 - c. A vicinity map, plan view, and typical cross section drawings showing all impacts to waters of the US on 8½ by 11-inch white paper. Color drawings and drawings super-imposed over an aerial background may be accepted, if they are legible and clearly demonstrate all impacts to waters of the US. Project Plans and drawings shall include:
 - i. A vicinity map with the location of the proposed activity so that geographic coordinates (decimal degrees) can be verified.
 - ii. A top view (plan view) drawing showing the property, its owner(s), length and width dimensions of all structures and their relationship to adjacent property lines and existing structures and the distance from the end of the structure(s) to the centerline of a road or other fixed reference point.
 - iii. Top view and cross-section drawings depicting the proposed distance the structure will extend into the water body as measured from the Mean High Water Line (MHWL) in tidal areas and the Ordinary High Water Mark (OHWM) in non-tidal areas.
 - iv. A cross-section drawing that depicts the height of the top of the deck above

the MHWL or OHWM, depth of water at the beginning of the terminal structure as measured from the MHWL or OHWM, presence or absence of vegetation on bottom, and height and length of all structures.

- v. The waterfront width of the upland property.
 - vi. The distance from shore to the top edge cut of any navigational channel in the immediate project vicinity.
 - d. An aquatic resource delineation map that clearly illustrates the locations and boundaries of any special aquatic sites (i.e. wetlands, mudflats, vegetated shallows, coral reefs, and riffle and pool complexes), including oyster reefs, located within 50 feet of any portion of the proposed project. Note: In accordance with Texas Natural Resource code, an oyster reef is identified as a natural or artificial formation that is: composed of oyster shell, live oysters, and other living or dead organisms; discrete, contiguous, and clearly distinguishable from scattered oyster shell or oysters; and is located in an intertidal or subtidal area.
 - e. *Historic Properties*: If the proposed 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, the PCN must state which historic property might have the potential to be affected by the proposed activity and/or include a vicinity map indicating the location of the historic property.
 - f. If applicable, for piers requiring accessibility in accordance with the ADA and TAS, provide a statement from the applicant's physician confirming that the structure must be constructed in compliance with the ADA/TAS and specifying the required pier/walkway width.
 - g. A statement that the work will be conducted in compliance with the terms and conditions of this permit and any additional special conditions issued with the project-specific verification.
- 3. Completeness Review:** Upon receipt of the application by the appropriate agency, the PCN will be reviewed for completeness. If the PCN is determined to be incomplete, the GLO or SWG, as appropriate, will notify the applicant within 30 calendar days of receipt of the PCN to request the additional information necessary to make the PCN complete. The applicant will have a 30-day period to gather and submit the requested information. If the requested information is not submitted in full within the 30-day additional information request period, the application will be withdrawn without prejudice for the applicant's right to reapply at a later date. However, once the application has been withdrawn, the GLO or SWG will only reinstate review of the PCN if the applicant provides all of the information previously requested.
- 4. Written Verification:** Once the PCN is determined complete, the applicant will be notified of the verification of a qualifying application in writing. Written verification by GLO or SWG, as specified herein, is required prior to commencing activities authorized by this permit.

D. GENERAL CONDITIONS:

- 1. Navigation:** No activity authorized by this permit may cause more than a minimal adverse effect on navigation.
- a. Any safety lights and signals prescribed by the US Coast Guard, through regulation or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the US.
 - b. Any bright lights that may be erected on the permitted structure shall not be directed toward a navigable waterway in a manner that could hinder nighttime

users of this waterway.

- c. The permittee understands and agrees that, if future operations by the US 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 US. No claim shall be made against the US on account of any such removal or alteration.

2. **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.
3. **Threatened and Endangered Species Conservation Measures:** No activity is authorized under this permit 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 the Federal ESA, or which will directly or indirectly destroy or adversely modify the critical habitat of such species.
 - a. Construction activities will occur during daylight.
 - b. Construction activities will comply with the relevant avoidance measures outlined in the May 2021 *Vessel Strike Avoidance Measures*, NOAA Fisheries Southeast Regional Office and the May 2021 *Protected Species Construction Conditions*, NOAA Fisheries Southeast Regional Office. Including:
 - All vessels will operate at "Idle/No Wake" speeds in the following circumstances:
 - while in any project construction areas, and
 - while in water depths where the draft of the vessel provides less than 4 ft of clearance from the bottom.
 - Construction activities will cease immediately if sea turtles, manta rays, manatees, or other ESA-listed species are sighted and all vessels associated with the project will operate at "Idle Speed/No Wake". Construction will not resume until no sea turtles, manta rays, or other ESA-listed species have been sighted for at least 20 minutes.
 - All interactions with giant manta ray will be reported to the NMFS at 727-824-5312 or by E-mail at: manta.ray@noaa.gov.
 - c. Construction is prohibited in designated critical habitat for piping plover and red knot.
 - d. Construction that would result in impacts to shorebird foraging habitat (i.e., intertidal beaches, sand, mud, and/or algal flats, between annual low tide and annual high tide) and/or shorebird roosting habitat (i.e., unvegetated or sparsely vegetated dune systems, sand, mud, and/or algal flats above high tide) are subject to the following:
 - Vehicle and foot traffic should not occur within 150 feet from these piping plover and red knot birds. Since piping plovers and red knots may occur in mixed flocks, including large flocks of mixed shorebirds. If birds in the area are repeatedly being flushed (i.e., flying away), then you are too close and need to back away.
 - Avoid driving up and down the shoreline to the maximum extent practicable by designating access points and travel corridors away from known foraging and roosting areas and keep all personnel, vehicles, and equipment within

those designated corridors to minimize disturbance to birds and shoreline topographic alterations. Personnel and vehicles should maintain slow speeds to avoid disturbing birds. Use low-pressure tire (10 psi) or tracked vehicles (e.g., ATVs, dozers, etc.) or consult with a qualified biologist to avoid and minimize beach topographic alterations.

- Staging areas and waste collection areas should be located to avoid beaches, dunes, inlets, and ephemeral tidal pools. Maintain a clean worksite and remove all trash and work-related debris on a daily basis.
 - e. Construction in estuarine and palustrine persistent wetlands, which will be assumed to provide foraging and roosting habitat for Black Rail unless approved surveys have been conducted, are subject to the following:
 - Haying, mowing or other mechanical treatment (i.e. discing) of the wetlands associated with construction of the pier is prohibited.
 - Equipment, material staging, and access routes shall not be placed in wetlands.
 - f. All interactions with a manatee will be reported to the Texas Marine Mammal Stranding Network at 1-800-9MAMMAL.
 - g. For construction in Aransas, Copano, St. Charles, Mesquite, San Antonio, Espiritu Santo, and Matagorda Bays or any secondary or tertiary bay of these systems are prohibited from October 15th to April 15th to protect whooping cranes.
- 4. Cultural and Historic Resources:** All activities proposed under this general permit shall be reviewed for cultural resources requirements, and a determination will be made whether the proposed activity has the potential to cause effects on historic properties. In cases where it is determined that the activity may have the potential to cause effects to properties listed or those eligible for listing in the National Register of Historic Places, or currently unidentified due to lack of investigation, the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. In such cases, the following procedure applies:
- a. The prospective permittee will be notified that Section 106 consultation is required.
 - b. Consultation will be initiated with the Texas Historic Preservation Officer (SHPO) (Texas Historical Commission (THC)).
 - c. Site-specific conditions may be implemented to ensure avoidance of these resources by a sufficient margin, as designated by the GLO/Corps and the THC.
 - d. If avoidance of the potential historic property is not feasible, further archeologic al investigations shall be required prior to authorization.
 - e. The activity is not authorized under this permit until the permittee has been notified that the activity has no potential to cause effects to historic properties and/or that Section 106 consultation has been completed.
- 5. 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 must immediately notify the SWG 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, State, and Tribal 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. No work shall continue until all required coordination has been completed and written notification by the Corps has been provided.
- 6. Tribal Rights:** No activity, or its operation, authorized under this permit may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

- 7. 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 1, Chapter 26, Subchapter B
- 8. Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for ensuring that an action authorized by this permit complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the FWS 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 Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
- 9. Equipment:** All construction equipment shall be cleaned prior to entering the project area and cleaned before leaving the project area in order to prevent the spread of invasive species. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 10. Construction Safety:** No work shall be performed until 30 days after the permittee notifies the owner(s) or operator(s) of any marked utilities in the area of the authorized structure.
- 11. Proper Maintenance:** All structures authorized by this permit 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.
 - a. 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 13 of this permit.
 - b. Should the permittee cease to maintain the authorized structure for its authorized purpose and use, the permittee shall remove all components of the remaining structure and restore the area to pre-project conditions.
 - c. Projects located adjacent to a Federal Channel will be exposed to both private and commercial vessel traffic. By accepting this permit the permittee acknowledges and agrees that the Government will not be held responsible for personal injury or other damages caused to structures or any personal or real property located within the Federal Maintenance right-of-way. Potential damages include, but are not limited to wakes, undercutting, erosion, barge/vessel/dredge damage, vessel collisions, and/or wave action.
- 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 Corps 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 the permit and the associated liabilities associated with

compliance with its terms and conditions, have the transferee sign and date.

E. 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 SWG 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 which 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.

FOR THE DISTRICT ENGINEER:

**ROBERT W. HEINLY
CHIEF, POLICY ANALYSIS BRANCH
REGULATORY DIVISION, GALVESTON DISTRICT
FOR COLONEL TIMOTHY R. VAIL**

DATE