



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

Re-Issuance

SWG-2009-00123

10 October 2024

12 November 2024

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF PUBLIC NOTICE: To inform you that the Galveston District, in cooperation with the Harris County Flood Control District (HCFCD), is proposing to reissue the Regional General Permit (RGP) for which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Harris County Flood Control District (HCFCD)
13105 Northwest Freeway, Suite 60
Houston, Texas 77040
POC: Denise Wade
Telephone: 346-286-4050
Email: denise.wade@hcfcd.hctx.net

LOCATION: The proposed Regional General Permit would be valid in all waters of the United States, including wetlands and tidal areas, maintained as stormwater facilities under the jurisdiction of the Harris County Flood Control District, in Harris County, Texas.

PROJECT DESCRIPTION: HCFCD proposes reissuance of their RGP for maintenance and emergency repair of stormwater management facilities, in Harris County, Texas. This public notice is being issued based on information furnished by the applicant.

RGP Purpose

The Harris County Flood Control District was created by the Texas Legislature in 1937 and given the responsibility of overseeing rivers, streams, tributaries and flood waters "for domestic, municipal, flood control, irrigation and other useful purposes." It originally served as the local partner for U.S. Army Corps of Engineers flood control projects. HCFCD has successfully partnered with the Corps on many projects. HCFCD is now engaged in many other facets of reducing flood risk in the public interest. The mission of

HCFCF is to “provide flood damage reduction projects that work, with appropriate regard for community and natural values.” To effectively execute this mission, the HCFCF devises flood damage reduction plans, implements the plans, and maintains an infrastructure of more than 1,500 channels totaling about 2,500 miles in length. The maintenance of this infrastructure often requires activities regulated by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

The reissuance of the existing RGP would allow HCFCF to continue to meet its stated mission and provide authorization of maintenance activities that are substantially similar in nature and cause only minimal direct and cumulative environmental effects. The purpose of this RGP is to achieve the following objectives:

- Address damage and failures in a timely manner to reduce their size, minimize adverse environmental effects, and reduce the amount and frequency of suspended solids that may be subsequently discharged to receiving streams.
- Implement maintenance and emergency repair projects with long term solutions using a watershed approach that effectively reduces the adverse direct, indirect, and cumulative environmental effect of repeat work.
- Establish a consistent, predictable, and simplified approach to certain categories of work known to have little individual or cumulative effect.
- Reduce the permitting backlog and workload of both the HCFCF and the Corps.
- Reduce cost by streamlining the permitting process and reducing repetitive work.
- Implement a consistent and predictable maintenance schedule.
- Comply with requirements established by project cooperation agreements, Corps permits, and O&M manuals.

Currently, HCFCF seeks authorization of maintenance and emergency repair projects on a case-by-case basis under the existing RGP. The need for an RGP is demonstrated by the following:

- Maintenance projects are often delayed or scaled back beyond their optimal implementation schedule due to the highly variable timeframe of obtaining authorization under existing permitting mechanisms.
- The delays result in the worsening of erosion and increased risk of flooding.
- Continued or increased erosion during the permitting process adversely affects surface water quality and ultimately increases the cost of repairs.

Impacts to Waters

The intent of this RGP is to reauthorize all maintenance activities as defined herein, which restores damaged stormwater management facilities to a previous condition. The area of Waters of the U.S., including wetlands, will vary in terms of size and quantity. However, maintenance activities performed under earthen maintenance and erosion protection shall be subject to the following construction limits:

- Bank stabilization/erosion control maintenance will affect no more than 6,000 linear feet of stormwater management facilities.

- Man-made channels are exempt from this limitation.
- No mitigation is required for maintenance projects performed on previously authorized projects or congressionally authorized projects since mitigation was completed during the authorization or permitting of the original project. Projects that required no mitigation during the original project would not require mitigation for maintenance. No mitigation is required for Emergency Repair Activities.
- Stream Mitigation: After the completion of maintenance activities, where practicable, pilot channels within stormwater management facilities will be allowed to naturalize, attain sinuosity, and form pool and riffle complexes.

Definitions

The term “Emergency Repair” means the repair, rehabilitation, or replacement of structures or fills destroyed or damaged by storms, floods, fire or other discrete events.

The term “Maintenance” means the repair, rehabilitation, or replacement of stormwater management facilities, provided that the facility is not to be put to uses differing from those uses previously authorized, specified, or contemplated. Minor deviations may be required, such as changes in configuration, filled area, materials, and construction techniques, or updates to meet current codes or safety standards.

The term “practicable” means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

The term “stormwater management facilities” means features or infrastructure that function to regulate or convey stormwater runoff. These facilities may include, but are not limited to, channels, basins for stormwater detention and quality, components and appurtenances of the municipal separate storm sewer system, water quality enhancement features, transition control structures, weirs, spillways, and outfall and inlet structures.

Maintenance and Emergency Repair of Stormwater Management Facilities would be limited to the following activities:

1. Maintenance.

- a. Structural Maintenance. Activities including maintenance of various structural features such as concrete aprons, retaining walls, and outfalls.
- b. Earthen Maintenance. Activities including maintenance of features such as channel side slopes, back slope swales, and activities such as the repair of voids and slope failures.
- c. Post-flood Maintenance. Activities including removal of debris and other necessary maintenance following a discrete flooding event.

- d. Removal of Sediment and Debris (Desilting). Activities required for the removal of accumulated sediment and debris in the vicinity of and within existing structures and stormwater management facilities. These activities do not include deepening and/or widening of stormwater management facilities.
- e. Restoration of Existing Stormwater Management Facilities. Excavation or discharge of fill material into waters of the United States to restore the cross-sectional configuration of currently serviceable stormwater management facilities constructed in waters of the United States. These activities do not include deepening and/or widening of stormwater management facilities.
- f. Erosion Protection. Activities necessary for erosion control and prevention, provided the activity meets all of the following criteria:
 - No material is placed in excess of the minimum needed for erosion control and protection;
 - No material is placed to impair or impede surface water flow into or out of jurisdictional wetland area not covered by the work; and,
 - No material is placed in a manner that is expected to be eroded by normal or expected high flows.
- g. Temporary Construction, Access, and Dewatering. Temporary structures, work and discharges, including but not limited to cofferdams, linear transportation crossings, utilities, low-water crossings, and portable spans necessary for construction activities and access or dewatering of construction sites, provided that the associated primary maintenance activity is authorized under this permit and provided the following criteria are met:
 - Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding.
 - Fill must consist of materials, and be placed in a manner, that is not expected to be eroded by expected high flows.
 - Following completion of construction, all temporary structures, fill, or discharges shall be removed.
 - Cofferdams cannot be used to dewater jurisdictional wetlands to change their use.

2. Congressionally-authorized Project Maintenance. Maintenance of stormwater management facilities in accordance with regulations prescribed by the Secretary of the Army as established by any of the following: letters of assurance to USACE on each channel, project cooperation agreements, Operations and Maintenance Manuals, and Special or General Conditions of the original authorizing instrument or permit.

3. Emergency Repair Activities. This permit authorizes the repair, rehabilitation, or replacement of structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage.

- This permit authorizes activities associated with restoration and stabilization necessary to protect upland areas.
- The two-year limit may be waived by the District Engineer, provided HCFCD can demonstrate funding, contract, or other similar delays.
- The restoration of the damaged areas must not exceed the contours, or ordinary high-water mark (OHWM), that existed before the damage occurred.
- Minor excavation (desilting) is limited to the amount necessary to restore pre-existing bottom contours of the waterbody.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA.

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required as a portion of the proposed work area is located within the Coastal Zone. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

This is a proposed reissuance of a Regional General Permit. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist will review each individual application under this Regional General Permit to determine if impacts may occur to resources eligible for inclusion in the National Register of Historic Places. However, due to the nature of the proposed Regional General Permit, it is anticipated that most project areas will have been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

THREATENED AND ENDANGERED SPECIES: Each individual application under the proposed Regional General Permit will be evaluated to determine if any known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps, and other pertinent laws, regulations, and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to reissue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an EIS pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this public notice must reach this office on or before **12 November 2024**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2009-00123**, and should be submitted to:

Regulatory Division, CESWG-RDP
U.S. Army Corps of Engineers
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Galveston, Texas 77550
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS