

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT

Permittee: Harris County Engineering Department (HCED)

Regional General Permit (RGP) Number: SWG-2011-00629

Issuing Office: U.S. Army Corps of Engineers (USACE), Galveston District

Project Description: To discharge dredge or fill material resulting from maintenance and minor new construction activities associated with public infrastructure facilities under the jurisdiction of the HCED. The project will be conducted in accordance with the following work descriptions.

Project Location: Harris County, Texas

Definitions: (REMOVED TEXT “the term” from Definitions)

Definitions found at 33 Code of Federal Register (CFR) Parts 320-329 and 40 CFR Part 230 are applicable to this RGP and are incorporated by reference herein.

“Authorization:” Specific activities that qualify for this RGP may proceed, provided that the terms and conditions of the RGP are met. After determining that the activity complies with all applicable terms and conditions, HCED may assume an authorization under this RGP. This assumption is subject to the District Engineer's (DE) authority to determine if an activity complies with the terms and conditions of this RGP.

“Best Management Practices (BMPs):” Practicable policies, practices, procedures, or structures implemented to mitigate potential adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

“Compensatory mitigation:” The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or (in certain circumstances) preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts to waters of the U.S., including wetlands, which remain after all appropriate and practicable avoidance and minimization has been achieved.

“Ecological Reference:” A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under RGP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area that currently exists in the region where the proposed RGP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area to be restored, enhanced, or established as a result of the proposed RGP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area in the region.

“Emergency Repair:” The repair, rehabilitation, or replacement of structures or fill destroyed or damaged by storms, floods, fire, or other discrete events.

“High Tide Line (HTL):” The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gauges, or other suitable means that delineate the general height reached by a rising tide.

The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the “normal” or predicted reach of the tide due to the piling up of water against a coast by strong winds, such as those accompanying a hurricane or other intense storm.

“Loss of Waters of the United States (U.S.):” Waters of the U.S., including wetlands, which are filled or otherwise permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects can include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The loss of stream bed identified as a water of the U.S. includes the linear-foot length and width of stream bed that is filled or excavated. The anticipated acreage or linear foot length and width of loss of waters of the U.S., including wetlands, is a threshold measurement for determining whether a project may qualify for this RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the U.S., including wetlands, which are temporarily filled, flooded, excavated, or drained, but restored to original contours and elevations after construction, are not included in the acreage or linear foot measurement of loss of waters of the U.S., including wetlands. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act (CWA) are not considered when calculating loss of waters of the U.S., including wetlands.

“Maintenance:” The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Only the minimum volume of material needed to accomplish the purpose of each maintenance project would be discharged into waters of the U.S., including wetlands.

“Minor New Construction:” The creation of new public infrastructure facilities or the expansion of existing public infrastructure facilities. These projects are routine in nature, limited in scope, and cause minimal impact to the environment. Projects are designed to minimize impacts to waters of the U.S., including wetlands, to the maximum practicable extent.

“Ordinary High Water Mark (OHWM):” A line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

“Practicable:” Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

“Pre-Construction Notification (PCN)” A request submitted by the permittee to the USACE for confirmation that a particular activity is authorized by an RGP. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. A PCN may be required by the terms and conditions of an RGP, or by RGP General Conditions. A PCN may be voluntarily submitted in cases where PCN is not required and the permittee wants confirmation that the activity is authorized by RGP. A complete PCN submittal includes all forms required by the USACE and associated reports (e.g., wetland delineation report, threatened and endangered species report, cultural report, etc., as needed).

“Public Infrastructure Facilities” Features or infrastructure that function to provide the public with a safe and enhanced quality of life. These facilities may include, but are not limited to, roads, bridges, buildings,

drainage improvements, utilities, parks, channels, inline and offline storm water basins, water quality enhancement features, transition control structures, weirs, spillways, and outfall and associated intake structures.

“Special Aquatic Sites:” A subset of waters of the U.S. that are large or small areas possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. Special Aquatic Sites are defined as wetlands, mud flats, vegetated shallows, coral reefs, riffle, and pool complexes sanctuaries, and refuges (see 40 CFR 230.40 thru 230.45).

“Waterbody:” A jurisdictional water of the U.S. that, during a year with “normal” patterns of precipitation, has water flowing or standing above ground to the extent that an OHWM (see 33 CFR 328.3(e)) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

Other Definitions:

“Substantial Completion:” The time at which a contractor retained for a specific work product associated with a project considers the entire work ready for its intended use. The contractor shall notify HCED in writing that the entire work is Substantially Complete (except for items specifically listed as incomplete, if applicable) and request that the HCED engineer issue a certificate of “Substantial Completion”. Within a reasonable time thereafter, the parties to the contract shall make an inspection of the work to determine the status of completion. If the HCED engineer does not consider the work Substantially Complete, he or she will notify the contractor in writing giving the reasons thereby. If the HCED engineer considers the work Substantially Complete, he or she will prepare a certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a list of items to be completed or corrected before final payment, if applicable. The Substantial Completion certificate will allow a reasonable period for the contractor to complete the list of items. Upon satisfactory completion of all items, the contractor may apply for final payment. “Substantial Completion” is defined in the General Conditions of Harris County’s construction documents.

This RGP authorizes construction of public infrastructure facilities meeting the criteria described below and meeting the General Conditions and Special Conditions described in this RGP.

(3a) Structural and Earthen Maintenance and Erosion Protection. Activities including maintenance of various structural features such as concrete aprons, retaining walls, sheathing, outfalls, channel side slopes, back slope swales, and activities such as repair of voids and slope failures as well as removal of previously authorized structures and fills. Activities necessary for erosion control and prevention are included in this RGP, 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
- No material is placed in a manner that is expected to be eroded by normal or expected high flows

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7) [for the purpose of tracking] is required. No interagency review will be required for this activity.

(3b) Removal of Sedimentation and Debris. Activities include the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverts at road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure are authorized. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200-feet in any direction from the structure. This 200-foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and associated intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and associated intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the DE under separate authorization. The placement of riprap must minimize impacts to waters of the U.S. to the greatest practicable extent. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the DE.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). A Post-Construction Notification Form (HCED Form 2) is required to be submitted within **30 calendar days** of “Substantial Completion”. No interagency review will be required for this activity.

(3c) Temporary Structures, Fills, and Work. Authorizes temporary structures, fills, and work necessary to conduct the maintenance activity, **including the use of temporary mats**. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7[for the purpose of tracking]) is required. No interagency review will be required for this activity.

(7) Outfall and Associated Intake Structures. Activities related to the construction of outfall and associated intake structures, provided the effluent from the outfall is authorized, conditionally authorized, specifically exempted, or otherwise in compliance with regulations issued under the Texas Pollutant Discharge Elimination System (TPDES) Program. Only the minimum volume of material needed for construction of outfall and associated intake structures would be discharged into waters of the U.S., including wetlands.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

(12) Utility Line Activities. Activities required for the construction, maintenance, repair, and removal of utility lines, which includes storm and **sanitary sewer systems**, in waters of the U.S., including wetlands, provided the activity does not result in the loss of greater than 1.0 acre of non-tidal waters of the U.S., including wetlands, or 0.5 acre of tidal waters of the U.S., including wetlands. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, **storm sewer**, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio, **internet**, and television communication. The term “utility line” does not include activities that drain a water of the U.S., including wetlands, such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area. Discharges of dredged or fill material into all waters of the U.S., including wetlands, for utility line activities are authorized under this RGP, provided the activity meets all of the following criteria:

- This RGP authorizes the construction, maintenance, or repair of utility lines, which includes storm sewer and sanitary sewer systems and associated excavation, backfill, or bedding for the utility lines, provided there is no change in original contours.
- Material resulting from trench excavation may not be stored in any water of the U.S., including wetlands. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the U.S., including wetlands (e.g., backfilling with extensive gravel layers, creating a French drain effect).
- Any exposed slopes and stream banks must be stabilized upon substantial completion of the utility line crossing of each waterbody.
- This RGP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in all non-tidal waters of the U.S., including wetlands, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1.0 acre of waters of the U.S., including wetlands. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the U.S. to construct, maintain, or expand substation facilities.
- This RGP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the U.S., including wetlands, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.
- This RGP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in all non-tidal waters of the U.S., including wetlands, provided the total discharge from a single and complete project does not cause the loss of greater than 1.0 acre of non-tidal waters of the U.S., including wetlands. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads constructed above original contours and elevations in waters of the U.S., including wetlands, must be properly bridged or culverted to maintain surface flows.
- This RGP authorizes temporary structures, temporary mats, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.
- This RGP authorizes utility line maintenance and repair activities that do not qualify for the CWA Section 404(f) exemption of maintenance.
- This RGP shall not be used to authorize discharges within 500 feet of vegetated shallows and coral reefs; as defined by 40 CFR 230.43 and 230.44 respectfully. Examples include, but are not limited to: seagrass beds; oyster reefs; and coral reefs.

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if: (1) a Section 10 permit is required, (2) mechanized land clearing in forested wetlands are required in the right-of-way (ROW), (3) discharge results in a loss of greater than 1/10 acres, (4) the length of utility lines in waters of the U.S. exceeds 500 linear feet, (5) the utility line runs parallel to a stream bed within a jurisdictional area, (6) above grade permanent access roads exceed 500 linear feet of waters of the U.S., or (7) permanent access roads are constructed with impervious materials. Interagency review will be required if impacts to waters of the U.S., including wetlands, is greater than 0.5 acre. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds.

(13) Bank Stabilization. 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.
- The activity is no more than 750 feet in length along the bank using unlimited cubic yards of fill material.
- The activity will not exceed 1,500 feet in length along the bank as long as the fill materials have an average of one cubic yard per running linear foot placed along the bank below the plane of the OHWM or the HTL.
- The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the DE waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects.
- No material is placed to impair surface water flow into or out of jurisdictional wetland areas not covered by the work.
- No material is placed in a manner that is expected to be eroded by normal or expected high flows.
- The activity is not a stream channelization activity.

This RGP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. Invasive plant species shall not be used for bioengineering or vegetative bank stabilization.

This RGP also authorizes maintenance activities such as replacing and repairing previously authorized bank stabilizing materials. Activities authorized by this RGP are limited to those resulting from maintenance activities that are conducted within the maintenance baseline. The “maintenance baseline” is defined as the physical characteristics collected and/or identified during field delineations and surveys (e.g., depth, width, length, location, and/or configuration, etc.)..

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if 1) greater than 500 linear feet of bank will be stabilized, 2) greater than 1 cubic yard per running foot along the OHWM or the HTL is proposed, or 3) discharge into special aquatic sites is proposed. Interagency review will be required if impacts to waters of the U.S. are greater than 500 linear feet or will involve the discharge of greater than an average of one cubic yard per running linear foot along the bank below the OHWM or the HTL. A Non-Notifying Form (HCED Form 7[for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds.

(14) Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, sidewalks, highways, trails, and bridges) in waters of the U.S., including wetlands. Any stream channel modification, including erosion protection, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1.0 acre of non-tidal waters of the U.S., including wetlands. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 0.5 acre of waters of the U.S., including wetlands. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

Temporary structures, fills, and work necessary to construct the linear transportation project are authorized by this RGP. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated as appropriate.

This RGP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangers.

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if greater than 1/10 acres of fill is proposed or discharge into special aquatic sites is proposed. Interagency review will be required if impacts to waters of the U.S., including wetlands, is greater than 0.5 acre in non-tidal waters or greater than 0.33 acre in tidal waters. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds.

(15) U.S. Coast Guard (USCG) Approved Bridges. Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the U.S., including wetlands, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills, provided such discharges have been authorized by the USCG as part of the bridge permit. Only the minimum volume of material needed for construction would be discharged into waters of the U.S., including wetlands.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) is required. No interagency review will be required for this activity.

(18) Minor Discharges. Minor discharges of dredged or fill material into all waters of the U.S., including wetlands, provided the activity meets all of the following criteria:

- The quantity of discharged material and the volume of area excavated do not exceed 100-cubic yards below the plane of the OHWM or the HTL, or the discharge will not cause the loss of more than 0.5 acre of waters of the U.S., including wetlands (whichever is greater).
- The discharge is not placed for the purpose of a stream diversion.

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if greater than 10 cubic yards of fill are discharged below the plane of the OHWM or the HTL or discharge into special aquatic sites is proposed. Interagency review will be required if impacts to waters of the U.S. are greater than 25 cubic yards below the plane of the OHWM or HTL or if greater than 1/10 acre of waters of the U.S. is impacted.

(19) Minor Dredging. Minor dredging of no more than 100 cubic yards below the plane of the OHWM or the mean high water mark from navigable waters of the U.S., including wetlands (i.e., section 10 waters), is authorized. This RGP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), or anadromous fish spawning areas. The effluent from dredged materials that are placed into upland contained disposal areas shall not exceed a Total Suspended Solids (TSS) concentration of 300 mg/L, unless a site specific limit has been approved by the Texas Commission on Environmental Quality (TCEQ). All dredged material must be disposed of in areas that have no waters of the U.S. Placement of dredged material into a water of the U.S. would require a separate verification/authorization.

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if greater than 25 cubic yards of fill are discharged below the plane of the OHWM or the HTL. Interagency review will be required

if impacts to waters of the U.S. are greater than 25 cubic yards below the plane of the OHWM or HTL. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds.

(23) Approved Categorical Exclusions (CE). Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another federal agency or department where:

- The federal agency has determined the activity is categorically excluded from environmental documentation required by the National Environmental Policy Act (NEPA), as it would not have individually or cumulatively resulted in significant effects on the human environment.
- The USACE has concurred with that federal agency's determination.
- The approved categorical exclusions are those approved by the U.S. Department of Transportation (USDOT), including agencies such as the Federal Highway Administration (or their designated state agency partners) and the USCG.

Notification. A PCN is not required, except for certain activities stated in Regulatory Guidance Letter (RGL) 05-07. No interagency review will be required for this activity. A Non-Notifying Form (HCED Form 7[for the purpose of tracking]) will be required if a PCN is not required.

(25) Structural Discharges. These include discharges of concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, walkways, and mooring cells. The discharge includes excavation of bottom material within the form prior to the discharge of the fill material into the form. This does not authorize filling structural members that would support buildings, building pads, homes, house pads, parking areas, storage areas, and other such structures. The structure itself may require a separate Section 10 Permit if located in navigable waters of the United States.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds. No interagency review will be required for this activity.

(27) Aquatic Habitat Restoration, Establishment, and Enhancement Activities. Activities in waters of the U.S., including wetlands, associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas and the restoration and enhancement of non-tidal streams and other non-tidal open waters, provided those activities result in net increases in aquatic resource functions and services are authorized by this RGP.

To the extent that a USACE permit is required, activities authorized by this RGP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over non-vegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or disking for seed bed preparation, and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; the use of temporary mats, and other related activities. Only native plant species should be planted at the site.

This RGP authorizes undersized culverts, fords, and grade control structures. To be authorized by this RGP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological

reference may be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region, or based on a conceptual model developed from a regional ecological knowledge of the target aquatic habitat type or riparian area.

This RGP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this RGP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This RGP does not authorize stream channelization. This RGP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Compensatory mitigation is not required for activities authorized by this RGP since these activities must result in net increases in aquatic resource functions and services.

For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (USFWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this RGP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this RGP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This RGP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a Section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity the permittee or the appropriate Federal or state agency must notify the DE and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the USACE regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this RGP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

(31) Maintenance of Existing Flood Control Facilities. Discharges of dredged or fill material resulting from activities associated with the maintenance of existing flood control facilities, including debris basins, retention/detention basins, levees, and channels that: (1) were previously authorized by the USACE by Individual Permit (IP), general permit, by 33 CFR 330.3, or did not require a permit at the time they were constructed, or (2) were constructed by the USACE and transferred to a non-Federal sponsor for operation and maintenance. Activities authorized by this RGP are limited to those resulting from maintenance activities that are conducted within the maintenance baseline. The “maintenance baseline” is defined as the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized in existing permits, subject to any case-specific conditions required by the DE. The DE will approve the maintenance baseline based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels, but which are part of the facility.

Discharges of dredged or fill materials associated with maintenance activities in flood control facilities in any watercourse that have previously been determined to be within the maintenance baseline are authorized under this RGP. Only the minimum volume of material needed for construction would be discharged into waters of the U.S., including wetlands. This RGP does not authorize the removal of sediment and associated vegetation from natural water courses except when these activities have been included in the maintenance baseline. All dredged material must not be placed in a water of the U.S., including wetlands, and proper siltation controls must be used.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) is required. No interagency review will be required for this activity.

(33) 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, access fill, or dewatering of construction sites. Only the minimum volume of material needed for construction would be discharged into waters of the U.S., including wetlands. The following criteria must be met for activities authorized under this RGP:

- Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding.
- Fill must consist of non-highly erodible materials, and be placed in a manner, that is not expected to be eroded by expected high flows.
- Following substantial completion of construction, temporary structures, fill, or discharges shall be removed to upland areas, dredged materials must be returned to their original location, and the affected area must be returned to pre-construction grade.
- The affected area must also be revegetated as appropriate. A restoration plan must be included with the PCN that includes discussion of how all temporary fills and structures will be removed and the area restored to pre-construction conditions.
- Cofferdams cannot be used to dewater jurisdictional wetlands to change their use.
- Structures left in place after construction is completed require a separate Section 10 permit if located in navigable waters of the U.S.

Notification. Only activities within Section 10 waters require a PCN (HCED Form 1). The PCN must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions or conditions as shown on associated permit(s). A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) is required if a PCN is not required. No interagency review will be required for this activity.

(35) Maintenance Dredging of Existing Basins. The removal of accumulated sediment for maintenance of existing marina basins, access channels to marinas or boat slips, and boat slips to previously authorized depths or controlling depths for ingress/egress, whichever is less. All dredged material must be deposited and retained in an area that has no waters of the U.S. unless otherwise specifically approved by the DE under separate authorization. Proper sediment controls must be used for the disposal site. (Authority: Section 10). The “maintenance baseline” is defined as the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized in existing permits.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) is required. No interagency review will be required for this activity.

(36) Boat Ramps. Boat ramp activities include the construction, maintenance, repair, and removal of single or double boat ramps and associated facilities in waters of the U.S., including wetlands. Activities required for the construction of a single boat ramp, provided the activity meets all of the following criteria:

- The activity into all tidal and non-tidal waters of the U.S., except special aquatic sites and wetlands, will involve the discharge of no more than 150 cubic yards of concrete, rock, crushed stone, or gravel into forms, or in the form of pre-cast concrete planks or slabs.
- The boat ramp does not exceed 20 feet in width. The boat ramps will be designed to minimize and avoid impacts to the environment to the greatest extent practicable.
- The base material is crushed stone, gravel, or other suitable material.
- The excavation and/or dredging required is limited to the minimum area necessary for site preparation and all excavated material is removed to uplands.
- No material is placed in special aquatic sites, with the exception of authorized wetlands.
- The use of asphalt below the OHWM is not authorized.
- The use of unsuitable material that is structurally unstable is not authorized.

Activities required for the construction of a double boat ramp, provided the activity meets all of the following criteria:

- The activity into all tidal and non-tidal waters of the U.S., except special aquatic sites and wetlands, will involve the discharge of no more than 300 cubic yards of concrete, rock, crushed stone, or gravel into forms, or in the form of pre-cast concrete planks or slabs.
- The boat ramp does not exceed 40 feet in width, unless the criterion is waived in writing by the DE.
- The boat ramps will be designed to minimize and avoid impacts to the environment to the greatest extent practicable.
- The base material is crushed stone, gravel, or other suitable material.
- The excavation and/or dredging required is limited to the minimum area necessary for site preparation and all excavated material is removed to uplands.
- No material is placed in special aquatic sites, with the exception of authorized wetlands.
- The use of asphalt below the OHWM is not authorized.
- The use of unsuitable material that is structurally unstable is not authorized.

Any stream channel modification, including erosion protection, is limited to the minimum necessary to construct or protect the boat ramp project; such modifications must be in the immediate vicinity of the project.

TEXT REMOVED: A Section 10 Permit is required if dredging is required to access boat ramp.

Temporary structures, fills, and work necessary to construct the boat ramp project are authorized by this RGP. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated as appropriate.

Notification. Activities authorized under this RGP require a PCN (HCED Form 1) if: (1) the discharge into waters of the U.S. exceeds 50 cubic yards, or (2) the boat ramp exceeds 20 feet in length. If dredging in navigable waters of the U.S., including wetlands, is necessary to provide access to the boat ramp, that dredging may be authorized by a **NWP, IP, or another RGP**. Interagency review will be required if impacts to waters of the U.S. are greater than 50 cubic yards below the plane of the OHWM or HTL or greater than 20 feet in width. A Non-Notifying Form (HCED Form 7[for the purpose of tracking]) will be required if proposed activity impacts are below notification thresholds.

(37) Emergency Repair Activities. Discharge of dredged or fill material for 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. In general, the permittee should wait until the DE issues an RGP verification or **30 calendar days** have passed before proceeding with the emergency repair activity. However, in cases where there is an unacceptable hazard to life or a significant loss or property or economic hardship will occur, the emergency repair activity may proceed immediately and the DE will consider the information in the pre-construction notification and any comments received as a result of agency coordination to decide whether RGP (37) authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. The two-year limit may be waived by the DE, provided HCED can demonstrate funding, contract, or other similar delays. This RGP authorizes activities associated with restoration and stabilization necessary to protect upland areas. The restoration of the damaged areas must not exceed the contours, or 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.

Notification. Except in cases where there is an unacceptable hazard to life or significant loss of property or economic hardship will occur, **the permittee must submit a PCN (HCED Form 1)** to the DE prior to commencing the **repair** activity. No interagency review will be required for this activity.

(38) Cleanup of Hazardous and Toxic Waste. Specific activities within all waters of the U.S., including wetlands, required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a **federal, state, or local** government agency with established legal or regulatory authority are authorized by this RGP. Court ordered remedial action plans or related settlements are also authorized by this RGP. This RGP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. Only the minimum volume of material needed for cleanup of hazardous and toxic waste would be dredged from or discharged into waters of the U.S., including wetlands.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

Note: Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by Environmental Protection Agency (EPA), are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

(39) REMOVED TEXT: Commercial and Institutional Developments. Discharges of dredged or fill material into non-tidal waters of the U.S. for the construction or expansion of 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, helipads, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of institutional developments include government office buildings, judicial buildings and facilities, public works buildings, libraries, and county-owned/operated non-commercial healthcare facilities. The construction of new golf courses and new ski areas are not authorized by this RGP.

The discharge must not cause the loss of greater than 1-acre of non-tidal waters of the U.S. and loss of greater than 0.5-acre of tidal waters of the U.S. for each single and complete project. The discharge must not cause the loss of more than 500 linear feet of stream bed, unless for intermittent and ephemeral stream beds the DE waives the 500-linear foot limit by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects. The loss of stream bed plus any other losses of jurisdictional wetlands and waters caused by the RGP activity cannot exceed 1/2-acre. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

(41) Reshaping Existing Drainage Ditches. Discharges of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the U.S., including wetlands, for the purpose of improving water quality by re-grading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. The reshaping of the ditch cannot increase drainage capacity beyond the original as-built capacity nor can it expand the area drained by the ditch as originally constructed. Only the minimum volume of material needed for construction would be discharged into waters of the U.S., including wetlands. Compensatory mitigation is not required because the work is designed to improve water quality.

Relocation of drainage ditches constructed in waters of the U.S., including wetlands, is not authorized by this RGP; the location of the centerline of the reshaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch. Stream channelization or stream relocation projects are not authorized by this RGP.

Notification. A PCN is not required for this activity. A Non-Notifying Form (HCED Form 7 [for the purpose of tracking]) is required. No interagency review will be required for this activity.

(42) Recreational Facilities. Discharges of dredged or fill material into all waters of the U.S., including wetlands, for the construction or expansion of recreational facilities. Examples of recreational facilities that may be authorized by this RGP include, but are not limited to, playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, horse paths, nature centers, and campgrounds (excluding recreational vehicle parks). This RGP also authorizes the construction or expansion of small support facilities and ancillary facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity, but it does not authorize the construction of hotels, restaurants, racetracks, stadiums, arenas, or similar facilities. The discharge must not cause the loss of greater than 1.0 acre of non-tidal waters of the U.S. or 0.5-acre of tidal waters of the U.S., including wetlands, including the loss of no more than 500 linear feet of stream bed.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). Interagency review

will be required if impacts to waters of the U.S., including wetlands, is greater than 0.5 acres in non-tidal waters or greater than 300 linear feet of streambed are impacted.

(43) Stormwater Management Facilities. Discharges of dredged or fill material into all non-tidal waters of the U.S., including wetlands, for the construction and maintenance of stormwater management facilities, including the excavation of stormwater ponds/facilities, detention basins, and retention basins; the installation and maintenance of water control structures, outfall structures, and emergency spillways; and the maintenance dredging of existing stormwater management ponds/facilities and detention and retention basins. The discharge must not cause the loss of greater than 1.0 acre of non-tidal waters of the U.S., and the loss of no more than 300 linear feet of stream bed, but DE can waive for intermittent and ephemeral streams. This RGP does not authorize discharges into non-tidal wetlands adjacent to tidal waters. This RGP does not authorize discharges of dredged or fill material for the construction of new stormwater management facilities in perennial streams. This RGP does not authorize impacts to tidal or non-tidal wetlands adjacent to tidal waters. No discharge into perennial streams is authorized.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). Interagency review will be required if impacts to waters of the U.S., including wetlands, is greater than 0.5-acre in tidal waters of the U.S. including wetlands or greater than 300 linear feet of streambed are impacted.

(45) Repair of Uplands Damaged by Discrete Events. Authorizes discharges of dredged or fill material, including dredging or excavation, into all waters of the U.S. for activities associated with the restoration of upland areas damaged by storms, floods, or other discrete events. This NWP authorizes bank stabilization to protect the restored uplands. The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or OHWM, that existed before the damage occurred. The DE retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this NWP. The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the DE. This NWP cannot be used to reclaim lands lost to normal erosion processes over an extended period. This NWP does not authorize beach restoration or nourishment. Minor dredging is limited to the amount necessary to restore the damaged upland area and should not significantly alter the pre-existing bottom contours of the waterbody.

The uplands themselves that are lost as a result of a storm, flood, or other discrete event can be replaced without a section 404 permit, if the uplands are restored to the ordinary high water mark (in non-tidal waters) or high tide line (in tidal waters).

Notification. The permittee must submit a PCN (HCED Form 1) to the DE prior to commencing the repair activity. The PCN should include documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration. (Sections 10 and 404).

(46) Discharges in Ditches. Discharges of dredged or fill material into non-tidal ditches that are: (1) constructed in uplands, (2) receive water from an area determined to be a water of the U.S., including wetlands, prior to the construction of the ditch, (3) divert water to an area determined to be a water of the U.S., including wetlands, prior to the construction of the ditch, and (4) are determined to be waters of the U.S., including wetlands. The discharge must not cause the loss of greater than 1.0 acre of non-tidal waters of the U.S., including wetlands. This RGP does not authorize discharges of dredged or fill material into ditches constructed in or other waters of the U.S., or in streams that have been relocated in uplands. This RGP does not authorize discharges of dredged or fill material that increase the capacity of the ditch and drain those areas determined to be waters of the U.S. prior to the construction of the ditch.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

(99) Piers and Boathouses. Discharges of dredged or fill material into all navigable waters of the U.S. to construct, maintain, repair, or remove docks and piers including, but not limited to the following related features: boat hoists, boat shelters with open sides, stairways, walkways, mooring pilings, and dolphins. Activities required for the construction of boat ramps, provided the activity meets all of the following criteria:

- The piers and boathouses will be designed to minimize and avoid impacts to the environment to the greatest extent practicable.
- The excavation and/or dredging required is limited to the area necessary for site preparation and all excavated material is removed to the upland.
- No material is placed in special aquatic sites, with the exception of authorized wetlands.
- The use of unsuitable material that is structurally unstable is not authorized.

Notification. All activities authorized under this RGP require a PCN (HCED Form 1). No interagency review will be required for this activity.

Type and Amount of Materials Being Discharged:

The amount and type of materials discharged or excavated during the activities described above would be determined on a case-by-case basis for each project. Only the minimum volume of material needed to accomplish the purpose of each project would be used. The limits of discharge for each of the activities listed in this RGP are identified in Table 1 below, if applicable. The intent of this RGP is to authorize all maintenance and minor new construction activities defined herein.

Table 1: Discharge/Dredging Limits of Regional General Permit for Maintenance and Minor New Construction of Public Infrastructure Facilities Located in Harris County, Texas.

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
3a	Structural & Earthen Maintenance and Erosion Protection	None ¹	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	No	Section 10 Section 404
3b	Removal of Sediment and Debris	200 feet from structure	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours PRIOR to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	No	No	Section 10 Section 404
3c	Temporary Structures, Fills, and Work	None ¹	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	No	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statuary Authority
7	Outfall and Inlet Structures	None ¹	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statuary Authority
12	Utility Line Activities	<ul style="list-style-type: none"> •1 acre in non-tidal waters of the U.S., including wetlands •0.5 acre in tidal waters of the U.S., including wetlands 	<p>A PCN is required if:</p> <ul style="list-style-type: none"> •A Section 10 Permit is required •Mechanized land clearing in forested wetlands are required in the right-of-way •Discharge results in a loss of greater than 1/10 acre •Utility lines length is greater than 500 linear feet of waters of the U.S. •Utility line runs parallel to a stream bed within a jurisdictional area •Above grade permanent access roads are greater than 500 linear feet of waters of the U.S. •Permanent access roads are constructed with impervious materials 	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: <ul style="list-style-type: none"> •Greater than 0.5-acre 			

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statuary Authority
13	Bank Stabilization	<ul style="list-style-type: none"> •750 feet along the bank with use of unlimited amount of fill material, or •1,500 linear feet along the bank as long as an average of 1 cubic yard per running foot of fill material is discharged 	<p>A PCN is required if:</p> <ul style="list-style-type: none"> • Greater than 500 feet along the bank • Greater than 1 cubic yard per running foot •Discharges into Special Aquatic Sites⁴ 	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 2</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	<p>Yes. If impacts are:</p> <ul style="list-style-type: none"> •Greater than 500 feet along the bank •Greater than 1 cubic yard per running foot 	<p>Yes, only if PCN required</p>	<ul style="list-style-type: none"> •None for previously authorized Federal projects. •Mitigation is required for non-federal projects³. 	<p>Section 10 Section 404</p>

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
14	Linear Transportation	<ul style="list-style-type: none"> •1-acre in non-tidal wetlands •0.5-acre in tidal wetlands 	PCN required if: <ul style="list-style-type: none"> •Greater than 1/10 acre of fill is proposed •Discharges into Special Aquatic Sites⁴ 	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: <ul style="list-style-type: none"> •Greater than 0.5-acre in non-tidal waters or •Greater than 0.33-acre in tidal waters 	Yes, only if PCN required	Yes ³	Section 10 Section 404
15	U.S. Coast Guard Approved Bridges	None ¹	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	No	Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
18	Minor Discharges	<ul style="list-style-type: none"> •100 cubic yards, or •0.5-acre Whichever is greater.	PCN required if: <ul style="list-style-type: none"> •Greater than 10 cubic yards are discharged below the plane of the OHWM/HTL •Discharges into Special Aquatic Sites⁴ 	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: <ul style="list-style-type: none"> •Greater than 25 cubic yards discharged below plane of OHWM/HTL, or •Greater than 0.10-acre of waters of the U.S. 	Yes, only if PCN required	Yes ³	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
19	Minor Dredging	100 cubic yards	PCN required if: • Greater than 25 cubic yards discharged below plane of OHWM	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: •Greater than 25 cubic yards discharged below plane of OHWM/HTL,	No	No	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
23	Approved Categorical Exclusions	None ¹	PCN not required, <u>except</u> for certain activities stated in RGL 05-07 ⁵ .	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes, only if PCN required	Yes ³	Section 10 Section 404
25	Structural Discharges	None ¹	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	Yes ³	Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities	None ¹	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404
31	Maintenance of Existing Flood Control Facilities	Maintenance baseline of previously authorized activities or approved by the DE.	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	No	No	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
33	Temporary Construction, Access, and Dewatering	None ¹	Only activities within Section 10 waters require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404
35	Maintenance Dredging of Existing Basins	Maintenance baseline of previously authorized activities or approved by the DE.	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	No	Section 10

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statuary Authority
36	Boat Ramps	<ul style="list-style-type: none"> •150 cubic yards for a single boat ramp •300 cubic yards for a double boat ramp •20 foot width for a single boat ramp •40 foot for a double boat ramp 	PCN required if impacts are: <ul style="list-style-type: none"> • Greater than 50 cubic yards or • Greater than 20 foot width 	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •A Non-Notifying Form (<i>HCED Form 7</i>) must be submitted if a PCN is not required. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: <ul style="list-style-type: none"> •Greater than 50 cubic yards or •Greater than 20 foot width 	Yes	Yes ³	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
37	Emergency Repair Services	None ¹	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	No	No	Section 10 Section 404
38	Cleanup of Hazardous and Toxic Wastes	None ¹	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
39	Institutional Developments	<ul style="list-style-type: none"> •1 acre in non-tidal waters of the U.S., including wetlands •0.5 acre in tidal waters of the U.S., including wetlands 	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404
41	Reshaping Existing Drainage Ditches	None ¹	PCN not required. USACE Non-notifying Form (<i>HCED Form 7</i>)	None	No	No	No	Section 404
42	Recreational Facilities	<ul style="list-style-type: none"> •1 acre in non-tidal waters of the U.S., including wetlands •0.5 acre in tidal waters of the U.S., including wetlands •500 linear feet of stream bed. 	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: •Greater than 0.5 acre or •Greater than 300 linear feet of stream bed	Yes	Yes ³	Section 404

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
43	Stormwater Management Facilities	<ul style="list-style-type: none"> •1 acre in non-tidal waters of the U.S., including wetlands •0.5 acre in tidal waters of the U.S., including wetlands •500 linear feet of stream bed. 	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	Yes. If impacts are: <ul style="list-style-type: none"> •Greater than 0.5 acre or •Greater than 300 linear feet of stream bed 	Yes	Yes ³	Section 404
45	Repair of Uplands Damaged by Discrete Events	<ul style="list-style-type: none"> •Restore uplands to pre-event OHWM 	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	No	Section 404 Section 10

RGP Activity No.	RGP Activity	RGP Limit(s)	RGP Notification Requirement(s)	Submittal/Review Timeline	Interagency Review Required?	Waters of the U.S. Delineation Required?	Mitigation Required?	Statutory Authority
46	Discharges into Ditches	•1 acre in non-tidal waters of the U.S., including wetlands	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 404
99	Piers and Boathouses	None ¹	All activities require a Pre-Construction Notification (PCN [<i>HCED Form 1</i>]).	<ul style="list-style-type: none"> •The District Engineer must be notified by email/telephone within 24 hours prior to initiation of construction within jurisdictional areas. •PCN must be submitted 45 calendar days PRIOR to construction. •USACE has 30 calendar days from receipt of PCN to determine if PCN is complete. •Work may commence IF <ol style="list-style-type: none"> 1) Notification from USACE is received that work may commence 2) 45 calendar days have passed since the receipt of the complete PCN and notification from USACE has not been received. •Post Construction Notification (PCN [<i>HCED Form 2</i>]) must be submitted within 30 calendar days of project substantial completion². 	No	Yes	Yes ³	Section 10 Section 404

¹ Only the minimum volume of material needed for the construction associated with these activities would be dredged from or discharged into waters of the United States, including wetlands.

² Project is considered substantially complete when a substantial portion of the project is done according to the "Other Definitions" section.

³ Compensatory mitigation for minor new construction activities will be determined by a Corps approved functions and values assessment methodology for all losses to tidal and non-tidal wetlands that exceed 1/10 acre. No mitigation will

REFERENCE COPY

Version 2

December 1, 2017

be required for losses to tidal and non-tidal wetlands of 1/10 acre or less. For losses to previously improved tidal and non-tidal streams or other open waters in excess of 1,000 linear feet, compensatory mitigation for new work activities will be required in accordance with stream mitigation guidelines promulgated by the Galveston District. For losses to natural tidal and non-tidal streams or other open waters in excess of 500 linear feet, compensatory mitigation for new work activities will be required in accordance with the same stream mitigation guidelines. No mitigation will be required for losses to previously improved tidal and non-tidal streams of 1,000 linear feet or less in length or for losses to natural tidal and non-tidal streams of 500 linear feet or less in length.

⁴ Special Aquatic Sites are defined as wetlands, mud flats, vegetated shallows, coral reefs, riffle, and pool complexes sanctuaries, and refuges (40 CFR 230.40 thru 230.45).

⁵ USACE Regulatory Guidance Letter – Approved National Environmental Policy Act (NEPA) Categorical Exclusions for Nationwide Permit 23. December 8, 2005 (RGL 05-07).

Mitigation:

The DE will consider the following factors when determining appropriate and practicable mitigation for unavoidable effects from minor new construction projects to waters of the United States, including wetlands:

1. The permittee may propose the use of mitigation banks, in-lieu fee arrangements or separate project-specific compensatory mitigation including wetland creation, enhancement, and/or preservation. All proposed mitigation will be described in detail in a mitigation plan that will be prepared in accordance with 33 CFR 332.4(c). For permittee responsible mitigation, the mitigation plan will include 12 components: objectives, site selection, site protection instrument, baseline information, determination of credits, mitigation work plan, maintenance plan, performance standards, monitoring requirements, long term management plan, adaptive management plan, and financial assurances. Proposed mitigation plans using mitigation banks or in-lieu fee programs would include baseline information and determination of credits.
2. Compensatory mitigation for minor new construction activities will be determined by a USACE approved functions and values assessment methodology for all losses to tidal and non-tidal wetlands that exceed 1/10 acre. No mitigation will be required for losses to tidal and non-tidal wetlands of 1/10 acre or less.
3. For losses to previously improved tidal and non-tidal streams or other open waters in excess of 1/10 acre or 1,000 linear feet (whichever is greater), compensatory mitigation for new work activities will be required in accordance with stream mitigation guidelines promulgated by the Galveston District. For losses to natural tidal and non-tidal streams or other open waters in excess of 1/10 acre or 500 linear feet (whichever is greater), compensatory mitigation for new work activities will be required in accordance with the same stream mitigation guidelines.
4. No mitigation will be required for losses to previously improved tidal and non-tidal streams of 1/10 acre or less in area or 1,000 linear feet or less in length (whichever is greater) or for losses to natural tidal and non-tidal streams of 1/10 acre or less in area or 500 linear feet or less in length (whichever is greater).
5. No compensatory mitigation is required for maintenance activities or for minor new construction activities that involve bank stabilization, minor dredging projects, and U.S. Coast Guard approved bridge projects.

Notification:

HCED will submit a PCN (HCED Form 1) and Post-Construction Notification (HCED Form 2) to the DE for all projects authorized by this RGP, unless otherwise stated below. HCED will submit the notification forms as follows:

1. Work above the OHWM: No notification forms would be required for work conducted entirely above the OHWM where there are no impacts to adjacent jurisdictional wetlands or waters.
2. Minor New Construction
 - a. PCN: For new work affecting waters of the United States, including wetlands, HCED shall submit the HCED Form 1 to the DE at least **45 calendar days** prior to the initiation of construction in jurisdictional areas. The timing of the PCN and a thorough overview of PCN package completeness and approval timelines is defined in RGP General Condition 27. The PCN will be accompanied by:

- i. A delineation of any waters of the U.S., including wetlands, if present, if required and,
 - ii. An assessment for federal threatened and endangered species, and,
 - iii. An assessment of cultural or historic resources, and,
 - iv. A compensatory mitigation plan, if required.
- b. Post-Construction Notification: For new work affecting waters of the U.S., including wetlands, HCED shall submit the Post-Construction Notification HCED Form 2 to the DE within **30 calendar days** after project completion. The Post-Construction Notification, HCED Form 2 will be accompanied by:
- i. Post-construction photographs,
 - ii. Documentation of post-construction conditions including restoration of pre-construction contours (if required)
 - iii. Proof that the mitigation plan was implemented, if required
2. Maintenance:
- a. For RGP Activity 3b, all activities authorized under this RGP require a PCN (HCED Form 1). A Post-Construction Notification Form (HCED Form 2) is required to be submitted within **30 calendar days** of “Substantial Completion”.
3. Emergency Repair: For RGP activity 37, HCED shall notify the DE within **24 hours** prior to initiation of construction in jurisdictional areas by email or telephone and submit a Post-Construction Notification HCED Form 2 to the DE within **30 calendar days** of post substantial completion. The Post-Construction Notification HCED Form 2 would include documentation such as the discovery date of the failure and/or a recent topographic survey or photographs to justify the extent of the repairs.

In the event that the USACE does not determine if the PCN is complete within **30 calendar days** for minor new construction activities and maintenance activity 3b, it is assumed that HCED may proceed with construction of these activities as outlined in this RGP after **45 calendar days** have passed since the receipt of the **complete** PCN.

Regional General Permit Conditions

1. The time limit for completing the work authorized herein ends on (**AUTHORIZATION DATE + 5 years**) or if the Department of the Army (DA) authorization is within two years of the expiration of this RGP, within 2 years of the DA approval or **to account for permitting activities initiated prior to expiration date.**
2. This RGP does not authorize stream channelization or stream diversion activities. This permit does not authorize the relocation of drainage ditches constructed in waters of the U.S., including wetlands; the location of the centerline must remain in approximately the same location.
3. This RGP only applies to projects managed, performed, or contracted on behalf of the HCED and any Harris County Precinct.

4. The discharge or fill activity cannot cause the loss of jurisdictional waters of the U.S., including wetlands, greater than the limits specified in this RGP.
5. For those projects that require PCN (HCED Form 1)/ENG 4345 Form, HCED shall submit a signed DA application or a letter that contains the needed project information for completeness. Information required to be provided shall include:
 - a. Name, address, email address, and telephone numbers of the Project Manager and relevant contacts at HCED;
 - b. A description of the proposed project, including:
 - i. Volume and type of material to be placed into waters of the U.S.;
 - ii. Total area (or linear feet) of waters of the U.S., including wetlands to be directly affected;
 - iii. Estimated construction beginning and end dates;
 - iv. HCED's estimated target permit decision date;
 - v. A list of all other permits and authorizations, including previous DA authorizations for the work area, as required by law, ordinance, or regulation; and
 - vi. A vicinity map, plan view, typical cross section, and description of the proposed method of construction. Drawings shall include:
 - (a) A vicinity map with the precise location of the proposed project so that its geographic coordinates can be determined
 - (b) A plan view of the proposed project
 - (c) A cross section drawing showing the dimensions of the proposed project
 - (d) Mapped location of any special aquatic resources (i.e. wetlands, mud flats, vegetated shallows, coral reefs, riffle, and pool complexes sanctuaries, and refuges) located within 100 feet of any portion of the proposed project. The size of each aquatic resource and its distance to the edge of the project boundary must be depicted on this map.
 - c. If the RGP activity requires it, the notification must include a delineation of waters of the U.S., including wetlands; an Approved Jurisdictional Determination (AJD) or a Preliminary Jurisdictional Determination (PJD); or a request for an ADJ or PJD on the proposed project site. Delineations of waters of the U.S., including wetlands, must be prepared in accordance with the current methodologies required by the USACE.
 - d. The permittee shall follow current state and federal regulations for cultural and historic resources.
 - e. A statement that the work will be conducted in compliance with the terms and conditions of this RGP.

- f. HCED will submit notification to the USACE-Galveston District (designated Water Resources Development Act [WRDA] 214 project manager or the Chief of Compliance) within two weeks after the pre-construction meeting has been held.
6. No structure or fill will be authorized that is likely to jeopardize the continued existence of federally listed threatened and endangered species. A qualified biologist shall survey the area prior to initiating work.
 7. For the project to satisfy the TCEQ water quality certification requirements, the Applicant shall agree to use the Best Management Practices (BMPs) for Tier 1 projects and shall submit a signed statement that the applicable BMPs will be used. If a permittee fails to implement these provisions and BMPs, the RGP is subject to enforcement. Applications that do not incorporate all the provisions of the checklist into their project or use other alternatives are not authorized under this RGP. Alternative BMPs may be utilized once approved by the TCEQ on a case by case basis. Descriptions of the BMPs may be obtained from the USACE, Galveston District, web site at:

<http://www.swg.usace.army.mil/Portals/26/docs/regulatory/permit%20packet/401tier1des.pdf>

or the TCEQ web site at:

https://www.tceq.texas.gov/permitting/401certification/401certification_tier1.html, or by calling TCEQ at 512-239-4671.
 8. Applicant must maintain the activity authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with Regional General Permit Condition 10 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon without a good faith transfer, you must obtain a modification of this RGP from this office, which may require restoration of the area.
 9. No structure or fill that may affect historic properties listed or eligible for listing in the National Register of Historic Places is authorized until the USACE and permittee has complied with the provisions of Section 106 of the National Historic Preservation Act (NHPA).
 - a. The USACE will review all proposed activities for cultural resources requirements, and coordinate these activities internally within the USACE. This internal coordination will take place within the time required for the USACE to deem PCN complete (**30 calendar days**) after date of USACE Acknowledgement Letter. If potential historic properties are located in the project area, they shall be avoided by a sufficient margin as designated by the USACE and the Texas Historical Commission (THC). If avoidance of the potential historic properties is not feasible, further archeological investigations shall be required. Cultural resource concerns must be resolved and approved by the appropriate agencies before an RGP decision can be rendered by the USACE.
 - b. If any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately cease and desist and notify this office of what you have found. We 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.
 10. When structures, work, or fill authorized by this RGP are still in existence at the time they are transferred to new ownership, the permittee must obtain and submit to the USACE a signed statement

from the new owner(s) stating that they agree that the terms and conditions of this RGP will continue to be binding on the new owner(s).

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

Transferee

Date

11. Applicant must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this RGP.
12. If the determination is made that the adverse effects of the proposed work are more than minimal, then the permittee will be notified that either: (1) That the project does not qualify for authorization under the RGP and instruct the permittee on the procedures to seek authorization under an IP; (2) that the project is authorized under the RGP subject to the permittee’s submission of an approved mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the RGP with specific modifications or conditions.
13. No structures or fill will be allowed to obstruct any navigation channels.
14. 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 an 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 USACE, 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. (For applicable Section 10 projects).
15. When structures or work authorized by this RGP are determined by the DE 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 Chief of Compliance, Galveston District Regulatory Branch within **30 calendar days** of **substantial** completion (for applicable Section 10 Projects).
16. For all discharges proposed for authorization under RGP 3, 7, 12, 14, 18, 19, 25, 27, 41, 42, and 43 into the following habitat types or specific areas, the permittee shall notify the appropriate DE in accordance with the notification requirements listed under RGP General Condition 5. The USACE will coordinate with the resource agencies concerning the proposed activities compliance with the terms and conditions

- of the RGP and the need for mitigation to reduce the project's adverse impacts to a minimum level. The habitat types or areas are:
- a. Wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (*Sarracenia* sp.), sundews (*Drosera* sp.), and sphagnum moss (*Sphagnum* sp.).
 - b. Bald Cypress-Tupelo Swamps: Wetlands comprised predominantly of bald cypress trees (*Taxodium distichum*), and water tupelo trees (*Nyssa aquatica*), that are occasionally or regularly flooded by fresh water. Common associates include red maple (*Acer rubrum*), swamp privet (*Forestiera acuminata*), green ash (*Fraxinus pennsylvanica*), and water elm (*Planera aquatica*). Associated herbaceous species include lizard's tail (*Saururus cernuus*), water mermaid weed (*Proserpinaca* spp.), buttonbush (*Cephalanthus occidentalis*), and smartweed (*Polygonum* spp.). (Eyre, F.H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Bethesda Maryland 20814-2198. Library of Congress Catalog Card No. 80-54185).
17. For all activities proposed for authorization under RGP 12 that involves mechanized land clearing in a forested wetland, the permittee must submit a PCN to the appropriate DE in accordance with the notification requirements listed under RGP General Condition 5.
18. For all discharges and work proposed in tidal waters under RGP 14 and 18, the permittee shall notify the Galveston DE in accordance with the notification requirements listed under RGP General Condition 5. The USACE will coordinate with the NMFS and discuss the need for mitigation to reduce the project's adverse impacts to a minimum level within the **30 calendar day** review time.
19. All work in the San Jacinto Waste Pits (SJWP) Area of Concern (AOC), authorized under this RGP, requires a waiver from the Galveston DE. The permittee shall notify the DE in accordance with the notification requirements listed under RGP General Condition 5. This PCN shall be used to review the project to determine if it will result in more than minimal effects to the region, and does not lessen the restriction provided by any General Conditions of the RGP. The permittee must receive written approval, including a waiver from the DE prior to starting work in waters of the U.S. All projects in the AOC must comply with the requirements of the October 21, 2009 EPA/USACE/TCEQ Public Announcement.
20. No RGP activities, except RGP 3, shall be used to authorize discharges into the following waters of the U.S.:
- a. Mangrove Marshes. For the purpose of this regional condition, Mangrove marshes are those waters of the United States that are dominated by mangroves (*Avicennia* spp., *Laguncularia* spp., and *Rhizophora* spp.).
 - b. Coastal Dune Swales. For the purpose of this regional condition, coastal dune swales are wetlands and/or other waters of the U.S. located within the backshore and dune areas in the coastal zone of Texas. They are formed as depressions within and among multiple beach ridge barriers, dune complexes, or dune areas adjacent to beaches fronting the tidal waters of the U. S.
 - c. Columbia Bottomlands. For the purpose of this regional condition, Columbia bottomlands are defined as waters of the U. S. that are dominated by bottomland hardwoods in the Lower Brazos and San Bernard River basins.
21. This RGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.

22. Work is prohibited within 500 feet of an identified bird rookery that is active with nesting birds between February 14th and September 1st unless otherwise negotiated with Texas Parks and Wildlife Department (TPWD) and/or the USFWS. The permittee will be responsible for ensuring action complies with the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to the maximum practicable extent. The permittee is responsible for contacting the 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.
23. If impacts to oyster beds cannot be avoided, the permittee intends to provide mitigation at an appropriate ratio and would contact TPWD for appropriate guidance on mitigation techniques.
24. An as-built monitoring report will be submitted for permittee-responsible wetland and/or stream mitigation activities following substantial completion of the project.
25. Prop/wheel washing is not authorized by this RGP.
26. Aids to navigation will be permitted and placed in accordance with USCG Regulation 33 CFR 66 (For applicable Section 10 projects).
27. PCN. (a) Timing. Where required by the terms of the RGP, the permittee must notify the DE by submitting a PCN **45 calendar days** prior to construction. The USACE must determine if the PCN is complete within **30 calendar days** of the date of receipt (Date Request Received in Policy Analysis Branch, as shown on the Acknowledgement Letter) and, if the PCN is determined to be incomplete, notify the prospective permittee within that **30 calendar day** period to request the additional information necessary to make the PCN complete. The PCN is deemed complete if no additional information is requested from the USACE within **45 calendar days** from submittal.

The request must specify the information needed to make the PCN complete. As a general rule, the USACE will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the USACE will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the USACE. The permittee shall not begin the activity until either:

- 1) The permittee is notified in writing by the USACE that the activity may proceed under the RGP with any special conditions imposed by the District or Division Engineer; or
- 2) **45 calendar days** have passed from the USACE receipt of the PCN and the permittee has not received written notice from the DE or Division Engineer. It will be assumed that all agency and interagency reviews of the PCN are complete once **45 calendar days** have passed from the USACE receipt of the PCN.

If the proposed activity requires a written waiver to exceed specified limits of an RGP, the permittee may not begin the activity until the DE issues the waiver. If the DE or Division Engineer notifies the permittee in writing that an IP is required within **30 calendar days** of receipt of a PCN, the permittee cannot begin the activity until an IP has been obtained. Subsequently, the permittee’s right to proceed under the RGP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

Further Information:

I. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- (X) Section 10 of the Rivers and Harbors Act (RHA) 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 RGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. Authorization under this RGP does not grant any property rights or exclusive privileges.
- c. Authorization under this RGP does not authorize any injury to the property or rights of others.
- d. Authorization under this RGP does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing a project under this RGP, 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 RGP.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this RGP.

4. Reliance on Applicant's Data: The determination of this office to authorize the activity under this RGP as not contrary to the public interest will be made in reliance on the information provided by the permittee.

5. Reevaluation of Permit Decision. This office may reevaluate its decision to authorize an activity under this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. The permittee fails to comply with the terms and conditions of this RGP.
- b. The information provided by the permittee 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 permittee to comply with the terms and conditions of their authorization under this RGP and for the initiation of legal action where appropriate. The permittee 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 permittee for the cost.

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

(DISTRICT ENGINEER)

(DATE)

**NAME, TITLE
POLICY ANALYSIS SECTION
FOR COLONEL LARS N. ZETTERSTROM**