



Special Public Notice

**US Army Corps
Of Engineers**

Galveston District

Permit Application No: _____
Date Issued: _____
Comments _____
Due: _____

Regional General Permit
SWG-2009-00123

2 July 2019

2 August 2019

**US ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal to reissue a Regional General Permit (RGP), and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The United States (US) Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

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

APPLICANT: Harris County Flood Control District (HCFCD)
9900 Northwest Freeway
Houston, Texas 77092
Telephone: 713-684-4155
POC: Jonathan Holley

LOCATION: The proposed RGP would be valid in waters of the US utilized as stormwater management facilities under the authority of the HCFCD, in Harris County, Texas.

PROJECT DESCRIPTION: To reissue an RGP authorizing the discharge of dredge or fill material associated with performing routine maintenance and emergency repairs to existing stormwater management facilities, under the jurisdiction of the HCFCD.

Maintenance includes repair, rehabilitation, and replacement of structural and earthen features, removal of sediment and debris to restore previously authorized cross-sectional configurations, erosion protection, or emergency repairs required as a result of discrete natural events. Temporary construction, access, and dewatering is authorized provided that the associated primary maintenance activity is authorized under the RGP. Only the minimum volume of fill material, needed to accomplish the purpose of each project, would be used.

Avoidance and minimization will be considered before any maintenance project is proposed. Natural stable channel techniques will be used wherever possible. There are no proposed changes to this RGP, compared to the current RGP, with the exception of updating the special conditions to reflect current regulations and requirements. The full text of the proposed RGP is attached.

RGP Purpose

HCFCD is responsible for overseeing rivers, streams, tributaries, and flood waters for domestic, municipal, flood control, irrigation, and other useful purposes, to provide flood damage reduction projects, with appropriate regard for community and natural values, in Harris County. The construction and maintenance of this infrastructure often includes activities regulated by Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

This RGP would provide authorization for maintenance activities, undertaken by HCFCD, that are substantially similar in nature and that cause only minimal direct and cumulative environmental effects. The purpose of this RGP is to achieve the following objectives:

- Addressing damage and failures in a timely manner, reducing their size, minimizing adverse environmental effects, and reducing the amount and frequency of suspended solids that may be discharged to receiving waterbodies.
- Implement maintenance and emergency repair projects, with long term solutions using a watershed approach, that effectively reduce the adverse direct, indirect, and cumulative environmental effects of repetitive work.
- Establish a consistent, predictable, and simplified approach to certain categories of work known to have little individual or cumulative effect.
- Reduce the permitting workload of both HCFCD and the Corps.
- Reduce costs by streamlining the permitting process and reducing repetitive work.
- Implement a consistent and predictable construction schedule.
- Comply with requirements established by project cooperation agreements, Corps permits, and Operations and Maintenance manuals.

Current Permitting Status

HCFCD's current RGP was issued on 17 November 2014, and expires on 31 December 2019. It authorizes the placement of dredged and/or fill material for routine maintenance and emergency repair of existing stormwater management facilities. Projects with impacts that surpass the RGP thresholds require authorization through Individual Permits, or other appropriate permitting method. The need for a RGP is demonstrated by the following:

- Use of the RGP has improved processing times and avoided project delays.
- The RGP minimizes delays in construction schedules for potentially time-critical repairs.

- The RGP allows HCFCDC to prioritize projects and to plan realistic timeframes to receive authorization for necessary maintenance work. Examples of such projects include repair of erosion control measures to prevent adverse effects to water quality, and minimize the extent and cost of repairs.

Impacts to Waters of the US, including Wetlands

Each project submitted under the proposed RGP would be designed to avoid and minimize impacts to waters of the US, including wetlands, to the greatest extent practicable. The area and volume of discharge into or dredging from waters of the US, including wetlands, will vary in terms of size and quantity by project. The intent of this RGP is to authorize all maintenance and minor new construction activities defined herein, under the condition that their impacts to waters of the US, including wetlands, are within the thresholds specified in the RGP.

Best Management Practices

When impacts to waters of the US, including wetlands, cannot be avoided or minimized, Best Management Practices (BMPs) would be implemented to minimize the impacts of construction to the water quality of receiving water bodies. BMPs are effective, practical, structural, or nonstructural methods which prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from land to surface or ground water, or which otherwise protect water quality from potential adverse effects of construction activities. The applicant would utilize a full range of all available state-of-the-art BMPs on all projects both during and post-construction. At a minimum, each project would implement BMPs as listed in the TCEQ Tier I Certification Checklist. The applicant may, at their discretion, implement additional BMPs as listed in their design specification manual, including but not limited to:

- Silt Fencing;
- Stabilized Construction Access;
- Sodding;
- Filter Dams;
- Seeding;
- Mulch and soil stabilization; and
- Other activities as indicated in the full list of BMPs, as appropriate.

The applicant is committed to addressing stormwater management issues and is continuously striving to identify and implement all effective BMPs on a project-by-project, case-by-case basis.

Delineation of Waters of the US, including Wetlands, and Jurisdictional Determination

For those types of activities that require a delineation, all waters and wetlands found on each project site would be considered jurisdictional through a Preliminary Jurisdictional Determination (PJD), unless the applicant requests an Approved Jurisdictional Determination (AJD).

Compensatory Mitigation for Unavoidable Impacts

No compensatory mitigation is required for maintenance projects, provided impacts are determined to be minimal. Compensatory mitigation may be required for certain activities covered in this RGP if impacts are determined to be more than minimal. All proposed mitigation will be described in detail in a project-specific mitigation plan that will be prepared in accordance with the 2008 Compensatory Mitigation Rule (33CFR 332).

RGPs are a type of general permit as defined in 33 CFR 322.2(f) and 33 CFR 323.2(n). They may be issued by a division or district engineer after compliance with the other procedures of this regulation. If the public interest so requires, the issuing authority may condition the RGP to require a case-by-case reporting and acknowledgment system.

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

Our evaluation of RGP SWG-2009-00123 will also follow the guidelines published by the US Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA.

OTHER AGENCY AUTHORIZATIONS: Consistency with the State of Texas Coastal Management Plan is required. The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

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

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist will review the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information for each project proposed under the RGP.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed RGP. Each project proposed under the RGP will be reviewed to determine its individual impact to threatened and/or endangered species, or their critical habitat.

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

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

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

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

PUBLIC HEARING: The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this public notice must reach this office on or before **2 August 2019**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2009-00123**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
US Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS