



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-1994-00026
	Date Issued: _____	4 MAY 2021
	Comments _____	
<b>Galveston District</b>	Due: _____	4 JUNE 2021

## U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

**PURPOSE OF PUBLIC NOTICE:** To inform you that the Galveston District is proposing to reissue regional general permit (RGP) SWG-1994-00026 for the construction, maintenance, and repair of artificial reefs. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest based on the reissuance of the RGP.

**REGULATORY STATUTES:** Work and/or the placement of structures in/or affecting navigable waters of the U.S. authorized under this general permit is subject to jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403; Section 10).

**APPLICANT:** TEXAS PARKS AND WILDLIFE DEPARTMENT  
Coastal Fisheries Division  
Artificial Reef Program  
Dickinson Marine Lab  
1502 F.M. 517 East  
Dickinson, Texas 77539-8647  
POC: J. Brooke Shipley, Ph.D.  
Telephone: 281-534-0112  
Email: Brooke.Shipley@tpwd.texas.gov

**GEOGRAPHIC LIMITS:** In the Gulf of Mexico, within the regulatory jurisdiction of the Galveston District excluding Louisiana waters, in water depths of 300 meters or less.

**SCOPE OF ACTIVITIES:** This RGP would authorize the work and placement of structures in navigable waters of the US for the construction, maintenance, and repair of artificial reefs as part of work conducted by the Texas Parks and Wildlife Department (TPWD).

**LENGTH OF AUTHORIZATION:** The RGP, if reissued, will expire five years from the date of issuance.

**BACKGROUND:** The Texas legislature passed the Artificial Reef Act of 1989, which directed the TPWD to promote, develop, maintain, monitor, and enhance the artificial reef potential in state waters. To fulfill these purposes, TPWD was directed to develop a state artificial reef plan in accordance with Chapter 89 of the Texas Parks and Wildlife code. As directed by the legislature, TPWD developed the *Texas Artificial Reef Plan* (1990). Under this plan, an artificial reef must be sited, constructed, maintained, monitored, and managed in a manner that: 1) enhances and conserves fishery resources to the maximum extent practicable; 2) facilitates access and use by Texas recreational and commercial fishermen; 3) minimizes conflicts among competing uses of water and water resources; 4) minimizes environmental risks and risks to personal and public health and property; 5) is consistent with generally accepted principles of international law and national fishing law and does not create any unreasonable obstruction to navigation; 6) uses the best scientific information available; and 7) conforms to the state artificial reef plan. TPWD's Artificial Reef Program focuses its efforts on three types of materials: 1) decommissioned drilling rigs in the Rigs-to-Reefs Program; 2) highway bridge materials and other sources of concrete and heavy-gauge steel in the Nearshore Reefing Program; and 3) large marine vessels in the Ships-to-Reefs Program.

When considering an application for an artificial reef, as defined in 33 CFR 322.2(g), the Corps reviews TPWD's provisions for siting, constructing, monitoring, operating, maintaining, and managing the proposed artificial reef and determines if those provisions are consistent with the following standards: 1) the enhancement of fishery resources to the maximum extent practicable; 2) the facilitation of access and utilization by United States recreational and commercial fishermen; 3) the minimization of conflicts among competing uses of the navigable waters or waters overlying the outer continental shelf and of the resources in such waters; 4) the minimization of environmental risks and risks to personal health and property; 5) generally accepted principles of international law; and 6) the prevention of any unreasonable obstructions to navigation.

RGPs are permits issued by a district or division engineer on a regional basis to streamline the authorization of activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. The purpose of this RGP is to expedite the Corps' review of requests for authorization from the TPWD to construct, maintain, and repair artificial reefs. This RGP was last reissued in June 2016 and expires on June 20, 2021 (attached for reference). The Corps proposes only to modify the permit format to increase efficient implementation and provide clarity to the verification process, as well as the terms and conditions of the permit.

**OTHER AGENCY AUTHORIZATIONS:** Consistency with the State of Texas Coastal Management Plan is required. The general permit is designed to comply with Texas' approved Coastal Management Program goals and policies and the activities proposed for authorization by this general permit will be conducted in a manner consistent with said program.

**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 permit application submitted under this general permit on a project-specific basis. The staff archeologist will determine, in accordance with the April 25, 2005, memorandum titled Revised Interim Guidance for Implementing Appendix C of 33 CFR Part 325 with the Revised Advisory Council on Historic Preservation Regulations at 36 CFR Part 800, if the project may proceed without further archeological review or when appropriate, request additional information and coordinate those activities with the Texas State Historic Preservation Officer (SHPO).

**THREATENED AND ENDANGERED SPECIES:** Individual project verification requests will be evaluated on a case-by-case basis for impacts to species identified under the Endangered Species Act (ESA) and authorization will not be granted until the Section 7 consultation addressing the effects of the proposed artificial reef has been completed. The RGP will be conditioned to prohibit authorization of impacts that are likely to jeopardize the continued existence of threatened or endangered species or which are likely to adversely modify critical habitat of such species.

**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 general permit reissuance will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps of Engineers, 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 of Engineers 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 general permit reissuance. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny 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 Assessment and/or an Environmental Impact Statement 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 in this general permit.

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 of Engineers 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 **4 JUNE 2021**. 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-1994-00026**, and should be submitted to:

Policy Analysis Section  
Regulatory Division, CESWG-RD-P  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS