



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**MOBILE DISTRICT CORPS OF ENGINEERS**  
P. O. BOX 2288  
MOBILE, ALABAMA 36628-0001

Regulatory Division  
Coastal Branch

February 9, 2007

**PUBLIC NOTICE NO. SAM-2006-2181-JWS**

**JOINT PUBLIC NOTICE**  
**U.S. ARMY CORPS OF ENGINEERS**

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**OFFICE OF POLLUTION CONTROL**

**MISSISSIPPI DEPARTMENT OF MARINE RESOURCES**

**REGIONAL GENERAL PERMIT SAM-20**

**RESIDENTIAL AND INSTITUTIONAL DEVELOPMENTS WITHIN THE MOBILE**  
**DISTRICT, REGULATORY DIVISION'S, GEOGRAPHIC BOUNDARY OF**  
**HANCOCK, HARRISON, JACKSON, PEARL RIVER, STONE, AND GEORGE**  
**COUNTIES, MISSISSIPPI**

**PROPOSAL:** To allow for the redevelopment of coastal Mississippi, due to Hurricane Katrina, while at the same time protecting aquatic resources and ensuring minimal aquatic impacts, the Department of the Army, Mobile District, U.S. Army Corps of Engineers, Regulatory Division proposes to issue Regional General Permit (RGP) SAM-20 for Residential and Institutional Developments within the Mobile District, Regulatory Division's, Geographic Boundary of Hancock, Harrison, Jackson, Pearl River, Stone, and George Counties, Mississippi for an initial period of two years. RGP SAM-20 may be extended to a period not to exceed five years.

**BACKGROUND:** The RGP was proposed to facilitate rebuilding efforts along the Mississippi Gulf Coast in the wake of Hurricane Katrina by allowing impacts to low quality waters of the United States. The proposal was initially distributed via Public Notice dated October 10, 2006 and then extended to December 10, 2006. This initial 60-day public comment period allowed the regulated public, Federal resource agencies, state resource agencies, non-governmental agencies, and other interested parties sufficient time to review the merits of the proposal. As a result of

receiving substantial comments from the public, Federal resource agencies, State resource agencies, non-governmental agencies, and other interested parties, in response to our October 10<sup>th</sup>, 2006 Public Notice, changes were made to the proposed RGP-20. Requested changes included, reduction in acreage limit, expansion of excluded areas, coordination period for State and Federal agencies, clarification and defining of some terms, elimination of commercial developments, and reduction/elimination of some stream impact activities. These changes are reflected in the below revised proposal.

**APPLICABILITY:** The term “general permit” means a Department of the Army authorization that is issued on a nationwide or regional basis for a category of activities which are substantially similar in nature and cause only minimal individual and cumulative impacts. General permits are a way to reduce the burden of the regulatory program on the public and ensure timely issuance of permits while effectively protecting aquatic resources while administering the laws and regulations which establish and govern the program. An assessment of the cumulative impacts of work authorized under the general permit is performed at that time if it is in the public interest to do so. In most instances, anyone complying with the conditions of the general permit can receive project specific authorization. Anyone not complying with the conditions of a general permit may still receive authorization via a standard permit, but the application must be individually evaluated and coordinated with third parties, including the Federal and state resource agencies. Review of an application for a standard permit takes additional time to complete as issue resolution may be required.

The above-listed regional general permit is under review for the purpose of issuance. A draft of the regional general permit as proposed for issuance follows:

DEPARTMENT OF THE ARMY

REGIONAL GENERAL PERMIT SAM-20

RESIDENTIAL AND INSTITUTIONAL DEVELOPMENTS WITHIN THE MOBILE DISTRICT, REGULATORY DIVISION'S, GEOGRAPHIC BOUNDARY OF HANCOCK, HARRISON, JACKSON, PEARL RIVER, STONE, AND GEORGE COUNTIES, MISSISSIPPI

**AUTHORITY:** Upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344), the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, is proposing to issue a Regional General Permit (RGP SAM-20), which gives general authority for activities required for the construction or expansion of residential or institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. RGP SAM-20 is subject to the following special conditions:

**SPECIAL CONDITIONS:**

1. The work herein authorized includes activities required for the construction or expansion of residential or institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures within the Mobile District, Regulatory Division's Geographic Boundary of Hancock, Harrison, Jackson, Pearl River, Stone, and George Counties, Mississippi. Attendant features include but are not limited to roads, parking lots, garages, yards, utility lines and stormwater management facilities. NOTE: Stormwater management facilities may require separate state and federal permitting. Attendant features do not include ponds, golf courses, fitness facilities, playgrounds, playing fields, etc. Examples of residential developments include multiple and single unit developments. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.
2. The cumulative total area of permanently impacted waters of the United States associated with a single and complete project shall not exceed three acres under a single project. For new residential and institutional developments, the total loss of waters of the United States authorized shall not exceed three acres. For expansion of residential and institutional developments, the originally filled areas and proposed fill areas, combined, shall not exceed three acres.
3. No work shall be performed until the applicant receives written authorization from the District Engineer.
4. No work is authorized in tidal waters. The term "tidal waters" means those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other

effects. Further, no work is authorized by this RGP in non-tidal waters that are located within 200 feet of tidal waters.

5. Recreational and/or aesthetic impoundments are not authorized.

6. RGP SAM-20 shall only be used for impacts to low quality wetlands, based on a USACE approved WRAP assessment. Permit submittal must include a WRAP assessment.

7. No work is authorized in the following areas:

a. Historical Preserves or parcels/tracts abutting these lands;

b. National Estuarine Research Reserve's or parcels/tracts abutting these lands;

c. National Wildlife Refuge's or parcels/tracts abutting these lands;

d. Coastal Preserves or parcels/tracts abutting these lands;

e. Conservation Lands, Conservation Easements, Conservation Trusts, USACE required mitigation areas or parcels/tracts abutting these lands;

f. Pascagoula River Wildlife Management Area or parcels/tracts abutting these lands;

g. Important Bird Areas (IBA), as defined by the National Audubon Society, or parcels/tracts abutting these lands;

h. Within or abutting projects that are currently being formulated as part of the Mississippi Coastal Improvements Program comprehensive plan for hurricane storm damage reduction and environmental restoration. The MsCIP will identify those areas within the 3 southern coastal counties which are considered priority for possible evacuation of structures with subsequent environmental restoration;

i. Within the Turkey Creek watershed;

j. Within 100-year floodplains, as documented by Federal Emergency Management Administration's (FEMA) Flood Insurance Rate Maps, FEMA-approved local floodplain maps and flood risk maps.

8. No registered properties or properties listed as eligible for inclusion in the National Register of Historic Places shall be affected. Permit submittal must include either a Phase I survey or a letter from the State Historic Preservation Officer, for Mississippi, confirming that no impacts to known cultural/historical resources will occur on the project site.

9. No work shall be authorized which may have secondary or cumulative effects on estuarine, marine emergent and/or submerged aquatic vegetation.

10. This permit does not authorize stream channelization.

11. Stream impacts are limited to road crossings with a width not to exceed 30-feet for any single crossing. Each road crossing shall be culverted using bottomless arch culverts, box-culverts or other Corps approved methods. The authorized activities must not increase flooding, or negatively impact the pre-project hydraulic flow characteristics or water quality of any affected stream. For the purpose of this condition, the 30-feet of impacts will be calculated into an acreage figure and included in the 3-acre limit.

12. No authorization shall be granted for any project that may affect any threatened or endangered species and/or their critical habitats. Permit submittal must include a Federally-listed threatened and endangered animal and plant species survey. If Federally-listed animal and/or plant species are found on the site, no activities will be authorized until the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service have completed consultation on the project. No activity shall be authorized which:

a) may affect: any other Federally listed threatened or endangered species; or

b) may destroy or adversely modify: designated critical habitat for any Federally listed threatened or endangered species.

13. Permit applications shall be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Coastal Mississippi Branch, Post Office Box 2288, Mobile, Alabama 36628-0001, using the Mississippi Joint Application form and must include the following:

a. A wetlands and/or other waters of the U.S. delineation.

b. Data sheets, as outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss., 1987 (87 Manual).

c. 8-1/2" X 11" plan-view drawings of existing and proposed conditions.

d. 8-1/2" X 11" cross-sectional drawings for road crossings. Road crossings must use bottomless arch culverts, box culverts, or other Corps approved methods and the drawing must include elevation and dimensions.

e. Topographic map; indicating project boundary and Latitude/Longitude in degrees, minutes, and seconds.

f. Soil survey.

- g. An aerial photo or ground-level pictures of the site, depicting current conditions.
- h. Location map.
- i. Mitigation calculations/bank name.
- j. WRAP assessment.
- k. 100-year floodplain documentation through Federal Emergency Management Administration's (FEMA) Flood Insurance Rate Maps, FEMA-approved local floodplain maps and flood risk maps.
- l. Documentation that work is not within or on parcels/tracts abutting areas identified in Special Condition 7 above.
- m. Statement as to how project relates to redevelopment due to Hurricane Katrina.
- n. Documentation that the project will not increase flooding to adjacent properties.
- o. A statement that sewage will be treated in publicly owned treatment works or in a septic system authorized by the State or County Health Department.
- p. A clearance letter from SHPO or Phase I survey.
- q. A Federally-listed threatened and endangered animal and plant species survey.
- r. A written statement explaining how avoidance and minimization for losses of waters of the United States were achieved on the project site.

14. Compensatory mitigation, for unavoidable impacts to waters of the United States, will be required through the purchase of credits at a USACE-approved mitigation bank. The applicant is required to use the particular banks ratio in determining the amount of credits to be purchased. The applicant is required to purchase credits from mitigation banks whose service area includes the project area (i.e. same watershed as impacts). If a project does not fall within any mitigation bank's service area, the applicant shall then purchase in-kind mitigation bank credits from another USACE-approved mitigation bank. If stream mitigation credits are not available from a mitigation bank, the applicant is required to provide appropriate mitigation and will use the most current approved stream functional assessment method. Proof of credit purchase shall be provided to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001, after receiving USACE authorization and prior to the start of any authorized work.

15. Should artifacts or archaeological features be encountered during project activities, work shall cease and the Mississippi State Historic Preservation Officer and the U.S. Army Corps of

Engineers, Mobile District, Regulatory Division shall be consulted immediately. The USACE 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.

16. You must allow representatives, from the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, 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 permit.

17. Prior to construction, the limits of the proposed fill areas shall be clearly flagged and staked by the agent and/or contractor. All construction personnel shall be shown the location(s) of all wetland areas outside of the construction area to prevent encroachment from heavy equipment into those areas. In addition, all filled areas shall be completely contained through installation of toed-in silt fencing and staked hay bales and maintained until work has been completed.

18. All persons/contractors involved in this permitted activity shall be provided copies of the permit in its entirety. A copy shall remain on site at all times during construction.

19. Fill material used with this project shall be limited to suitable, clean fill material, which excludes material such as trash, debris, car bodies, asphalt, construction materials, concrete block with exposed reinforcement bars, and any soils contaminated with any toxic substance in toxic amounts (see Section 307 of the Clean Water Act).

20. All slopes shall be stabilized with sod, degradable mats and/or seed and mulch. Erosion controls in the form of toed-in silt fencing and staked hay bales will be installed and maintained until the vegetative cover is established.

21. The permittee shall notify the U.S. Army Corps of Engineers, upon commencement and completion of work authorized by the permit. Such notification must be provided within 5 days of initiation and completion of the authorized work. The notification shall be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001.

22. Within 60 days of completion of the authorized work, the permits Self-Certification Statement of Compliance must be completed and submitted to the U.S. Army Corps of Engineers. Mail the completed form to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001.

23. If you sell the property associated with this permit, you must complete and submit the Department of the Army Permit Transfer Request. Mail the completed form to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001.

24. Conformance with descriptions and quantities contained herein does not necessarily guarantee authorization under this regional general permit. The District Engineer reserves the right to require that any request for authorization under this regional general permit be evaluated as a standard permit.

25. RGP SAM-20 shall be valid until \_\_\_\_\_, 2009, unless suspended or revoked by issuance of a public notice by the District Engineer. If RGP SAM-20 expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on RGP SAM-20 will remain in effect provided the activity is completed within 12 months of the date RGP SAM-20 expired or was revoked.

AGENCY COORDINATION: This proposed permit is being coordinated, via this Public Notice, with the U.S. Fish and Wildlife Service as required under Section 7 of the Endangered Species Act, with the National Marine Fisheries Service for Essential Fish Habitat as required under the Magnuson-Stevens Fishery Conservation and Management Act, with the Mississippi Department of Marine Resources (DMR) as required for Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, and the Mississippi Department of Environmental Quality (DEQ) as required for Water Quality Certification (WQC).

**In addition, all applications for use by the RGP-20 will be sent to the applicable State and Federal agencies for a 7-day (working days) coordination period. After coordination has concluded, the US Army Corps of Engineers will either issue the RGP, issue the RGP with conditions, or elevate the application to an Individual/Standard Permit review. At any time, for any reason, the US Army Corps of Engineers reserves the right to elevate an application, for use of this RGP, to an Individual Standard Permit review.**

RESPONSE: Comments concerning this Public Notice should refer to Public Notice SAM-2006-2181-JWS and be received no later than 30 days from the date of this Public Notice. Comments shall be directed to the District Engineer, U.S. Army Corps of Engineers, Mobile District, Regulatory Division, Coastal Branch, Post Office Box 2288, Mobile, Alabama 36628-0001, or e-mail comments to [dll-cesam-rd-pn@sam.usace.army.mil](mailto:dll-cesam-rd-pn@sam.usace.army.mil). In addition, a copy shall be sent to the Mississippi Department of Environmental Quality, Office of Pollution Control, Post Office Box 10385, Jackson, Mississippi 39289, and the Mississippi Department of Marine Resources, 1141 Bayview Avenue, Suite 101, Biloxi, Mississippi 39530.

MOBILE DISTRICT  
U.S. Army Corps of Engineers