



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

Regulatory Division
Coastal Branch

February 20, 2009

**JOINT PUBLIC NOTICE SAM-2006-2181-JWS
U.S. ARMY CORPS OF ENGINEERS**

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

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PROPOSED REISSUANCE OF REGIONAL GENERAL PERMIT SAM-20

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

PROPOSAL: The Department of the Army, U.S. Army Corps of Engineers (Corps), Mobile District, Regulatory Division proposes to reissue Regional General Permit (RGP) SAM-20 for Residential Developments within the Geographic Boundary of Hancock, Harrison, Jackson, Pearl River, Stone, and George Counties, Mississippi for a period of three 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 RGP was issued on May 23, 2007, with an expiration date of May 23, 2009. This notice serves to announce the Corps intention to extend the expiration date to the full five years.

APPLICABILITY: The term "general permit" means a Department of the Army (DA) 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

Public Notice Number SAM-2006-2181-JWS

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 reissuance. A draft of the regional general permit, as proposed for reissuance, is attached.

RESPONSE: This public notice is being distributed to all known interested persons and serves to solicit comments from the public, Federal, State, and local agencies and officials, Indian Tribes, and other interested parties, in order to assist in developing facts on which a decision by the U.S. Army Corps of Engineers (Corps) can be based.

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 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 of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing.

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. The decision whether to issue a permit will be based on an evaluation of the probable impact, 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 benefit 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, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and in general, the needs and welfare of the people.

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, the National Marine Fisheries Service for Essential Fish Habitat as required under the Magnuson-Stevens Fishery Conservation and Management Act, the Mississippi Department of Marine Resources as required for

Public Notice Number SAM-2006-2181-JWS

Coastal Zone Consistency concurrence or waiver thereto, the Mississippi Department of Environmental Quality as required for Water Quality Certification, and the Federal Emergency Management Agency.

In addition, all applications for use by the RGP SAM-20 will be sent to the applicable State and Federal agencies for a 7-day (working days) coordination period. After coordination has concluded, the U.S. 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 U.S. Army Corps of Engineers reserves the right to elevate an application, for use of this RGP, to an Individual Standard Permit review.

Correspondence concerning this Public Notice should refer to Public Notice Number SAM-2006-2181-JWS and should be directed to:

District Engineer
U.S. Army Engineer District, Mobile
Attention: Regulatory Division, Coastal Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

With a Copy to:

Mississippi Department of Environmental Quality
Office of Pollution Control
Post Office Box 10385
Jackson, Mississippi 39289

And to:

Mississippi Department of Marine Resources
1141 Bayview Avenue, Suite 101
Biloxi, Mississippi 39530

Comments should be received no later than **30 days** from the date of this Public Notice.

If you have any questions concerning this publication, you may contact Jason W. Steele at telephone number (251) 690-3188, by e-mail at Jason.W.Steele@usace.army.mil, or by regular mail at the letterhead address. Please refer to the above Public Notice number when replying.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction

Public Notice Number SAM-2006-2181-JWS

survey while you are there. Your responses are appreciated and will allow us to improve our services.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures (7-pages)

Regulatory Division
Coastal Branch

DEPARTMENT OF THE ARMY

REGIONAL GENERAL PERMIT SAM-20

RESIDENTIAL 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 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 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.

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 stand-alone project for the entire tract of land (i.e. no piece-mealing is authorized by this RGP). For new residential developments, the total loss of waters of the United States authorized shall not exceed three acres. For expansion of residential developments, the originally filled areas (those areas that previously impacted wetlands) 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.

5. No work is authorized in non-tidal waters that are adjacent to tidal waters. The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes and the like are adjacent wetlands.

6. No speculative filling is authorized. If no residential structures (i.e houses or apartments) are constructed, prior to the expiration date of this RGP SAM-20 (or within 12 months of expiration date, if work has commenced or is under contract to commence), the applicant/owner shall remove all fill material associated with the authorized activity. The removal of the fill material will be at the applicants/owners expense.

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

8. RGP SAM-20 shall only be used for impacts to low quality wetlands, based on a USACE approved WRAP assessment. Low quality wetlands are defined by a score of 0.5 or less on a WRAP assessment.

9. No work is authorized in the following areas:

- a. Historical Preserves or parcels/tracts abutting these lands;
- b. National Estuarine Research Reserves or parcels/tracts abutting these lands;
- c. National Wildlife Refuges 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 (Jackson, Harrison, Hancock) 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.
10. 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.
11. 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.
12. In the event any items falling under Native American Graves and Repatriation Act (NAGPRA) are discovered during construction, the appropriate persons, including state and tribal NAGPRA representatives will be notified immediately for further consultation.
13. This permit does not authorize stream channelization or relocation.
14. 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 USACE approved methods. The authorized activities must not increase flooding, cause downstream bank erosion, increase peak discharge, or negatively impact the pre-project hydrologic 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. In addition, a 30-foot vegetated buffer will be maintained between the development and streams.
15. Sewage will be treated in publicly owned treatment works or in a septic system authorized by the State or County Health Department.

16. No activity, authorized by this permit, shall increase flooding onto adjacent properties.

17. 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 for the proposal, under Section 7 of the Endangered Species Act. 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.

18. Compensatory mitigation, for unavoidable impacts to waters of the United States, will be required through the purchase of in-kind credits at a USACE-approved mitigation bank. The applicant is required to use the particular bank's 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 the next closest USACE-approved mitigation bank to the project site. 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 mitigation 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.

19. The applicant 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 RGP.

20. 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.

21. Any temporary impacts shall be restored to pre-project conditions within 30 days of completion of work associated with this permit.
22. 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.
23. 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).
24. 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.
25. The permittee shall notify the U.S. Army Corps of Engineers, upon commencement and completion of work authorized by this RGP. 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.
26. Within 60 days of completion of the authorized work, the RGPs 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.
27. If you sell the property associated with this RGP, 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.
28. 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. In addition, this RGP does not obviate the need for the permittee to obtain other Federal, state, or local authorizations required by law, nor does it grant any property rights or exclusive privileges.
29. 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 delineation of wetlands and/or other waters of the U.S. The onsite wetlands/waters of the U.S. must be flagged and easily accessible.
- 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 site conditions.
- d. 8-1/2" X 11" cross-sectional drawings for road crossings. Road crossings must use bottomless arch culverts, box culverts, or other USACE 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 8 above.
- m. Statement as to how project relates to redevelopment due to Hurricane Katrina.
- n. Demonstration that the project will not increase flooding onto 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.
- s. Demonstration that the activity will not increase flooding, cause downstream bank erosion, increase peak discharge, or negatively impact the pre-project hydrologic flow characteristics or water quality of any affected stream.

30. RGP SAM-20 shall be valid until _____, 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.

All applications for use by the RGP SAM-20 will be sent to the applicable State and Federal agencies for a 7-day (working days) coordination period. After coordination has concluded, the U.S. 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 U.S. Army Corps of Engineers reserves the right to elevate an application, for use of this RGP, to an Individual Standard Permit review.

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