



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Proposed Issuance of Regional
General Permit SAC-2025-0555

Published: August 20, 2025
Expires: September 19, 2025

**Charleston District
Proposed Issuance of SAC Regional General Permit RGP-59
For Natural Disaster Mitigation and Emergency-Related Activities**

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § 1344), the Charleston District, U.S. Army Corps of Engineers (Corps) proposes to issue the SAC RGP-59 for discharges of dredged or fill material into waters of the U.S., including wetlands, and/or work or structures in navigable waters of the U.S. for necessary repair and protection measures associated with an emergency, including natural and environmental disasters, as further described below.

The proposed RGP, if issued, will be effective for a period of five (5) years.

The purpose of this public notice is to solicit comments from the public regarding the proposed work described below:

WATERWAY AND LOCATION: The proposed RGP would affect waters of the United States within the regulatory jurisdiction of the Charleston District, in the State of South Carolina.

NOTE: A copy of the draft Regional General Permit is attached to this Public Notice and contains the general and special conditions of the proposed authorization.

PROJECT PURPOSE: The purpose of this RGP is to provide a simplified and expeditious means to authorize activities in waters of the U.S., including wetlands, that are similar in nature and cause only minimal individual and cumulative impacts, for necessary repair and protection measures associated with an emergency situation.

The Corps anticipates utilization of the SAC RGP-59 to address future requests for minor emergency response and protection activities within the authorized geographic area. This RGP improves efficiencies for the review and verification of minor activities, thus improving service to the regulated public. This RGP will be coordinated with Federal and State resource agencies to address federal laws such as the National Historic Preservation Act.

SOUTH CAROLINA DEPARTMENT OF ENVIRONMENTAL SERVICES:

WATER QUALITY: The applicant is responsible for requesting a 401 WQC from the South Carolina Department of Environmental Services (SCDES) that this Regional General Permit will comply with applicable water quality requirements in accordance with Clean Water Act Section 401 (33 U.S.C. § 1341) and 40 CFR Part 121. The applicant is also responsible for providing the SCDES any supplemental information that may be required to complete their review. A DA permit may not be issued prior to receipt of a certification (or waiver of certification) from SCDES.

COASTAL ZONE: The work proposed in this RGP must also be certified by SCDES as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930) if located within the following eight coastal counties: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper.

STATE NAVIGABLE WATERS: These activities may also require evaluation by SCDES for compliance with the S.C. Construction in Navigable Waters Permit Program.

For questions regarding SCDES permitting procedures, please visit <https://des.sc.gov/permits-regulations/permit-central>.

CULTURAL RESOURCES: For each activity proposed for authorization under the SAC RGP-59, the Corps will conduct an individual evaluation of the activity's potential effects to historic properties and Tribal resources, in accordance with Section 106 of the NHPA and Tribal Trust responsibilities. If the proposed activity has the potential to cause effects, the proposed activity cannot be authorized under this RGP until consultation under Section 106 of the NHPA has been completed OR until notification and coordination under the provisions of 33 CFR § 325, Appendix C.14 and 36 CFR 800.12(b)(2) is completed (please see General Condition 13 in Appendix B of the proposed RGP 59 for further details).

ENDANGERED SPECIES: For each activity proposed for authorization under the SAC RGP-59, the Corps will confirm whether the activity meets the requirements of the USFWS Information for Planning and Consultation (IPaC) programmatic agreement. Activities not meeting the requirements of the IPaC programmatic agreement may not be verified under this RGP until appropriate consultation with USFWS is complete OR emergency measures defined by RGP-59 have been authorized in accordance with emergency consultation procedures in 50 CFR 402.05 (please see General Condition 21 in Appendix B of the proposed RGP 59 for further details).

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, this notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not

adversely affect EFH and/or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

NAVIGATION: The proposed activities may be located in the vicinity of a federal navigation channel, possibly requiring coordination with the Corps' Navigation Section and U.S. Coast Guard.

SECTION 408: The proposed activities described in this notice may require permission pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (Section 408). Permission for an alteration under Section 408 may be granted when, in the judgment of the Secretary of the Army, the alteration will not be injurious to the public interest and will not impair the usefulness of the project. Decisions on proposed alterations are delegated to the District Engineer unless one or more criteria requiring elevation are triggered.

EVALUATION: The decision whether to issue the proposed RGP will be based on an evaluation of the probable impact of the proposed activities 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 including cumulative impacts thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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 determination, comments are used to assess impacts to 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 (EA) and/or an Environmental Impact Statement pursuant to the NEPA. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Charleston District will receive written comments on the proposed activities, as outlined above, until September 19, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Angelle Greer at angelle.v.greer@usace.army.mil. Alternatively, you may submit comments in writing to the District Engineer, U.S. Army Corps of Engineers, Charleston District, Attention: Angelle Greer, 750 Executive Center Dr., Suite 103, Greenville, South Carolina 29615. Please refer to the permit application number (SAC-2025-00555) in your comments. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.



REGIONAL GENERAL PERMIT 59 (SAC-2025-00555)

U.S. ARMY CORPS OF ENGINEERS

STATEWIDE NATURAL DISASTER MITIGATION AND EMERGENCY-RELATED ACTIVITIES IN THE CHARLESTON DISTRICT

Effective Date: TBD

Expiration Date: 5 years from RGP issuance

PERMITTEE: General Public (including federal, state, or local agencies)

PERMIT NO.: RGP-59

ISSUING OFFICE: U.S. Army Corps of Engineers, Charleston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer. The term "wetlands", as used in this permit, refers to jurisdictional wetlands, a category of waters of the United States (U.S.).

You are authorized to perform work in accordance with the terms and conditions specified below.

I. LOCATION: This permit is applicable in the state of South Carolina. This also includes, but is not limited to, critical habitat for species protected by the Endangered Species Act, Wild and Scenic Rivers, and/or special aquatic sites in tidal and non-tidal aquatic resources. Project specific considerations may apply regarding applicable locations and are described below.

II. AUTHORITY AND SCOPE OF WORK: This RGP is issued upon the recommendation of the Chief of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § 1344). This RGP contains provisions intended to protect the environment, endangered species, and historic properties and to ensure activities authorized by this RGP will cause no more than minimal individual and cumulative environmental impacts. The attached Special and General Conditions describe the criteria which must be met for work to be accomplished under this RGP, and the terms and conditions contained within this permit apply to this RGP only. Work that does not comply with these provisions is not authorized by this RGP and may require Department of the Army (DA) authorization by other available permit types.

This Regional General permit authorizes discharges of dredged or fill material into Waters of the United States, including wetlands, and/or work or structures in Navigable Waters of the United States for necessary repair and protection measures associated with an emergency situation.

EMERGENCY SITUATIONS: An "emergency" situation is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

These are very serious situations that could result in the loss of life, the loss of property, and/or a significant economic hardship if steps to remedy the situation are not immediately pursued. This may include emergencies due to a natural disaster (e.g., flood, hurricane, earthquake, etc.) or a catastrophic (sudden and complete) failure of a facility due to an external cause (e.g., wrecks, explosions, ruptures, spills of hazardous or other materials).

III. THRESHOLDS:

For each single and complete project authorized under Category 1 activities as defined below, temporary impacts to Waters of the U.S. shall not exceed 3-acres and/or 3,000-linear feet of stream. All discharges authorized under Category 1 shall be removed and restored to pre-construction conditions within 180 days, unless the district engineer waives this criterion.

For each single and complete project authorized under Category 2 activities as defined below, permanent losses to Waters of the U.S. shall not exceed 1-acre and/or 2,000-linear feet of stream.

* See the definition of “Loss of waters of the United States” in Appendix C.

TERMS AND CONDITIONS: The work authorized by this RGP is subject to the following general conditions and limits, in addition to special conditions determined necessary to reduce impacts to the minimum level.

See **Appendix A** for Authorized Activities (Category 1 and Category 2).

NOTIFICATION AND APPROVAL PROCEDURES

a. Initial Notification: All parties proposing work under RGP-59 must contact the Charleston District office. A determination, by the Corps, must be made if the proposed work is necessitated by conditions and if it meets the “emergency situation” criteria. The Corps may not view an action as an emergency if the applicant has known of the deficient condition of the failing structure and has not made reasonable attempts to secure appropriate permits and conduct timely repairs.

The following information, to the greatest extent practicable during the emergency situation, is the minimum pre-construction notification required for initial reporting:

1. Contacts: The name, address, telephone number and email address (if available) of the applicant, landowner (if different), and any designated agent, including contractors.

2. Location: The location of the proposed activity.

i. For specific project sites, provide Township/Range/Section, and latitude and longitude (decimal degrees).

ii. For linear projects, provide Township/Range/Section, and latitude and longitude (decimal degrees) for start and end points. This should include identification of the affected water(s).

3. Nature of Emergency: A description of the nature of the imminent threat to life or property and the purpose and need for the proposed activity. If possible, photos of existing conditions within the affected area should also be provided.

4. Description of Work Needed: A description of the work proposed to rectify the emergency situation. This should include a complete description of each single and complete project. For the temporary and/or permanent discharge of dredged and/or fill material into waters of the U.S., the description shall include the amount (in cubic yards) and type of fill material proposed to be placed

into waters of the U.S. (including wetlands), as well as the area (in acres) of waters of the U.S. that would be filled and whether or not the fill material is temporary or permanent.

b. Agency Coordination: Upon receipt of a notification, the DE will immediately provide (i.e., by electronic mail, overnight mail or other expeditious manner) a copy to the offices of all pertinent State and Federal agencies, and applicable Tribal Offices. These agencies will be requested to provide a response to the Corps Regulatory Project Manager by e-mail or telephone, if they have substantive, site-specific comments regarding the proposed project.

The DE will fully consider any comments received concerning the proposed activity's compliance with the conditions of the agency's authority and the need to adopt mitigative measures to the maximum extent practicable or impose terms and conditions to ensure the projects adverse environmental effects are no more than minimal. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, or other means.

c. Notification to Proceed: Authorization under this RGP may be granted upon initial contact with the Corps provided the requester can present sufficient information on the location, nature, and extent of the work to establish that the safety or environmental hazard exists. The Corps will respond in writing (email, letter, etc.), that the proposed action may move forward. In extreme circumstances, and as determined by the branch chief, immediate verbal authorization may be granted to perform the work with a follow-up, same day email from the branch chief (or team lead on behalf of the branch chief), documenting the verbal authorization. Otherwise, a written request describing the need for the work would be needed to initially establish that the project qualifies for authorization under the provisions of this general permit.

d. Post Project Report: You must submit a notice to the Corps within 60 days following the completion of work and/or to request remediation measures for impacts. The notice shall include a location and summary of activities that occurred.

CONDITIONS

ACTIVITIES DO NOT QUALIFY FOR THIS RGP UNLESS THEY SATISFY ALL OF THE PERMIT GENERAL AND SPECIFIC CONDITIONS (UNLESS OTHERWISE SPECIFICALLY STATED).

*See **Appendix B** for General Conditions

Special Conditions: Any verification under this RGP may include special conditions that the applicable District office determines are necessary, to ensure compliance with the conditions of the RGP and to ensure that the activity will not result in more than minimal individual or cumulative adverse impacts to the aquatic ecosystem or other public interest factors.

1. All structures authorized by this RGP shall be designed, located, and/or operated to allow the full and free use by the public of all navigable waters of the U.S.
2. 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 their 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 Corps of Engineers, 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.

3. The permittee must install and maintain, at their expense, any safety lights and signals prescribed by the U.S. Coast Guard (USCG), through regulations or otherwise, on authorized facilities. The USCG may be reached at the following address and telephone number: (as of February 2013) U.S. Coast Guard District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL. 33131, and 305-415-6755 or 305-415-6750.
4. The following shall apply to all permanent culvert installations within streams:
 - a. Bottomless or Arch-Span Culverts: If there are any impacts to aquatic resources, the overall width of a bottomless or arch-span culvert shall be approximately equal to, but not narrower than, the typical bankfull width of the stream channel. Additional pipes or culverts may be used to receive flows exceeding bankfull, but the inlet(s) shall be baffled to or sit at the stream's bankfull elevation.
 - b. Box Culverts: The overall width of a single or multi-barrel box culvert shall be approximately equal to, but not narrower than, the typical bankfull width of the stream channel. Additional pipes or culverts may be used to receive flows exceeding bankfull, but the inlet(s) shall be baffled to or sit at the stream's bankfull elevation.
 - c. Circular Pipes/Culverts: The overall width of a circular pipe/culvert shall be approximately equal to, but not narrower than, the typical bankfull width of the stream channel. Multiple circular pipes/culverts may not be used to accommodate flows at bankfull width except in scenarios where a culvert replacement would result in additional impacts to waters. Additional circular pipes/culverts may be used to receive flows exceeding bankfull but shall sit at the stream's bankfull elevation.
 - d. Culvert Embedding: The upstream and downstream invert of culverts (except bottomless or arch-span culverts) shall be buried/embedded to a depth of 20% of the culvert height to allow natural substrate to colonize the structure's bottom. Additional culverts used to receive flows exceeding bankfull are not required to be embedded. A waiver from the depth specifications in this condition may be requested, in writing, by the permittee and issued by the Corps if determined appropriate. The waiver request must be specific as to the reason(s) for the request. The waiver will be issued if it can be demonstrated that the proposed design would result in less impacts to the aquatic environment.
 - e. Culvert Slope: The culvert slope shall be set within 25% of the streambed slope (e.g., if streambed slope is 2%, the designed slope of the culvert shall be between 1.5% and 2.5%). In situations where culvert slope exceeds 4%, interior baffles on the bottom of the culvert or other measures shall be used to allow for sediment colonization and/or velocity attenuation. A waiver from the slope specifications in this condition may be requested, in writing, by the permittee and issued by the Corps if determined appropriate. The waiver request must be specific as to the reason(s) for the request.

V. FURTHER INFORMATION:

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

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

3. Limits of Federal Liability. In issuing this permit, 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 any persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that verification of this permit is not contrary to the public interest was made with reliance on the information you provided.

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

- a. You fail to comply with the terms and conditions of the RGP.
- b. The information provided by you in support of a permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces that the Corps 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 modification, suspension and revocation procedures contained in [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 you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and, if you 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 for the cost.

See **Appendix C** for Definitions

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

Todd A. Mainwaring
Lieutenant Colonel, U.S. Army
Commander and District Engineer

Date

Appendix A Authorized Activities

CATEGORY 1 ACTIVITIES - Temporary Emergency Repairs and Activities: Temporary work, temporary structures, and/or the temporary discharge of dredged or fill material associated with emergency conditions and is restricted to those activities necessary to prevent the loss of life, significant property loss and significant economic hardship during the emergency. These activities will occur to restore, repair, and/or stabilize features that have been damaged, destroyed, or are in imminent danger of failing. The activity shall be the minimum necessary to alleviate the immediate emergency, unless this office determines that additional work would result in no more than minimal effects to WOTUS and is necessary to reduce the potential for future failure or loss of the structure or site.

****** Work and discharges authorized under Category 1 are considered temporary. After the immediate situation has been addressed and/or the emergency has ended, you must either restore the site to its pre-project conditions by removing all structures and/or material placed, or you must apply for a permit to maintain the work, or portions of work initially authorized under this category. Permit applications to maintain work initially authorized under this category will be processed in the appropriate manner, to potentially include, if needed, an agency or public notice; water quality certification; consultation for endangered species, critical habitat, historic resources, or tribal resources; and mitigation measures (avoidance, minimization, and/or compensation).

All discharges authorized under Category 1 shall be **removed and restored to pre-construction conditions within 180 days**, unless the district engineer waives this criterion.

Activities in Category 1 include:

1.a. Repair, Construction, or Re-Construction of Linear Transportation Features: These activities will usually occur because temporary access is needed to perform other actions listed below or to restore vehicle passage or access to homes, businesses, etc. until the emergency has passed or until a more permanent solution can be designed. Activities include, but are not limited to, culvert or fills associated with bridge replacements or repairs; restoration of road prism at the original site or in a new temporary location; placement of rock or other structures to protect transportation features; or construction of temporary roads and temporary fill required to facilitate the completion of emergency activities.

1.b. Protection, Repair, and/or Replacement of Utility Structures: This activity will occur to protect or re-establish utilities such as electricity, water, sewer, natural gas, or other transmission lines. Temporary utilities may be needed until more permanent solutions can be constructed. These activities can involve excavation and trenching, backfilling, armoring with rock or other suitable material, placement of utility poles and aerial transmission lines. This activity can also include dredging and/or the temporary deposition of material for emergency pipeline anomaly repairs and temporary access routes.

1.c. Debris, Sediment, or Vegetation Removal or Dredging: This activity includes the removal of accumulated debris, sediment, or vegetation from the immediate area around bridges, culverts, or other transportation features where it is threatening the stability of the transportation feature. It also includes the excavation and removal of accumulated sediment, debris or vegetation from existing channels, ditches, inlets, pipes, trash racks, and other structures to restore flow during drought conditions or remove blockages during flooding. Additionally, the removal of other debris such as, but not limited to derelict vessels, residential structures and associated debris, or vehicles displaced by flooding, hurricanes, or similar natural disasters is authorized by this permit. Removal activities are limited to restoring flow conveyance and/or channel geometry to pre-event dimensions. Dredging to establish depths or width greater than that which existed prior to the blockage is not authorized under this category.

1.d. Temporary Levee Construction: This activity will occur to protect homes, businesses, and

public infrastructure. These levees must be removed, and the land restored as close to pre-emergency conditions as possible once the emergency has passed. Levees will be constructed of suitable materials and sloped and/or armored with rock or other stabilizing material to prevent erosion and failure until the material is removed and the site restored, to include revegetation of the area.

1.e. Temporary Placement of Suitable Material for Bank Stabilization or Revetment Repair:

This activity would occur to stop erosion and to protect private property and public infrastructure. Large rock or other suitable clean fill material may be temporarily placed in the amount needed to stop erosion and to protect property or public infrastructure in or along rivers, streams, and tidal waters until permanent repairs can occur.

1.f. Construction of Temporary Drainage Ditches: This activity allows for the temporary discharge of dredged or fill material associated with the construction of temporary drainage ditches that are needed to aid in the removal of flood waters from private property or from public infrastructure.

1.g. Temporary Structures or Fills for Reinforcement, Flood Control Barriers, Staging, Access, Dewatering, and/or Retention of Water: This activity allows for the installation and use of devices such as sandbags, water gates, water barrier socks, water inflated devices, concrete blocks/barriers, water bladders, timber mats, piling, sheet pile, and/or the discharge of dredged or fill material for purpose of: temporarily reinforcing structures and preventing flooding impacts; use as cofferdams to temporarily dewater a work site; consolidate low-flow, raise water levels, or retain water in a confined area such as an intake inlet in response to drought or other low-flow conditions; construction of temporary sedimentation basins; construction of temporary access roads; etc.

- (1) The temporary devices and fills must be removed as mentioned above. All temporary fill material removed must be deposited in a contained upland location such that it cannot reenter WOTUS, including wetlands.
- (2) All temporary material placed in the waterway to raise water levels or retain water in a defined area will be removed when stream flow increases to a non-emergency situation level and prior to anticipated high flows that could wash low-flow consolidation measures away or cause flow to go around them.

1.h. Construction of Temporary Debris/Sediment Catchment Facilities: This activity would occur to prevent debris flows and runoff of materials such as sediment (i.e., mud, silt, sand, soil, and rock), dislodged vegetation, trash, waste materials, or hazardous materials using temporary structures or barriers intended to capture debris and sediments

CATEGORY 2 ACTIVITIES - Permanent Emergency Work and Activities:

NOTE: Any work authorized by this RGP must be the minimum necessary to prevent, mitigate, and/or remediate damages caused by the emergency. Minor upgrades to existing structures or fills may be authorized if resulting from necessary changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards on a case-by-case basis. This RGP may not be used to upgrade an existing structure to current standards when that activity would result in more than minimal adverse effects on aquatic resources, except in limited circumstances as approved in writing by the district engineer.

Activities in Category 2 include:

2.a. Channel Restoration and Repair: The restoration and protection of stream bed and banks, and canals damaged by a natural disaster (e.g., hurricane, flooding, fire). Restoration of stream channels and/or canals not damaged by flooding or other natural disaster is not authorized under this Regional General Permit. Channel restoration activities may include re-establishment of the stream and/or canal banks, restoration or establishment of stream meanders, and the restoration or establishment of riparian areas or floodplain benches. All channel restoration activities must restore the area to pre-flood conditions and must meet the following three criteria unless the district engineer waives these criteria by making a written determination concluding that the proposed project results in a net increase in aquatic resource functions and services and the discharge will result in no more than minimal adverse environmental effects:

- (1) The restored area must not extend waterward of the ordinary highwater mark, mean high water, high tide line, or previous contours that existed prior to the damage (i.e., the restoration must not narrow the width of the waterbody as it existed prior to the damage).
- (2) The slope of the restored area below the ordinary highwater mark must not exceed the slope that existed prior to the damage (i.e., banks may be laid back to reduce the slope but cannot be steeper than what existed prior to the damage).
- (3) The bottom elevation of the restored area must not deviate from the bottom elevation that existed prior to the damage (i.e., the restored area must not result in an increase or decrease in the depth of the waterbody that existed prior to the damage).

2.b. Maintenance Dredging: The emergency removal of sand, gravel or other similar materials deposited during natural disasters or unexpected high flows, where such blockages close or constrict previously existing inlets, waterways, or drainageways or restrict access to a structure, by either mechanical or hydraulic methods, provided the activity meets all of the following criteria:

- (1) The total amount of dredged material would not exceed 5,000 cubic yards, unless expressly waived, in writing, by the District Engineer.
- (2) The total surface area to be dredged would not exceed 0.5-acre (21,780 square feet) unless expressly waived, in writing, by the District Engineer.
- (3) Removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected waterway as it existed prior to the formation of the blockage.
- (4) No dredging of wetlands or vegetated shallows/submerged aquatic vegetation is authorized.
- (5) The discharge or redeposit of dredged material is authorized with this RGP provided you demonstrates to the satisfaction of USACE that:
 - i. The discharge of dredged material associated with the method of dredging is unavoidable.
 - ii. Woody debris, rock, gravel, sand, or sediment remaining in place would be of environmental benefit to the system.
 - iii. The discharge of dredged material associated with the method of dredging would be minimized to the maximum extent practicable.

2.c. New Bank Stabilization or Revetment Repair: This activity would occur to stop erosion and to protect private property and public infrastructure along river or stream banks and shorelines of other water bodies. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

- (1) No material is placed in excess of the minimum needed for erosion protection.
- (2) The activity is no more than 2,000-feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects.
- (3) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary highwater mark, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects.
- (4) The activity does not involve discharges of dredged or fill material into special aquatic sites (i.e., wetlands or riffle and pool complexes), unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects.
- (5) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas).
- (6) Bio-engineering materials, such as vegetation, are encouraged whenever possible for bank stabilization activities. Native plants appropriate for current site conditions must be used for bioengineering or vegetative bank stabilization.
- (7) The activity is not a stream channelization activity.

2.d. Levee and Dam Repair, including Breach Closures: This activity involves repairs to prevent erosion and potential failure of an existing levee or dam, or to stop scour, allow the closing of breaches, and impacts to the levee prism including the discharge or placement of rock or other suitable material.

2.e. Repair, Replacement, or Rehabilitation of Previously Authorized Structures or Fills: Minor deviations in the structure or fill area, including upgrades to previously authorized structures or fills are authorized due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards.

2.f. Restoration and Cleanup of Mud/Rockslides: Restoration of sites damaged by mud/rockslides caused by discrete weather events. Sites must be constructed to pre-disturbance elevations and revegetated as appropriate.

2.g. Beach Nourishment Activities: This RGP authorizes the excavation and discharge of material waterward of the high tide line (HTL) for emergency beach nourishment activities for private, commercial, and public uses, specifically within those waters of the Atlantic Ocean, within the state of South Carolina. This includes projects involving beach restoration for immediate erosion relief to eroded areas that threaten inhabited structures or developed areas. This RGP is intended for use after discrete events and does not authorize continuing or recurring nourishment or maintenance activities. Beach nourishment activities are subject to the following conditions:

- (1) Mechanical excavation/sand scraping is only authorized between the HTL and mean low water (MLW) contours in non-vegetated beach areas. The depth of excavation shall not exceed two feet. The permittee shall make every effort to contour and shape the excavated area such that the average depth decreases with proximity to the shoreline.
- (2) Mechanical excavation/sand scraping is limited to the area directly in front of the property being protected, within the extended property lines of the subject property, and landward of MLW.
- (3) Hydraulic excavation is not authorized.
- (4) Excavation of shoals or sand bars is not authorized.

- (5) Any material utilized for beach nourishment activities must be compatible with the soils in the nourished area.
- (6) All excavation and filling activities shall be conducted during low tides.
- (7) Sand scraping/excavation is only authorized for the purpose of obtaining material to be placed along the shoreline for erosion relief. The excavation of material for placement behind bulkheads, seawalls, or other man-made structures is not authorized.
- (8) Emergency beach nourishment activities occurring waterward of the HTL must commence, or be under contract to commence, within 180 days of the date of the destruction or damage from a discrete event. In cases of catastrophic events such as hurricanes or tornados, this 180-day limit may be waived by the District Engineer, provided the permittee can demonstrate funding contract, or similar delays.
- (9) Emergency beach nourishment activities occurring waterward of the HTL on individual parcels must be completed within 2 weeks of commencement of the work. This 2-week limitation may be waived by the Corps upon request for a coordinated effort addressing multiple parcels in sequential fashion.
- (10) In the event that sandbags are placed below the HTL in association with these beach nourishment activities, only large sandbags are authorized. Large sandbags are defined as UV resistant bags one (1) cubic yard in size commercially manufactured to hold sand. In the event of continual erosion that shifts sandbags below the HTL, it is the permittee's responsibility to immediately remove such sandbags. Any sandbags remaining in the project area must be removed prior to beach nourishment activities and may not be buried by emergency beach nourishment activities.
- (11) For protection against further erosion, fill and/or excavated material may be deposited along the eroded shoreline for restoration of the beach and sand dunes above the HTL, in accordance with SCDES-BCM "How to Build a Dune" (https://des.sc.gov/sites/des/files/docs/HomeAndEnvironment/Docs/dunes_howto.pdf). Vegetation and sand fencing may be used to stabilize deposited material. Vegetation must be native species typical of natural beach and dune ecosystems. A list of species proposed for stabilization must be submitted to this office for approval prior to planting. Sand fencing must be biodegradable and installed in a manner so as not to impede turtle nesting. Should the fences be found to impact nesting activities or have the potential to impact nesting activities, sand fencing must be moved or removed entirely. Fencing must have openings between sections that are at least 5-feet wide and sections must be removed if they do not function to trap sand and establish sand dunes. The fencing must be installed in a manner that will not impede public access and damaged fence material must be removed from the beach by the property owner.
- (12) In an effort to minimize disturbance to sea turtles, migrating shorebirds (particularly the piping plover and the red knot), and nesting birds, emergency beach nourishment activities are authorized between November 1 and February 28. For activities proposed outside this window, the Corps will consult with the U.S. Fish and Wildlife Service (USFWS) and/or The National Marine Fisheries Service (NMFS). After appropriate coordination with USFWS and NMFS, the Corps must be able to make a case-specific determination that the work is not likely to adversely affect threatened or endangered species or their critical habitat before verification of the proposed work can be issued. The Corps may require the permittee to comply with specific conditions to ensure that authorized work does not adversely affect threatened or endangered species or their critical habitat.
- (13) If work is authorized between May 1 and October 31, the permittee is required to coordinate with the DNR Marine Turtle Conservation Program (MTCP) and Nest Protection Project Leaders (NPPL) for the length of the project. NPPL should be consulted each morning prior to any work being performed on the beach. In the event a nest is disturbed during construction and/or an adult turtle is encountered, all work should cease and the MTCP should be contacted immediately. The MTCP contact is Michelle Pate who can be reached at 843-953-9052 (office) or 843-384-0605 (cell). For activities proposed within this window, the Corps will also consult with the S.C. Department of Natural Resources (SCDNR). The Corps may require the permittee to comply with specific conditions to ensure that authorized work does not adversely affect

nesting sea turtles.

Appendix B - RGP 59 General Conditions

1. AGENCY COORDINATION: Even in an emergency, reasonable efforts will be made to receive comments from interested federal, state, and local agencies and the affected public. Agencies may include, but are not limited to, the U.S. Fish and Wildlife Service (USFWS), Environmental Protection Agency (EPA), State/Tribal Historic Preservation Officer (SHPO/THPO), Advisory Council on Historic Preservation (ACHP), state environmental agencies, Tribes, etc.

2. AUTHORIZED WORK: Any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction results in no more than minor additional impacts to aquatic resources. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit and may result in the modification, suspension, or revocation of the authorization.

3. AVOIDANCE AND MINIMIZATION: The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to aquatic resources to the maximum extent practicable at the project site (i.e., on-site).

4. MITIGATION: The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

- a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on-site).
- b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) may be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
- c. Compensatory mitigation may be required for wetland losses that exceed 1/10-acre (4,356-square feet) or all losses of stream bed that exceed 5/100-acre (1,306-square feet), unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate, or the adverse environmental effects of the proposed activity are no more than minimal and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less and losses of stream bed of 5/100-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

5. DISTRICT ENGINEER'S DECISION: In reviewing the notification for the proposed activity, the DE will determine whether the activity would likely result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. If the DE determines the adverse effects of the proposed work are more than minimal, the DE will notify the applicant that the project does not qualify for authorization under this RGP and instruct the applicant on the procedures to seek authorization under an individual permit or other general permit.

6. PERMIT EXPIRATION: The proposed RGP, if issued, will be effective for a period of five (5) years. Authorized activities which have commenced or are under contract to commence prior to this date shall remain authorized provided work within waters of the U.S. is completed within 60 days following expiration of this RGP, unless the District Engineer's discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

7. START WORK DATE: Any projects authorized under this RGP must be initiated within twenty-one (21) days of receiving authorization to proceed. If the project start time can be delayed for more than three weeks, the imminent threat of impending loss may have diminished in magnitude, as well as immediacy, and generally would not meet the definition of an “emergency.” However, there may be limited circumstances where, after notice to and input by the agencies, logistical considerations necessitate an extension beyond 21 days. Further, this RGP cannot be used to authorize long-planned-for projects, nor shall it be used for projects that are likely to have been known to the applicant but for which an application was not submitted in a timely manner. That is, the Corps is not obligated to authorize work for a self-described emergency situation unless the Corps agrees that the situation qualifies as an emergency as defined on page 1.

8. COMPLETION WORK DATE: Authorized work under this RGP shall be completed within 180 days of the verification date. If it is anticipated that work will not be completed prior to the expiration of the verification, the Applicant shall request an extension at least thirty (30) days prior to the expiration date. The request shall include justification for the extension.

9. PROPER MAINTENANCE: You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. 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 General Condition 10 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

10. TRANSFER OF RGP VERIFICATION:

If the permittee sells the property associated with this RGP verification, the permittee may transfer the RGP verification to the new owner by submitting a letter to the Corps to validate the transfer. A copy of this RGP 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 Name- Printed and Signed)

(Date)

(Transferee Contact Information)

11. TRIBAL RIGHTS: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

12. DISCOVERY OF PREVIOUSLY UNKNOWN REMAINS AND ARTIFACTS: If human remains, historic resources, or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area, and you shall immediately contact the appropriate District office. Upon notification the Corps shall notify the appropriate Tribal Historic

Preservation Office (THPO) and State Historic Preservation Office (SHPO). Based on the circumstances of the discovery, equity to all parties, and consideration of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. After such notification, project activities on federal lands shall not resume without written authorization from the Corps. After such notification, project activities on tribal lands shall not resume without written authorization from the SHPO and the Corps.

13. HISTORIC PROPERTIES: The applicant must submit a statement to the Corps regarding the activity's potential to cause effects to any historic properties (i.e. any prehistoric or historic district, site, building, structure, or object) listed in, or determined to be eligible for listing on, the National Register of Historic Places, including previously unidentified properties. The statement must say which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location or potential for the presence of historic resources can be sought from the South Carolina State Historic Preservation Office (SHPO) and the National Register of Historic Places. Where the applicant has identified historic properties which the proposed activity may have the potential to cause effects and so notified the Charleston District, the applicant shall not begin the activity until notified by the Charleston District that the activity has no potential to cause effects, or that consultation under Section 106 of the NHPA has been completed, or that notification and coordination under the provisions of 33 CFR § 325, Appendix C.14 and 36 CFR 800.12(b)(2) is completed. The applicant should be aware that Section 110(k) of the NHPA (16 U.S.C. § 470(h)-2(k)) prevents the Corps from granting a permit or other assistance to anyone who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effects. If circumstances justify granting the assistance, the Charleston District is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the SHPO, Tribal Historic Preservation Officer, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have legitimate interest in the impacts to the permitted activity on historic properties. If the applicant, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Charleston District of what has been found. Coordination with the SHPO and all appropriate consulting parties will commence and the applicant will subsequently be advised when he/she may recommence work.

14. WATER QUALITY CERTIFICATION: This RGP has not received a water quality certification (WQC) from the South Carolina Department of Environmental Services (SCDES), and an individual WQC must be obtained prior to beginning work.

15. SITE INSPECTION: You 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 your permit.

16. MANAGEMENT OF WATER FLOWS. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic

environment (e.g., stream restoration or relocation activities).

17. CLEAN FILL: No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). The material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

18. STABILIZATION: All exposed fills (including side slopes) and disturbed areas shall be stabilized immediately after construction to prevent erosion. Re-vegetation of the disturbed areas shall begin as soon as site conditions allow. Species to be used for seeding and planting shall follow this order of preference:

- a. Species native to the site.
- b. Species native to the area.
- c. Species native to the state.

Active sloughing, increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands will be considered evidence of insufficient stabilization.

19. SEDIMENT STORAGE: Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent leachate from causing degradation of water quality. Unusable or excess material must be disposed of in uplands or at a location approved by this office.

20. FLOODPLAIN: Floodplain integrity and connectivity shall be maintained at floodplain crossings by installing properly sized culvert(s) and/or bridges that allow high water in the floodplain to pass with minimal backwater impoundment upstream and minimal diversion of high water from the floodplain downstream. Fills within the 100-year floodplain must comply with applicable FEMA approved state or local floodplain management requirements.

21. ENDANGERED SPECIES: No activity is authorized which: (a) is likely to jeopardize the continued existence of any threatened or endangered species or threatened species, or species proposed for such designation, as identified under the Endangered Species Act of 1973, or which will result in the destruction or adverse modification of designated critical habitat of such species; (b) "May affect" a listed species or critical habitat, unless Section 7 (Federal Endangered Species Act) consultation addressing the effects of the proposed activity has been completed, or emergency measures defined by RGP-59 have been authorized in accordance with emergency consultation procedures in 50 CFR 402.05; or (c) involves the "take" of a threatened or endangered species as defined under the ESA without separate authorization (e.g., a Biological Opinion with "incidental take" provisions) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. The applicant shall include, in their permit applications, information regarding the presence of any federally listed threatened or endangered species or designated critical habitat in the vicinity of the project site that might be affected by the proposed work.

22. ESSENTIAL FISH HABITAT: The Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act require federal agencies to consult with NMFS on proposed actions that may adversely affect EFH. NMFS's EFH consultation regulations at 50 CFR § 600.920(a)(1) state: "Consultation is required for emergency Federal actions that may adversely affect EFH, such as hazardous material clean-up, response to natural disasters, or actions to protect public safety. Federal agencies should contact NMFS early in emergency response planning but may consult after-the-fact if consultation on an expedited basis is not practicable before taking the action."

23. COASTAL ZONE MANAGEMENT (CZMA): This RGP has not received a state coastal zone management consistency concurrence, and an individual state coastal zone management

consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)).

24. MIGRATORY BIRD TREATY: The Migratory Bird Treaty Act prohibits the willful killing or harassment of migratory birds. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. Nesting seasons vary throughout the state, for further information, you may look at the USFWS site, http://alaska.fws.gov/fisheries/fieldoffice/anchorage/pdf/vegetation_clearing.pdf

25. SELF-CERTIFICATION: Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form and submit it to this office. The Self-Certification shall include proof of compliance of appropriate general conditions (i.e., no erosion/sloughing into adjacent waters and wetlands, proper installation of hydrologic passage and natural drainage patterns, use of native plants in reseeding).

Appendix C - Definitions

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 which remain after all appropriate and practicable avoidance and minimization has been achieved.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Emergency Situation: A situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: 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 gages, 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.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Open water: An open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high-water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High-Water Mark: The term ordinary high-water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed

on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or 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.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. The purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Reestablishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality.

Stream bed: The substrate of the stream channel between the ordinary high-water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high-water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States. **Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority,

unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: A waterbody is a “water of the United States.” If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).