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INTERIM SECRETARY

State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE SECRETARY

POLICY MEMORANDUM

October 4, 2012

To: Office of Coastal Management

From: Stephen Chustz, Secretary 

Subject: Criteria for Determination of No Direct and Significant Impact to Coastal Waters

Pursuant to R.S. 49:214.34.A.10, a coastal use permit is not required for "uses which do not have a significant impact on coastal waters" (NDSI). The decision on which uses do not have a significant impact is left to the discretion of the Secretary (LAC 43:I.723.B.8.b.).

It should be noted that, pursuant to §723.B.2.d., even a normally exempted activity may require a coastal use permit if it involves direct and significant impacts to coastal waters. In such circumstances, only those elements of the activity which cause the impacts are subject to the permit requirement. Thus, it is incorrect to state that an area, such as a fastland, is exempt. Rather, it is correct to state that a particular activity in a fastland is exempt from the coastal use permit requirement, provided that it has no direct and significant impacts on coastal waters.

The following list of NDSI activities was developed based upon the collective experience and best professional judgment of the Office of Coastal Management staff with respect to the impacts that those activities have on coastal waters. Please utilize that list in your activities related to the coastal use permit program.

List of Activities Deemed to Have No Direct and Significant Impact on Coastal Waters

October 4, 2012

The following list of activities shall be considered to have "no direct and significant impacts on coastal waters" (NDSI) **provided that**:

- Projects near environmentally or administratively sensitive features (bird rookeries, wildlife management areas, state wetlands restoration projects, Coastal Master Plan features, oyster leases, oyster seed grounds, state waterbottoms, etc.) must be reviewed and approved by the responsible oversight agency prior to issuance of an NDSI approval, to ensure there will be no adverse impacts to those resources. Compliance with the requirements contained in the Louisiana Department of Wildlife and Fisheries (LDWF)-DNR Memorandum of Agreement will be construed as approval of the activity by LDWF. **If interagency coordination is required, the applicant should be contacted as soon as possible and asked if they would prefer to proceed with a public notice for the project rather than await the decision of the other agency.**
- The NDSI determination will **NOT** apply if:
 - The project is located within one-quarter mile of a barrier island;
 - The project is located on a chenier, barrier beach, dune, salt dome or similar isolated, raised landform;
 - There are any impacts to vegetated wetlands (emergent or submergent).
- If the project involves any dredging, jetting, filling, pilings, driven bulkheads, etc. the applicant must agree to comply with all applicable laws regarding the need to contact the Louisiana One Call System.

NDSI Categories

- I. Ring levees and road dumps in non-wetland areas, provided there will be no discharge of drilling fluids, cuttings or produced waters into coastal waters or wetlands.
- II. Installation and removal of oil and gas platforms, extensions thereof, and appurtenant structures 150' or less in cumulative length which are located in open water, do not obstruct navigation, and do not require dredging or filling for access. Minor bottom disturbance associated with jetting to install or remove platform legs is acceptable. Applicants for new construction must agree to provide as-built plats within 30 days of installation and to remove the structures within 120 days of site abandonment. Structures must also be marked/lighted in accordance with U.S. Coast Guard regulations.
- III. Installation and removal of oil and gas platforms, extensions thereof, and appurtenant structures and activities in existing oil and gas canals or on the spoil banks of such canals provided no dredging or filling for access is required. A combination of spoil bank and canal siting is acceptable provided that no vegetated wetlands are impacted. Minor bottom disturbance associated with jetting to install or remove platform legs is acceptable. Applicants for new construction must agree to provide as-built plats within

30 days of installation and to remove the structures within 120 days of site abandonment. Structures must also be marked/lighted in accordance with U.S. Coast Guard regulations.

- IV. Installation of piles and pile clusters for the placement of an oil and gas related barge in open water provided that the barge facility (barge and appurtenant structures) is no more than 400' in total length and no dredging or filling for access is required. Minor bottom disturbance associated with jetting to install or remove platform legs is acceptable. Applicants for new construction must agree to provide as-built plats within 30 days of installation and to remove the structures within 120 days of site abandonment. Structures must also be marked/lighted in accordance with U.S. Coast Guard regulations. Up to 3 individual temporary "breaker barges" may be used under this section to protect drilling operations provided that the barge(s) are removed immediately upon completion of drilling operations.
- V. Minor bottom disturbances associated with jetting for the installation, removal or replacement of existing pilings in open water or canals (e.g., for the repair of piers and wharves, replacement of mooring dolphins, etc.).
- VI. Residential piers, wharves, boathouses and shore protection.
 - a. All residential piers, wharves, and boathouses not requiring dredging or filling for installation and which do not act as obstructions to navigation and/or water flow. Minor bottom disturbances associated with jetting for the installation of pilings is acceptable. Bottom disturbances associated with equipment access is not allowed.
 - b. Installation of up to 70 feet of rip rap shore protection to protect residential structures provided that no dredging will be needed and no vegetated wetlands will be impacted. Shore protection materials must be free of any hazardous and/or protruding objects and is limited to no more than 40 cubic yards.
- VII. Mississippi River dredging or filling.
 - a. Installation and removal of mooring facilities, and dredging to maintain access to existing facilities provided that any resultant dredged material is deposited in the river channel (per Corps specifications). Applicant must agree to provide as-built plats within 30 days of installation and to remove the structures within 120 days of site abandonment. Structures must also be marked/lighted in accordance with U.S. Coast Guard regulations.
 - b. Sand dredging and stockpiling provided that sand is deposited in existing sand storage areas.
 - c. Placement of rip-rap or other erosion control material around pilings, water intakes, etc., when no vegetated wetlands are impacted.
- VIII. Geotechnical boring.

Geotechnical boring/sampling in open water areas provided that no dredging, filling or propwashing is required to access the location. Minor fill associated with the discharge of the drill cuttings is permissible. Geotechnical boring/sampling proposed within the previously permitted footprint of another coastal use. No

additional impacts to vegetated wetlands beyond those already permitted are acceptable (ingress, egress, etc.).

IX. Upland areas

Activities occurring wholly in areas designated as "Upland" (U) at the system level of the Cowardin habitat classification system and which do not result in the discharge of hazardous, toxic, or other habitat degrading materials into coastal waters and/or wetlands. **NOTE: In many instances a field investigation will be required to verify the information provided on the habitat maps. As the latest maps available date from approximately 20 years ago and as the coast is a dynamic environment, DO NOT base your assessment solely on the information they contain. The applicant should be contacted as soon as possible and asked if they would prefer to proceed with a public notice for the project rather than await the results of the field investigation.**

X. Other Activities.

Other activities may be deemed to be of NDSI upon conclusion of a thorough and complete technical review of their individual effects. Compliance with the State and Local Coastal Resources Management Act and coastal use guidelines must be documented and included in the permit file.

XI. Maintenance activities of the state or local government on existing highways and roadways within the existing Right-Of-Way (ROW). Maintenance activities to include:

- a. Clearing and grubbing of drainage ditches provided that work does not exceed the original cross section design specifications of the ditch, that staging areas are located within the existing ROW and that all excavated materials are removed to an approved upland disposal site.
- b. Resurfacing of existing roadways provided that all work and staging areas are confined to the existing ROW and all roadway material removed is disposed of at an approved facility.
- c. Repair or replacement of roadway signage.

XII. Vegetative Plantings

The planting of native trees, shrubs or grasses provided that the vegetative material is non-invasive and non-exotic to include but not limited to bare root, containerized, seeded, tissue-culture or hydro-seeded plant material; also provided that no mechanical equipment is used to prepare the site or used to carry out or maintain the planting operation. Access to the site must be by existing road or waterway and may not include any dredging, propwashing, clearing or other construction.