

Coastal Management Definitions

Administrator—the *administrator* of the Office of Coastal Management of the Department of Natural Resources.

Advanced Mitigation Project—a project implemented to create, restore, protect, and/or enhance wetlands for the purpose of producing ecological values, measured as average annual habitat units or cumulative habitat units (advanced mitigation credits). Such projects must be approved by the secretary prior to implementation, and the advanced mitigation credits shall have limited utility for the purpose of compensating for the ecological values lost due to a permitted activity.

Affected Landowner—the owner of the land on which a proposed activity, which would result in an unavoidable net loss of ecological value, is to occur.

Affected Parish—the parish in which a proposed activity, which would result in an unavoidable net loss of ecological value, is to occur.

After-the-Fact Permit—a coastal use permit which is issued after the commencement of a use. Such a permit may only be issued after all legal issues resulting from the commencement of a use without a coastal use permit have been resolved.

Alterations of Waters Draining in Coastal Waters—those uses or activities that would alter, change, or introduce polluting substances into runoff and thereby modify the quality of coastal waters. Examples include water control impoundments, upland and water management programs, and drainage projects from urban, agricultural and industrial developments.

Approved Local Program—a local coastal management program which has been and continues to be approved by the secretary pursuant to 214.28 of the State and Local Coastal Resources Management Act (SLCRMA).

Average Annual Habitat Unit—a unit of measure of ecological value; average annual habitat units are calculated by the formula: (sum of cumulative habitat units for a given project scenario) / (project years).

Beneficial Use of Dredged Material—use of dredged material excavated and not replaced pursuant to a proposed activity for which a coastal use permit is required, so as to protect, create, or enhance wetlands; use of material dredged pursuant to an alternative dredging activity to protect, create, or enhance wetlands, so as to offset failure to use the dredged material from the proposed activity to protect, create, or enhance wetlands; or contribution to the Coastal Resources Trust Fund to replace, substitute, enhance, or protect ecological values, so as to offset failure to use the dredged material from the proposed activity to protect, create, or enhance wetlands.

Beneficial Use of Dredged Material Plan—(BUDM plan) a document submitted to the secretary for approval as part of an application, specifying the beneficial use of dredged material proposed by the applicant.

Best Practical Techniques—those methods or techniques which would result in the greatest possible minimization of the adverse impacts listed in §701.G and in specific guidelines applicable to the proposed use. Those methods or techniques shall be the best methods or techniques which are in use in the industry or trade or among practitioners of the use, and which are feasible and practical for utilization.

Coastal Resources—wetlands, beaches, dunes, salt domes, reefs, cheniers, and other rare or ecologically sensitive areas as determined by the secretary.

Coastal Use Permit—a permit required by 214.30 of the SLCRMA. The term does not mean or refer to, and is in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.

Coastal Water Dependent Uses—those which must be carried out on, in or adjacent to coastal water areas or wetlands because the use requires access to the water body or wetland or requires the consumption, harvesting or other direct use of coastal resources, or requires the use of coastal water in the manufacturing or transportation of goods. Examples include surface and subsurface mineral extraction, fishing, ports and necessary supporting commercial and industrial facilities, facilities for the construction, repair and maintenance of vessels, navigation projects, and fishery processing plants.

Coastal Waters—those bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years).

Coastal Zone—the term *coastal zone* shall have the same definition as provided in 214.24 of the SLCRMA.

Compensatory Mitigation—replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of ecological values caused by a permitted activity.

Conservation Servitude—as defined at R.S. 9:1272(1), means a nonpossessory interest of a holder in immovable property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of immovable property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, archaeological, or cultural aspects of unimproved immovable property.

Consistency Authorization—a letter or other formal notification stating that the Office of Coastal Management has found that the proposed activity is consistent, to the maximum extent practicable, with the Louisiana Coastal Resources Program.

Contaminant—an element causing pollution of the environment that would have detrimental effects on air or water quality or on native floral or faunal species.

Corps—the U.S. Army Corps of Engineers.

Cumulative Habitat Unit—a unit of measure of ecological value; for each time interval within the project years, cumulative habitat units are calculated by the formula: $CHUs = (T_2 - T_1) \times \{[(A_1 \times HSI_1 + A_2 \times HSI_2) / 3] + [(A_2 \times HSI_1 + A_1 \times HSI_2) / 6]\}$, where T_1 = first year of time interval, T_2 = last year of time interval, A_1 = acres of habitat at beginning of time interval, A_2 = acres of habitat at end of time interval, HSI_1 = habitat suitability index at beginning of time interval, and HSI_2 = habitat suitability index at end of time interval; the source of this formula is the U.S. Fish and Wildlife Service's Ecological Services Manual 102, Habitat Evaluation Procedures.

Cumulative Impacts—impacts increasing in significance due to the collective effects of a number of activities.

Department—the Department of Natural Resources.

Development Levees—those levees and associated water control structures whose purpose is to allow control of water levels within the area enclosed by the levees to facilitate drainage or development within the leveed areas. Such levee systems also commonly serve for hurricane or flood protection, but are not so defined for purposes of these guidelines.

Direct and Significant Impact—a direct and significant modification or alteration in the physical or biological characteristics of coastal waters which results from an action or series of actions caused by man.

Dredge or Dredging—(verb) the removal by excavation or any other means of native material, including soil, sand, mud, clay, and semisolid sediment, regardless of whether the material supports or is supporting vegetation, from any lands or water bottoms in the coastal zone of Louisiana.

Dredged Material—soil, mud, and/or other sediment that will be dredged pursuant to a proposed activity for which a coastal use permit or other authorization is required.

Ecological Value—the ability of an area to support vegetation and fish and wildlife populations.

Endangered Species—as defined in the Endangered Species Act, as amended, any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary of the U.S. Department of Interior to constitute a pest whose protection under the provisions of the Endangered Species Act, as amended, would present an overwhelming and overriding risk to man.

Expectable Adverse Conditions—natural or man-made hazardous conditions which can be expected or predicted to occur at regular intervals. Included are such events as 125 mile per hour hurricanes and associated tides, 100 year floods and reasonably probable accidents.

Fastlands—lands surrounded by publicly-owned, maintained, or otherwise validly existing levees or natural formations as of January 1, 1979, or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.

Feasible and Practical—those locations, methods and/or practices which are of established usefulness and efficiency and allow the use or activity to be carried out successfully.

Federal Advisory Agencies—include, but are not limited to, the U.S. Fish and Wildlife Service, the U.S. National Marine Fisheries Service, the U.S. Environmental Protection Agency, and the U.S. Natural Resources Conservation Service.

Force Majeure—an act of God, war, blockade, lightning, fire, storm, flood, and any other cause which is not within the control of the party claiming force majeure.

Future with Project Scenario—portrayal of anticipated changes to ecological values (i.e., habitat values and wetland acreage) throughout the project years in a situation where a given project would be implemented.

Future without Project Scenario—portrayal of anticipated changes to ecological values (i.e., habitat values and wetland acreage) throughout the project years in a situation where a given project would not be implemented.

Geologic Review Procedure—a process by which alternative methods, including alternative locations, for oil and gas exploration are evaluated on their environmental, technical, and economic merits on an individual basis; alternative methods, including alternative locations, of oil and gas production and transmission activities which are specifically associated with the proposed exploration activity shall also be evaluated in this process. These alternative methods, including alternative locations, are presented and evaluated at a meeting by a group of representatives of the involved parties. A geologic review group is composed, at a minimum, of representatives of the applicant, a petroleum geologist and a petroleum engineer representing the Office of Coastal Management and/or the New Orleans District Corps of Engineers, and a representative of the Office of Coastal Management Permit Section, and may

include, but is not limited to, representatives of the Louisiana Department of Wildlife and Fisheries, the Louisiana Department of Environmental Quality, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. National Marine Fisheries Service, and the U.S. Environmental Protection Agency.

Governmental Body—any public department, agency, bureau, authority, or subdivision of the government of the United States or the state of Louisiana and shall include parishes and municipalities and subdivisions thereof and those governmental agencies constitutionally established.

Guidelines—those rules and regulations adopted pursuant to 214.27 of the SLCRMA.

Habitat—the natural environment where a plant or animal population lives.

Habitat Types—the general wetland vegetative communities which exist in the Louisiana Coastal Zone, including fresh marsh, intermediate marsh, brackish marsh, saline marsh, fresh swamp, and bottomland hardwoods.

Holder—as defined at R.S. 9:1272(2), means:

1. a governmental body empowered to hold an interest in immovable property under the laws of this state or the United States; or

2. a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of immovable property, assuring the availability of immovable property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, archaeological, or cultural aspects of unimproved immovable property.

Hurricane or Flood Protection Levees—those levees and associated water control structures whose primary purpose is to prevent occasional surges of flood or storm generated high water. Such levee systems do not include those built to permit drainage or development of enclosed wetland areas.

Hydrologic and Sediment Transport Modifications—those uses and activities intended to change water circulation, direction of flow, velocity, level, or quality or quantity of transported sediment. Examples include locks, water gates, impoundments, jetties, groins, fixed and variable weirs, dams, diversion pipes, siphons, canals, and surface and groundwater withdrawals.

Hydrologic Basin—one of the nine general drainage areas within the Louisiana Coastal Zone as delineated on pages A-2 and A-3 of the Louisiana Coastal Wetlands Conservation and Restoration Plan, April 1990.

Impoundment Levees—those levees and associated water control structures whose primary purpose is to contain water within the levee system either for the prevention of the release of pollutants, to create fresh water reservoirs, or for management of fish or wildlife resources.

Infrastructure—those systems which provide needed support for human social institutions and developments, including transportation systems, public utilities, water and sewerage systems, communications, educational facilities, health services, law enforcement and emergency preparedness.

In-Lieu Permit—those permits issued in-lieu of coastal use permits pursuant to 214.31 of the SLCRMA.

Levees—any use or activity which creates an embankment to control or prevent water movement, to retain water or other material, or to raise a road or other lineal use above normal or flood water levels. Examples include levees, dikes and embankments of any sort.

Linear Facilities—those uses and activities which result in creation of structures or works which are primarily linear in nature. Examples include pipelines, roads, canals, channels, and powerlines.

Local Government—a governmental body having general jurisdiction and operating at the parish level.

Local Program—same as *approved local program*.

Louisiana Coastal Wetlands Conservation Plan—this Plan, an agreement between the state and the Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (USACE), and U.S. Fish and Wildlife Service (USFWS), delineates an area of current and historic tidally influenced wetlands in the Louisiana coastal area. As one of the elements of this plan, the state of Louisiana pledged a goal of no net loss of coastal wetland value due to permitted activities.

Marsh—wetlands subject to frequent inundation in which the dominant vegetation consists of reeds, sedges, grasses, cattails, and other low growth.

Master Plan—Integrated Ecosystem Restoration and Hurricane Protection: Louisiana's Comprehensive Master Plan for a Sustainable Coast, promulgated by the Coastal Protection and Restoration Authority pursuant to R.S. 49:213.1, et seq., as in effect on the date of submission of a complete application.

Minerals—oil, gas, sulfur, geothermal, geopressured, salt, or other naturally occurring energy or chemical resources which are produced from below the surface in the coastal zone. Not included are such surface resources as clam or oyster shells, dirt, sand, or gravel.

Mitigation—all actions taken by a permittee to avoid, minimize, restore, and compensate for ecological values lost due to a permitted activity.

Mitigation Bank—an area identified, with specific measures implemented to create, restore, protect, and/or enhance wetlands, for the purpose of producing ecological values, measured as average annual habitat units or cumulative habitat units (mitigation credits). Those credits may be donated, sold, traded, or otherwise used for the purpose of compensating for the ecological values lost due to a permitted activity.

Mitigation Measure—any activity that provides a net ecological benefit to wetland habitat; an ecological enhancement. These measures seek to restore and/or enhance coastal wetland habitat. Examples of *mitigation measures* include, but are not limited to:

1. vegetation plantings;
2. marsh creation;
3. hydrology improvement;
4. converting a non-wetland site to a wetland;
5. etc.

Off-Site—not within or adjoining the area directly modified by the permitted activity and not directly related to implementation of the permitted activity.

Oil, Gas and Other Mineral Activities—those uses and activities which are directly involved in the exploration, production, and refining of oil, gas, and other minerals. Examples include geophysical surveying, establishment of drill sites and access to them, drilling, on site storage of supplies, products and waste materials, production, refining, and spill cleanup.

On-Site—within or adjoining the area directly modified by the permitted activity or directly related to implementation of the permitted activity.

Overriding Public Interest—the public interest benefits of a given activity clearly outweigh the public interest benefits of compensating for wetland values lost as a result of the activity, as in the case of certain mineral extraction, production, and transportation activities or construction of flood protection facilities critical for protection of existing infrastructure.

Particular Areas—areas within the coastal zone of a parish with an approved local program which have unique and valuable characteristics requiring special management procedures. Such areas shall be identified, designated, and managed by the local government following procedures consistent with those for special areas.

Permit—a coastal use *permit*, or an in-lieu *permit*.

Permitting Body—either the Department of Natural Resources or a local government with an approved local program with authority to issue, or that has issued, a coastal use permit authorized by the SLCRMA.

Person—any natural individual, partnership, association, trust, corporation, public agency or authority, governmental body, or any other legal or juridical *person* created by law.

Project Years—the anticipated number of years that the proposed activity would have a negative or positive impact on the ecological value of the site. *Project years* shall be 20 years for marsh habitats and 50 years for forested habitats, unless it is clearly demonstrated by the applicant and accepted by the secretary to be shorter in duration.

Public Hearing—a hearing announced to the public at least 30 days in advance, at which all interested persons shall be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing. At the time of the announcement of the *public hearing* all materials pertinent to the hearing, including documents, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.

Radioactive Wastes—wastes containing source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

Residential Coastal Use—any coastal use associated with the construction or modification of one single-family, duplex, or triplex residence or camp. It shall also include the construction or modification to any outbuilding, bulkhead, pier, or appurtenance on a lot on which there exists a single-family, duplex, or triplex residence or camp or on a water body which is immediately adjacent to such lot.

Secondary Impact—an impact which would:

1. result from the proposed activity;
2. cause significant modifications or alterations to the physical characteristics of acreage beyond the limit of the area depicted as being altered in the accepted permit application drawings; and
3. be identified and quantified by the secretary based on an evaluation of similar and previously implemented activities.

Secretary—the *secretary* of the Department of Natural Resources, or his designee.

Sediment Deposition Systems—controlled diversions of sediment-laden water in order to initiate land building or sediment nourishment or to minimize undesirable deposition of sediment in navigation channels or habitat areas. Typical activities include diversion channels, jetties, groins, or sediment pumps.

Shoreline Modifications—those uses and activities planned or constructed with the intention of directly or indirectly changing or preventing change of a shoreline. Examples include bulkheading, piers, docks, wharves, slips, and short canals, and jetties.

SLCRMA—the State and Local Coastal Resources Management Act of 1978, Act 361 of 1978 as amended, R.S. 49:214.21-49:214.42.

Spoil Deposition—the deposition of any excavated or dredged material.

State Advisory Agencies—include, but are not limited to, the Louisiana Department of Wildlife and Fisheries and the Louisiana Department of Environmental Quality.

Surface Alterations—those uses and activities which change the surface or usability of a land area or water bottom. Examples include fill deposition, land reclamation, beach nourishment, dredging (primarily areal), clearing, draining, surface mining, construction and operation of transportation, mineral, energy and industrial facilities, and industrial, commercial, and urban developments.

Third Party Right of Enforcement—as defined at R.S. 9:1272.(3), means a right provided in a conservation servitude to enforce any of the terms granted to a governmental body, charitable corporation, charitable association, or charitable trust, which, although eligible to be a holder, is not a holder.

Toxic Substances—those substances which, by their chemical, biological or radioactive properties, have the potential to endanger human health or other living organisms or ecosystems, by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effect.

Unavoidable Net Loss of Ecological Values—the net loss of ecological value that is anticipated to occur as the result of a permitted/authorized activity, despite all efforts, required by the guidelines, to avoid, minimize, and restore the permitted/authorized impacts.

Uplands—lands 5 feet or more above sea level, fastlands, or all lands outside the coastal zone.

Use—any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

Waste—any material for which no use or reuse is intended and which is to be discarded.

Waste Disposal—those uses and activities which involve the collections, storage and discarding or disposing of any solid or liquid material. Examples include littering; landfill; open dumping; incineration; industrial waste treatment facilities; sewerage treatment; storage in pits, ponds, or lagoons; ocean dumping and subsurface disposal.

Water or Marsh Management Plan—a systematic development and control plan to improve and increase biological productivity, or to minimize land loss, saltwater intrusion, erosion or other such environmental problems, or to enhance recreation.

Wetlands—

1. for the purposes of this Chapter except for §724, open water areas or areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions;

2. for the purposes of §724 (as defined in R.S. 49:214.41), an open water area or an area that is inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, but specifically excluding fastlands and lands more than 5 feet above sea level which occur in the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.