



**DEPARTMENT OF NATURAL RESOURCES
COASTAL MANAGEMENT DIVISION**

P. O. BOX 44487
BATON ROUGE, LOUISIANA 70804-4487
(504) 342-7591

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COASTAL USE PERMIT/CONSISTENCY DETERMINATION

C.U.P. No. GP-11

C.O.E. No. N/A

NAME AND ADDRESS: LOUISIANA DEPARTMENT OF NATURAL RESOURCES COASTAL MANAGEMENT DIVISION, P.O. Box 44487, Baton Rouge, LA 70804-4487

LOCATION: **THE LOUISIANA COASTAL ZONE:** In the parishes of Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne and Vermilion.

PROJECT DESCRIPTION:

This general permit provides for the implementation of individual compensatory mitigation projects to offset unavoidable impacts to vegetated wetlands due to permitted activities.

In accordance with the rules and regulations of the Louisiana Coastal Resources Program and Louisiana R.S. 49, Sections 213.1 to 213.21, the State and Local Coastal Resources Management Act of 1978, as amended, the permittee agrees to:

1. Carry out or perform the use in accordance with the plans and specifications approved by Department of Natural Resources.
2. Comply with any permit conditions imposed by the Department of Natural Resources.
3. Adjust, alter, or remove any structure or other physical evidence of the permitted use if, in the opinion of the Department of Natural Resources, it proves to be beyond the scope of the use as approved or is abandoned.
4. Provide, if required by the Department of Natural Resources, an acceptable surety bond in an appropriate amount to ensure adjustment, alteration, or removal should the Department of Natural Resources determine it necessary.
5. Hold and save the State of Louisiana, the local government, the department, and their officers and employees harmless from any damage to persons or property which might result from the use, including the work, activity, or structure permitted.
6. Certify that the use has been completed in an acceptable and satisfactory manner and in accordance with the plans and specifications approved by the Department of Natural Resources. The Department of Natural Resources may, when appropriate, require such certification be given by a registered professional engineer.
7. All terms of the permit shall be subject to all applicable federal and state laws and regulations.
8. This permit, or a copy thereof, shall be available for inspection at the site of work at all times during operations.
9. The applicant will notify the Coastal Management Division of the date on which initiation of the permitted activity described under the "Coastal Use Description" began. The applicant shall notify the Coastal Management Division by mailing the enclosed green initiation card on the date of initiation of the coastal use.
10. Unless specified elsewhere in this permit, this permit authorizes the initiation of the coastal use described under "Coastal Use Description" for two years from the date of the signature of the Secretary or his designee. If the coastal use is not initiated within this two year period, then this permit will expire and the applicant will be required to submit a new application. Initiation of the coastal use, for purposes of this permit, means the actual physical beginning of the use or activity for which the permit is required. Initiation does not include preparatory activities, such as movement of equipment onto the coastal use site, expenditure of funds, contracting out of work, or performing activities which by themselves do not require a permit. In addition, the permittee must, in good faith and with due diligence, reasonably progress toward completion of the project once the coastal use has been initiated.
11. This Coastal Use Permit authorizes periodic maintenance, but such maintenance activities must be conducted pursuant to the specifications and conditions of this permit.
12. The following special conditions must also be met in order for the use to meet the guidelines of the Coastal Resources Program:

Page Two
C.U.P. No. GP-11
C.O.E. No. N/A

D40

COASTAL MANAGEMENT DIVISION GENERAL PERMIT
FOR MITIGATION ACTIVITIES IN THE LOUISIANA COASTAL ZONE

DESCRIPTION OF WORK

THIS GENERAL PERMIT PROVIDES FOR THE IMPLEMENTATION OF INDIVIDUAL COMPENSATORY MITIGATION PROJECTS TO OFFSET UNAVOIDABLE IMPACTS TO VEGETATED WETLANDS DUE TO PERMITTED ACTIVITIES.

I. General Conditions

- A. The Secretary of the Department of Natural Resources has determined that full individual permit processing by the Coastal Management Division (CMD) is in the public interest in order to determine whether proposed activities qualify for authorization under this General Permit. This individual permit processing will consist of review by the staff of CMD of each authorization request. Therefore, pursuant to the Rules and Procedures for Coastal Use Permits, L.A.C. Title 43, Part I, Chapter 7, Subpart 723.C.3.a., an application fee will be assessed for activities proposed for authorization under this General Permit and, if appropriate, a processing fee will be assessed for activities approved under this General Permit.
- B. A standard Coastal Use Permit (CUP) Application Form (ENG FORM 4345) shall be completed and submitted to CMD along with drawings depicting the location and character of work proposed for approval under this General Permit. The applicant shall submit eight (8) application sets (form and plats) to CMD. The application shall be accompanied by the \$20.00 application fee or the application fee in effect at the time of application submittal. If the proposed work is determined not to meet the criteria of the General Permit, the applicant shall be advised by letter, within five (5) calendar days of receipt of the complete application, that the application shall be processed as an individual CUP. If the proposed work is determined to meet the criteria of this General Permit, the applicant shall be advised by letter, within five (5) calendar days of receipt of the complete application, that the application shall be considered for approval under this General Permit.
- C. Should it be deemed necessary in the public interest, the Secretary shall deny authorization to perform work under this General Permit and require the applicant to obtain an individual CUP for the proposed activity.



Page Three

D40

C.U.P. No. GP-11

C.O.E. No. N/A

- D. CUP applications for proposed work which meet the criteria of this General Permit shall be sent, with notification stating that the proposed work is being considered for approval under the authority of this General Permit, to the following State agencies for review and comment: the Louisiana Department of Environmental Quality, Office of Water Resources (DEQ); the Louisiana Department of Wildlife and Fisheries, Environmental Branch (LDWF); the Louisiana Department of Culture, Recreation, and Tourism; the Louisiana Division of Administration, State Land Office; the Louisiana Department of Transportation and Development; and the Louisiana Department of Health and Hospitals. Those State agencies shall have ten (10) calendar days from the date of that notification to comment. State agency concurrences may be provided to CMD by telephone. Statements of nonconcurrence may be provided initially by telephone, but must be followed by written objection, within ten (10) days of that notification, with an information copy sent to the applicant, and shall include the reasons for the State agency's nonconcurrence. Lack of comment by these State agencies within the 10 day period shall be considered as no objection or no position. Within ten (10) days of the end of the agency comment period, a decision will be made to issue approval under the authority of this General Permit, to issue approval with modifications or additional Operating Conditions, or to deny approval for the proposed work. If a decision is made to issue approval under the authority of this General Permit, or to issue approval with modifications or additional Operating Conditions, such approval shall be granted to the applicant in writing within fifteen (15) calendar days of the end of the agency comment period.
- E. A statement declaring that the proposed activity will be used as mitigation and the Coastal Use Permit number for which the mitigation is required; a definition of the physical boundaries of the mitigation proposal and the boundaries of the area to be benefitted; and a specific description of the wetland creation, restoration, protection, and/or enhancement measures to be implemented must accompany the permit application.
- F. Mitigation proposals submitted for authorization under this General Permit shall be accompanied by written approval from the owner of the land on which the mitigation project is proposed. Such written approval shall provide permission for CMD personnel to make periodic announced and unannounced site inspections before, during, and after implementation of the mitigation activity.



Page Four
C.U.P. No. GP-11
C.O.E. No. N/A

D40

- G. Approval for work under the authority of this General Permit shall expire if the work is not initiated within two (2) years from the date of issuance of the written approval, provided that the two-year term to initiate work is not extended in accordance with the Rules and Procedures for Coastal Use Permits, L.A.C. Title 43, Part I, Chapter 7, Subpart 723.D., or the rules and procedures in effect at the time of application submittal. Initiation of work shall not include preparatory activities, such as movement of equipment onto the site, expenditure of funds, execution of contractual agreements relating to the work, or performing activities which, by themselves do not require a CUP. In addition, the permittee shall, in good faith and with due diligence, reasonably progress toward completion of the project once the work has been initiated. If the work approved under the authority of the General Permit is not completed within five (5) years from the date of issuance of the written approval, the approval shall expire, and a new CUP application shall be required for further work. These time requirements do not relieve the permittee of more restrictive time requirements which may be included in any permit for which the mitigation authorized by this General Permit is required.
- H. The term of this General Permit shall be five (5) years from the date of issuance, except as provided for in the Rules and Procedures for Coastal Use Permits, L.A.C. Title 43, Part I, Chapter 7, Subpart 723.E.3.b.
- I. The permittee shall notify CMD of commencement of work which is authorized under this General Permit. The applicant shall notify CMD by mailing the green initiation card, provided with the written approval, within three (3) days of the date of initiation of the authorized work.
- J. The permittee shall notify CMD of the completion date of the authorized mitigation project within fifteen (15) days of that date.
- K. Approval of work under this General Permit shall not relieve the permittee of the responsibility of obtaining other lawfully required local, state and federal permits (e.g., Department of Environmental Quality, U.S. Army Corps of Engineers, etc.) before commencing work.
- L. Work carried out under this General Permit shall conform to all appropriate state and federal safety regulations.
- M. Approval for specific work authorized under this General Permit shall not be transferred to another party without written approval from CMD.
- N. Work carried out under the authority of this General Permit shall be performed in full compliance with the rules and regulations of the Department of Natural Resources which exist at the time of approval for that work.



C.U.P. No. GP-11

C.O.E. No. N/A

- O. The work authorized under this General Permit is to compensate for unavoidable adverse impacts to wetlands associated with the implementation of a Coastal Use Permit.
- P. Examples of work that may be eligible for approval under this General Permit include but are not limited to:
1. Earthen plugs
 2. Constructing breaks in levees (e.g. splays) for the purpose of introducing sediments to create marsh.
 3. Breakwaters constructed in open water along eroding shorelines
 4. Fill operations in shallow open water or broken marsh areas for the purpose of marsh creation, restoration, or enhancement
 5. Wetland vegetation plantings
 6. Water control structures
 7. Other wetland enhancement, creation, or restoration projects subject to the approval of the Secretary

II. Definitions

Coastal Use Permit-a permit required by R.S. 49:214.30 of the State and Local Coastal Resources Management Act. The term does not mean or refer to, and is in addition to, any other constitutional provision or statute.

Compensatory mitigation-replacement, substitution, enhancement, or protection of ecological values caused by a permitted activity.

Ecological value-the ability of an area to support vegetation and fish and wildlife populations.

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

Wetlands-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 five feet above sea level which occur in the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.

III. Operating Conditions

- A. All logs and stumps unearthed during dredging shall be buried beneath the bottom of the waterway or removed to an approved disposal site on land.



Page Six
C.U.P. No. GP-11
C.O.E. No. N/A

D40

- B. Work under the authority of this General Permit shall not be approved in the following areas, unless the applicant first provides a letter or no objection from the Louisiana Department of Wildlife and Fisheries (LDWF):
1. Within 500 feet of an oyster seed ground, oyster seed reservation, or public oyster harvesting area; or
 2. Within the boundaries of a LDWF owned or managed wildlife refuge or wildlife management area; or
 3. Within an area designated as a natural and scenic river in accordance with the provisions of R.S. 56:1840 et seq.
- C. Work under the authority of this General Permit shall not be approved in the following areas, unless the applicant first provides a letter of no objection from the Louisiana Department of Culture, Recreation, and Tourism:
1. Any State Park, State Recreational Area, or State Commemorative Area; or
 2. Any known historic or archaeological site or within the boundaries of an historic district
- D. If archaeological remains are encountered during activities authorized under this General Permit, work shall cease and the applicant shall immediately notify the Division of Archaeology, Louisiana Department of Culture, Recreation, and Tourism [P.O. Box 44247, Baton Rouge, LA 70804] and CMD [P.O. Box 44487, Baton Rouge, LA 70804-4487 (504-342-7591)]. Work may not resume until written approval is obtained from CMD.
- E. The applicant shall insure that all sanitary sewage and/or related domestic wastes generated during the subject project activity and at the site, thereafter, as may become necessary shall receive the equivalent of secondary treatment (30 mg/l BOD₅; 30 mg/l TSS) with disinfection prior to discharge into any of the streams or adjacent waters of the area or, in the case of total containment, shall be disposed of in approved sewerage and sewage treatment facilities, as is required by the State Sanitary Code. Such opinion as may be served by those comments offered herein shall not be construed to suffice as any more formal approval(s) which may be required of possible sanitary details (i.e. provisions) scheduled to be associated with the subject activity. Such shall generally require that appropriate plans and specifications be submitted to the Department of Health and Hospitals for purpose of review and approval prior to any utilization of such provisions.



C.U.P. No. GP-11

C.O.E. No. N/A

- F. Wetlands that are not specifically part of the mitigation action authorized under this General Permit but are disturbed during project implementation, shall be restored to pre-project elevations and conditions, including revegetation. This does not preclude the necessity of obtaining a Coastal Use Permit for the restoration.
- G. Louisiana nursery-grown stock shall be used for any plantings called for in a mitigation proposal authorized under this General Permit unless the Secretary authorizes alternative plant sources.
- H. Dredged and/or fill material used for the work authorized under this General Permit shall be clean and free of waste material, metal products, chemical pollutants, and unsightly debris.
- I. Fill material required for implementation of the proposed mitigation project may be obtained from CMD-approved non-wetland areas, including non-vegetated waterbottoms, or CMD-approved off-site sources.
- J. Final CMD approval for individual compensatory mitigation projects authorized under this General Permit shall, at a minimum:
 - 1. Specify the period of operation and/or maintenance of the mitigation proposal,
 - 2. Specify monitoring responsibilities, and
 - 3. Specify remedial actions for situations where the permittee fails to perform necessary remediation, operation, or maintenance of the mitigation proposal.
- K. The permittee is subject to all applicable state laws related to damages which are demonstrated to have been caused by the permitted action.
- L. The permittee shall comply with all applicable state laws regarding the need to contact the Louisiana One Call System (1-800-272-3020) to locate any buried cables and pipelines.



Page Eight

D40

C.U.P. No. GP-11

C.O.E. No. N/A

This General Permit authorization does NOT apply to the following areas:

- A. Within one mile of a known Bald Eagle nesting site;
- B. Within 1,500' feet of a known rookery area;
- C. Where any federally listed threatened or endangered species would be adversely affected;
- D. On barrier islands, barrier features, or cheniers;
- E. Within 100 feet of an area determined to be unique ecological feature by the Secretary of the Department of Natural Resources;
- F. Within 1,000 feet of an established navigation channel or fairway;
- G. Within 1,000 feet of a levee or other flood control facility constructed, owned, operated, or maintained by federal, state, or local governments, or with federal, state, or local funds, without written consent of each appropriate agency or governing body. Authorization requests not accompanied by such written permission shall be processed as request for an individual CUP;
- H. Within Special Significance Areas designated pursuant to R.S. 49:214.41(F) and any rules and regulations which may be adopted thereunder;
- I. Within any Special Areas designated pursuant to L.A.C. Title 43, Part I, Chapter 7, Subpart 729;
- J. Within the boundaries of any national park or monument, national wildlife refuge, or established buffer zone at a national park site; or
- K. Within one-quarter mile of an oyster lease, without proof of notification of the proposed activity to the oyster lease holder.

By accepting this permit the applicant agrees to its terms and conditions.

I affix my signature and issue this permit this 19th day of September, 1995.

DEPARTMENT OF NATURAL RESOURCES


TERRY W. HOWEY, ADMINISTRATOR
Coastal Management Division



This agreement becomes binding when signed by the Administrator of the Coastal Management Division, Department of Natural Resources.

