



**DEPARTMENT OF NATURAL RESOURCES
COASTAL MANAGEMENT DIVISION**

P. O. BOX 44487
BATON ROUGE, LOUISIANA 70804-4487
225-342-7591
1-800-267-4019

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 214.21 to 214.41, the State and Local Coastal Resources Management Act of 1978, as amended, the permitted agrees to:

1. Carry out or perform the use in accordance with the plans and specifications approved by the 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 to 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 of 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 permitted 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:

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 full 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, Title 43, Subpart 723.C.3.a, of the Louisiana Code of Administrative Procedure, an application fee will be assessed for activities proposed for authorization under this General Permit and, if appropriate, processing fees, and appropriate mitigation plan processing fees will also 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 and an Affidavit that all owners of the affected property have been notified of the application submittal. The applicant shall submit eight (8) application sets (forms and plats) to CMD. The application shall be accompanied by the \$20.00 residential application fee, or the \$100.00 non-residential application fee, or the application fee in effect at the time of application submittal. This General Permit shall not apply if the proposed work is determined not to meet the criteria. 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 determination is made that the proposed activity is not consistent with this General Permit.
- C. Individual written approvals from CMD must be obtained prior to the commencement of any individual activity proposed under this General Permit.
- D. Should CMD deem that they may have an interest in the project, prior to issuance of authorization for individual activities under this general permit, the following agencies shall have a ten (10) calendar day period to review the proposed activity: Louisiana Department of Wildlife and Fisheries, the approved Parish Local Program if applicable, Louisiana Department of Health and Hospitals, Louisiana Department of Environmental Quality, State Land Office, Louisiana Department of Natural Resources Coastal Restoration Division, Louisiana Department of Culture, Recreation, and Tourism, and Louisiana Department of Transportation and Development. CMD may issue authorization for the activity after the ten (10) day review period or after receiving notification by each of the agencies, either in writing or by telephone, that there are no objections to the proposed activity. However, the final decision for the issuance of authorization for individual activities under the authority of this General Permit, to issue authorization with modifications or additional Operating Conditions, or to deny authorization for the proposed work, shall be made by the Secretary of the Department of Natural Resources.
- E. Should it be deemed 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.



- F. Authorization 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. 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. All activities authorized under the authority of this General Permit must be completed within 90 days of initiation of the work unless a different time schedule is specifically approved by the Coastal Management Division.
- G. The Term of this General Permit shall be five (5) years from the date of issuance, except as provided for in LAC 43 Subpart 723.E.3.b.
- H. The permittee shall notify CMD of commencement of work which is authorized under this General Permit. The Permittee 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.
- I. The permittee shall notify CMD of the completion date of the authorized mitigation project within fifteen (15) days of that date.
- J. Issuance of approval under the authorization of this General Permit does not relieve the permittee of obtaining other lawfully required permits (local, state, or federal) before commencing work.
- K. The permittee shall allow representatives of the Coastal Management Division or authorized agents to make periodic, unannounced inspections to assure the activity is being performed in accordance with the conditions of the General Permit.
- L. Work carried out under this General Permit shall conform to all appropriate state and federal safety regulations.
- M. An authorization issued under this General Permit may not be transferred to another party without giving prior notice to, and receiving written approval from, the Coastal Management Division Administrator. A transfer form is included with each authorization.
- N. Work carried out under 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.



- O. 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.
- P. Mitigation proposals submitted for authorization under this General Permit shall be accompanied by written approval from the landowner(s) of the land on which the mitigation project is proposed. Such written approval shall provide permission for CMD personnel to make periodic announced or unannounced site inspections before, during, and after implementation of the mitigation activity.
- Q. 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.
- R. 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, protection and/or enhancement
 - 5. Wetland vegetation plantings
 - 6. Water control structures
 - 7. Other wetland enhancement, creation, protection, and/or restoration projects subject to the approval of the Secretary

II. Operating Conditions

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



- B. Spoil shall not be placed in and shall not block any tidal sloughs.
- C. The permittee shall provide notification of the proposed activity to any oyster lease holder who may be affected by it prior to commencement of the activity. The applicant shall provide the Coastal Management Division with copies of the notification letters prior to the issuance of authorization under this General Permit.
- D. The activities covered by this General Permit shall not adversely affect any threatened or endangered species. Adverse impacts on fish, wildlife and the environment shall be minimized.
- E. This General Permit does not convey any property rights, mineral rights, or exclusive privileges; nor does it authorize injury to property.
- F. If archaeological, historical, or other cultural resources are encountered during activities authorized under this General Permit, work shall cease and the Permittee 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, (225) 342-7591. Work may not resume until written approval is obtained from the CMD.
- G. The permittee 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.
- H. The permittee shall comply with all applicable laws regarding the need to contact the Louisiana One Call System ([800] 272-3020) to locate any buried cables and pipelines.
- I. All activities, involving any discharge of pollutants, must be consistent with applicable water quality standards and any necessary permits issued through the Department of Environmental Quality/Office of Water Resources must be obtained.
- J. Dredging activities authorized under this General Permit shall not exceed the volume specified in the work statement of the individual authorization.



- K. The permittee and CMD shall negotiate, in consultation with the owner(s) of land on which the permitted activity is proposed to occur, and those other natural resource agencies deemed appropriate by CMD, a compensatory mitigation plan, and the applicant shall implement that plan. That plan shall fulfill the requirements of Louisiana Revised Statute 49:214.41 and those rules and regulations adopted thereunder. The compensatory mitigation plan shall be developed prior to the issuance of approval under this General Permit. The expiration of the term of this General Permit, or the revocation or expiration of approval to perform work under the authority of this General Permit, shall not absolve the permittee, its transferees, or assignees from the obligation and responsibility of implementing and maintaining the compensatory mitigation plan.
- L. 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.
- M. All plants used for any plantings called for in a mitigation proposal authorized under this General Permit must be Louisiana nursery grown stock obtained from a registered, licensed Louisiana nursery grower.
- N. 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.
- O. 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.
- P. 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.



- Q. The permittee is subject to all applicable state laws related to damages which are demonstrated to have been caused by the permitted action.
- R. The permittee shall notify the landowner(s) upon whose property the proposed work shall occur of the results of CMD's review. Copies of the initial notification letters sent to the landowner(s) shall be provided to CMD with the authorization request.
- S. Activities authorized under this General Permit shall be carried out on a one-time basis, during a one-time mobilization, except in situations where sequential phases may be specified in the work statement of individual authorizations.
- T. The permittee shall maintain compensatory mitigation projects authorized under this General Permit for a minimum of twenty (20) years for marsh habitats and fifty (50) years for forested habitats, or as otherwise specified in the individual authorizations.

III. This General Permit does not apply in the following locations without prior written authorization from the appropriate agencies.

- A. Work under the authority of this General Permit shall not be approved in the following areas, without prior written approval of the Louisiana Department of Wildlife and Fisheries.
 - 1.) Within one-quarter of a mile or within the boundaries of an oyster lease, 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.
- B. 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.) within a State Park, State Recreation Area or State Commemorative Area; or
 - 2.) within any known historic or archaeological site or within the boundaries of a historical district.



- C. Within 1,000 feet of an established navigation channel or fairway constructed, owned, operated, or maintained by federal, state, or local governments, or with federal, state, or local government funds, without written consent of each appropriate agency or governing body. An authorization request that is not accompanied by such written permission shall be processed as an application for an individual CUP. If, however, there is a physical barrier at the project site that isolates the Coastal Use from the navigation channel or fairway and effectively prevents any interchange between the two, this restriction does not apply.
- D. 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 government funds, without written consent of each appropriate agency or governing body. An authorization request that is not accompanied by such written permission shall be processed as an application for an individual CUP.
- E. Work under the authority of this General Permit shall not be approved on or within 1,500' of a barrier island, barrier island features, cheniers, or other coastal feature without the approval of the appropriate resource agencies, as determined by CMD, that have programmatic interests.

IV. This General Permit does NOT apply in the Following Situations:

- A. Within 1,500', or other distance deemed appropriate by the Louisiana Department of Wildlife and Fisheries, of a known bald eagle site.
- B. Within 1,500', or other distance deemed appropriate by the Louisiana Department of Wildlife and Fisheries, of a known bird rookery area.
- C. Within the critical habitat, as deemed appropriate by the Louisiana Department of Wildlife and Fisheries, of any endangered species.
- E. Where any federally listed threatened or endangered species would be adversely affected.
- F. Within 1,000 feet of an area determined to be an unique ecological feature by the Secretary of the Department of Natural Resources.
- G. Within Special Significance Areas designated pursuant to R. S. 49:214.41(F) and those rules and regulations adopted thereunder, where applicable.
- H. Within the boundaries of a national park or monument, national wildlife refuge or established buffer zone at a national site.
- I. On or within 1,500' of a barrier island, barrier features, or cheniers without the approval of an interagency review team.



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C.O.E. No. N/A

V. Definitions

Coastal Use Permit - a permit required by R.S. 49:214.30 of the State and Local Coastal Resources Management Act (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.

Compensatory Mitigation - replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses 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 - for the purposes of §724 and this General Permit (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 five feet above sea level which occur in the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.

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

I affix my signature and issue this permit this 2nd day of March, 20 06.

DEPARTMENT OF NATURAL RESOURCES



Jim Rives, Acting Administrator
Coastal Management Division



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