DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF

Operations Division
Regulatory Branch

OCT 4 2011

DEPARTMENT OF THE ARMY GENERAL PERMIT

Authorization No.: (General Permit)NOD-22

Effective Date: September 26, 1983

Expiration Date: September 28, 2016

This general permit is superseded by the Programmatic General Permit for activities regulated by the Louisiana Office of Coastal Management.

Under authorization granted by applicable sections of Parts 320 through 330 of Title 33, Code of Federal Regulations, and delegated authority from the Commander, U. S. Army Corps of Engineers, the District Engineer at New Orleans has determined that it is in the public interest to issue a general permit to authorize the following activities subject to the conditions contained in this permit and occurring within the coincidental boundaries of the Louisiana Coastal Zone and the New Orleans District:

a. Work or structures in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 USC 403).

b. The discharge of dredged and/or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 USC 1344).

c. Inclusions. The following work will likely be eligible under this general permit:

(1) Maintenance dredging in oil or gas well channels, canals, and slips. Deposition of the dredged material may be in open water, or on existing spoil banks, or used to create or maintain existing wetlands. The applicant's proposed disposal area for dredged material will be reviewed to determine if alternate practical disposal areas are available near the project site that have less adverse environmental impact; or if bucket, hydraulic, wheel wash, or spray dredging should be utilized. Final approval for the work under the general permit may require use of an alternate disposal site and/or dredging and disposal method, and/or other mitigation.

(2) Pipelines (a line used for the transportation of any gaseous, liquid, liquefiable, or slurry substance) installed in marsh by the use of the push ditch method, and installed by the use of the push ditch or jetting methods in open waters provided that the pipeline:

(a) is no more than 6 inches in inside diameter;
(b) does not exceed 10,000 feet in total length;
(c) bottom and/or marsh topography will not be changed by more than 6 inches;
(d) is installed at a depth of no less than 3 feet; and
(e) installation does not involve shell reefs, barrier islands, the Gulf shoreline, or the emerging Atchafalaya delta.

NOTE: Pipelines may also be laid on the marsh surface.

(3) Lowering or relocation of pipelines due to erosion or to accommodate a federal project.

(4) Well structures and production facilities in open waters, that are not on shell reefs, submerged seagrass beds, or in the emerging Atchafalaya delta.

(5) Bulkheads, riprap, etc., used for pipeline erosion protection.

(6) Waterway closures (with or without culverts) that are not part of a marsh management plan, constructed of shell, riprap, or other suitable hardened caps installed in man-made canals for mitigation purposes recommended by federal agencies.

(7) Platforms in open waters for fishing or research that do not interfere with navigation.

(8) The construction of pile-supported or barge-mounted production facilities (e.g., well structures, heater platforms) in wetlands and man-made oil field canals.

(9) Oil and gas well canals and channels not greater than 70 feet wide or slips not larger than 345 feet by 160 feet and/or with a total length (canal, channel, and slip) not greater than 500 feet, and specifying that restoration will be conducted upon abandonment. Dredged material may be placed in open water, on existing spoil banks, or used to create or maintain existing wetlands. Restoration will normally include plugging the mouth of the canal with an earthen closure capped with riprap or other suitable erosion retarding material, placing 50-foot wide gaps in the spoil banks on either side, and re-opening any water courses blocked by the spoil placement. All spoil above the 2-foot elevation may be returned to the slip and canal or used to create or maintain adjacent wetlands. All proposals will be reviewed to determine if practicable less environmentally damaging alternatives are available prior to issuing an approval. Any dredging operations, described above and greater in length than 375 feet, will be discussed at a Geologic Review (GR) meeting to determine if directional drilling from another location that would have less environmental impact is possible and practicable. If so, the site which would result in less environmental impact would be the site considered for general permit approval.

(10) Oil and gas well slips no larger than 120 feet by 375 feet, located parallel and contiguous to an existing canal.

(11) Reconstruction and backfill of a bulkhead less than 3 feet channelward of existing bulkhead structures for maintenance purposes.

(12) Dredging of less than 150 cubic yards of material to provide or maintain moorage at an existing bulkhead, wharf, boat slip, or access canal. Dredged material will not be placed in open water or wetlands.

(13) Construction of private or commercial boat launching ramps and parking areas requiring the placement of less than 250 cubic yards of fill or disturbing less than a total of one-fourth of an acre of wetlands.

(14) Installation of no more than two mooring piles (including clusters that consist of up to three piles) for small boats.

(15) Timber wharves and decks of up to 300 square feet, as well as single story timber pile or float supported boat sheds that cannot serve as a camp, foundation for a residence, or a residence, provided that any of the structures identified above:

(a) are no longer (i.e., channelward extension into the waterway) than 10 percent of the waterway width at the project site, or

(b) will not cause unreasonable interference with navigation (see general condition q), whichever is less.

(16) Work not specifically excluded which fills, excavates, impounds, drains, or segregates less than one-fourth of an acre of wetlands.

d. Exclusions. The following work will NOT be eligible under this general permit. Applications for this work will be evaluated in accordance with 33 CFR 325.

(1) Work outside the Louisiana coastal zone (see enclosed map).

(2) Work or structures within 1,000 feet of any main line flood control or hurricane protection levee constructed and/or maintained with federal funds without prior coordination with, and the approval of, the New Orleans District.

(3) Structures or work associated with new boating facilities or with the extension of the area limits of existing boating facilities. For the purpose of this condition, "boating facilities" are marinas, yacht clubs, boat clubs, and other entities that rent or sell mooring space.

(4) Structures or work in, or that would impinge upon the value (habitat, hydrology, etc.) of, any National Wildlife Refuge, National Forest, areas administered by the National Park Service of the U. S. Department of the Interior, areas administered by the Louisiana Departments

of Natural Resources or Wildlife and Fisheries, or other similar publicly held areas administered by federal, state, or local governmental authority, unless special permission from these agencies is submitted with the application for this general permit.

(5) Projects of national concern. This exclusion is invoked on a case-by-case basis and represents, in essence, a special class of projects that receive particular attention in Corps decisions on whether to exercise the discretionary authority to require individual applications for work that otherwise meet all of this permit's conditions. While a precise definition is not possible, this category of work normally includes, but is not limited to, the following examples: projects that could cause an unreasonable interference with navigation; significant wetland fills; major power plants, shipping facilities and oil refineries; major commercial, residential or industrial developments; and work that could adversely affect habitats important to migratory birds, endangered or threatened species, estuarine-dependent fishes and shellfishes, or other species of high federal interest; or historic, cultural, or archeological sites listed in the National Register of Historic Places or sites listed in the National Registry of Natural Landmarks.

(6) Oil and gas well canals or channels greater than 70 feet wide or slips larger than 345 feet by 160 feet and/or with a total (canal and slip) length greater than 500 feet (to include access canals), and any not specifying that restoration (if appropriate), will be conducted upon abandonment.

(7) Work within 1,500 feet of colonial bird nesting sites or within 1 mile of bald eagle or brown pelican nesting sites.

(8) Pumping and/or drainage facilities with associated levee systems, which are capable of draining (either forced or gravity) any wetlands not currently subject to artificial lowering of water levels.

(9) Work that would modify the effectiveness of an existing, function water control structure.

(10) Mining for sand, gravel, or shell.

(11) New structures or work within 1 mile of a designated shipping safety fairway or designated anchorage area in the Gulf of Mexico. Modifications to existing permitted facilities may qualify for approval under the general permit.

(12) Work other than that listed above which fills, excavates, impounds, drains, or segregates over one-fourth of an acre of wetlands.

General permit NOD-22 is subject to the following general conditions:

a. All activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in modification, suspension, or revocation of the authorization granted to the permittee, in whole or in part, as set forth more specifically in general conditions j. or k. below, and in the institution of such legal proceedings as the United States government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or in part.

b. All activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (PL 92-500: 86 Stat. 816), or pursuant to applicable state and local laws.

c. When the activity authorized herein involves a discharge of any pollutant (including dredged or fill material) into waters of the United States during its construction or operation, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances. Under Section 402 of the Clean Water Act, the Environmental Protection Agency (EPA) and/or the state of Louisiana may require that drilling fluids, produced waters, or cuttings associated with drilling fluids, which contain oil-based fluids, heavy metal additives such as weighting agents and dispersants, asbestos viscosifiers, zinc chromate corrosion inhibitors, sodium chromates/dichromates, pH control chemicals, chlorinated phenol biocides, or any other substances classified as priority pollutants by EPA, be re-injected or contained in a closed system for transportation to an upland disposal facility. Applicants are strongly urged to consider the practicality of containerization.

d. The discharge shall not affect a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. The permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, special aquatic sites, and natural environmental values.

f. The permittee agrees that the construction of work authorized herein shall be prosecuted in a manner so as to minimize any degradation of water quality.

g. The permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections of the project site(s) and disposal site(s) if different from the project sites(s) at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. The permittee shall maintain the structure or work authorized herein in a good and safe condition.

i. This permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations nor does it obviate the requirement to obtain state or local assent required by law for the activity authorized herein.

j. This permit and/or any individual authorizations granted under this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest.

k. Any individual authorization granted under this permit may be either modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of the terms or conditions of this permit or that such action would otherwise be in the public interest.

l. In issuing authorizations under this permit, the federal government will rely upon information and data supplied by the applicant. If, subsequent to the issuance of an authorization, such information and data prove to be false, incomplete, or inaccurate, the permit authorization may be modified, suspended, or revoked, in whole or in part.

m. Any modification, suspension, or revocation of this permit or any individual authorization granted under this permit will not be the basis for any claim for damages against the United States.

n. This permit does not authorize or approve the construction of particular structures, the authorization or approval of which require authorization by the Congress or other agencies of the federal government.

o. If and when an authorized activity is to be abandoned, unless such abandonment is part of a transfer procedure by which the authorization is being transferred to a third party, the individual(s) who receive(s) the authorization must restore the area to a condition satisfactory to the District Engineer. Any transfer procedure must include the transferee's written agreement to comply with all terms and conditions of this permit and any additional conditions that may be added to the individual authorization.

p. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein. The permittee will, at his or her expense, install and maintain any safety lights, signals, and signs prescribed by the United States Coast Guard, through regulations or otherwise, on authorized facilities or on equipment used in performing work under the authorization.

q. This general permit cannot be used for piecemeal dredge or fill activities or other piecemeal work, nor is this general permit valid for any activity that is part of an overall project for which the Corps has determined that an individual permit is required.

r. If the permittee, during prosecution of authorized work within the area subject to Department of the Army jurisdiction, encounters a previously unidentified archaeological or other cultural resource that might be eligible for listing in the National Register of Historic Places, he/she shall immediately cease operations and notify the District Engineer. Work shall not begin again without written notification from the District Engineer.

s. Wetlands that are not part of the project site but that are disturbed during construction, including the temporary crossing of wetland areas, will be restored to their pre-project elevations and conditions, and may include re-planting.

t. When work is done by heavy equipment in wetland areas that are not a part of this authorization or heavy materials are temporarily stored in these wetland areas, mats will be utilized and activities confined to matted areas. When work is completed the mats shall be removed.

u. Material discharged into wetlands will be contained or stabilized and will compatible with existing soils and will not otherwise constitute a non-point pollution source.

v. When project works will be constructed with, be adjacent to, or otherwise in proximity to other works conducted pursuant to this general permit, the project drawings will show the relationship of such structures to the proposed work and their appropriate Coastal Use Permit numbers.

w. Misrepresentation of the proposed project or falsification of facts may be cause to exclude the project from further general proceedings. If the misrepresentation or falsification was intentional, the applicant shall forfeit the right to conduct work at the proposed project site pursuant to this general permit.

x. If the project includes deposits of dredged or fill material, only clean dredged material, or hauled material which is free of organic matter, waste metal products, chemical pollutants, unsightly debris, etc., may be used as fill.

y. A project that consists of two or more features, at least one of which could be authorized pursuant to NOD-22 and the remaining feature(s) authorized under any other current

general permit issued by the New Orleans District, will be administratively considered as one NOD-22-eligible activity. The application form must identify which other general permit(s) apply to each portion of the project. For example, if an application is submitted to install a drilling barge, shell pad, and flow line, the application form must state that the shell pad will conform to the provisions of NOD-3 and the flow line will conform to the provisions of NOD-18. This administrative procedure would apply only to projects located wholly within the CMZ/MVN coincident boundaries. Projects within the CMZ/MVN coincident boundaries that consist of other general permit activities (e.g., flow line only, shell pad only) would continue to be granted pursuant to the provisions of the applicable general permit.

z. 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 his 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.

General permit NOD-22 is subject to the following special conditions:

a. No work may be performed under this general permit unless and until all required federal, state, and local permits licenses, authorizations, and certifications are obtained, including but not limited to:

(1) A Coastal Use Permit signed by the Secretary of the Louisiana Department of Natural Resources or his designee, or

(2) A letter from the Secretary of the Louisiana Department of Natural Resources or the Administrator of the Office of Coastal Management stating that, pursuant to state law, a Coastal Use Permit is not required for the activity in question; and

(3) A water quality certification (if required) from the Louisiana Department of Environmental Quality, Office of Environmental Services, or from the Environmental Protection Agency for projects on lands of the Chitimacha Tribe of Louisiana.

b. Irrespective of whether a proposal meets the other conditions of this permit, the Corps of Engineers retains discretionary authority to subject the proposal to all standard permit review procedures, whenever the Corps of Engineers determines that the potential consequences of the proposal warrant this requirement.

Application, Reporting & Acknowledgement Procedures

Applications, specifically requesting authorization under the general permit, should be sent to the Louisiana Department of Natural Resources, Office of Coastal Management, Post Office Box 4487, Baton Rouge, Louisiana 70804-4487. The Office of Coastal Management (OCM) will review the application for completeness and, if complete, will assign it a coastal use permit (CUP) number and forward a copy of the application to the New Orleans District by express next day delivery. Applications may also be submitted electronically at http://dnr.louisiana.gov/crm/. A complete application includes all of the following:

1. A coastal use permit application fee ($20 for residential projects, $100 for non-residential projects) in the form of a check made payable to "OCM".

2. The Joint Permit Application form that includes, but is not limited to, the applicant's signature; the latitude and longitude; the Section, Township and Range; a statement by the applicant that the best of his or her knowledge, the project complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Management Program; the information requested in step 12 of the form regarding landowners; and a clear description of the proposed work and alternatives considered, with details supporting the chosen alternative.

3. For most projects requiring authorization under Section 404 of the Clean Water Act, a compensatory mitigation plan to offset unavoidable wetland impacts. This plan will adhere as closely as possible to the requirements of the memorandum of Agreement between the Department of the Army and the Environmental Protection Agency (i.e., compensatory mitigation will generally be in-kind, performed within the same watershed area as the project site, etc.). The compensatory mitigation plan must provide a minimum of 1 to 1 acreage replacement, with each plan evaluated on the basis of conditions existing at the proposed project site. Compensatory mitigation may consist of wetland restoration, enhancement of degraded wetlands, wetland creation, or participation in an approved mitigation bank. The plan should be designed to replace the functions and values of the affected project site. It may be performed on federal wildlife refuges, state wildlife management areas, and parish or private lands. The plan must include a letter from the refuge or land manager agreeing to the proposed plan. Compensatory mitigation shall be commenced within 90 days (or the first planting season, if applicable) of commencement of work unauthorized under the general permit, and shall be completed no later than 2 years from the date of commencement.

4. Signed statements from the affected landowners establishing that they have no objection to the required restoration/mitigation, and that they agree not to develop restoration/mitigation areas without the prior approval of the District Engineer.

5. Application plats to include a legible location plat on which the project site is clearly indicated, and accurate scaled drawings (plan view and cross-sections), with all dimensions clearly labeled and the number of cubic yards of any dredged and/or fill material involved. The mean high and low water shorelines must also be included on the cross sections.

Upon receipt of a copy of the application package from OCM, the New Orleans District will review it for completion and eligibility for the general permit. Incomplete applications will be returned to the applicant and/or the applicant will be advised of the application deficiencies. Work not eligible for NOD-22 will be evaluated as a standard permit to include a joint Corps/OCM public notice, if applicable.

A GR meeting will normally be required for dredging of oil/gas slips greater than 375 feet long and 120 feet wide. Oil/gas slips greater than 375 feet by 120 feet will not be eligible under the general permit if there is another site within the directional drilling radius that is technically and/or economically feasible that has less adverse environmental impact, as determined at the conclusion of the GR meeting. The directional drilling radius is the maximum distance from a proposed bottom hole location from which a given well feasibly can be directionally drilled. It is determined by the following formula: [(proposed total well depth in feet – surface casing distance in feet – 1425) X .57735027] + 375 feet.

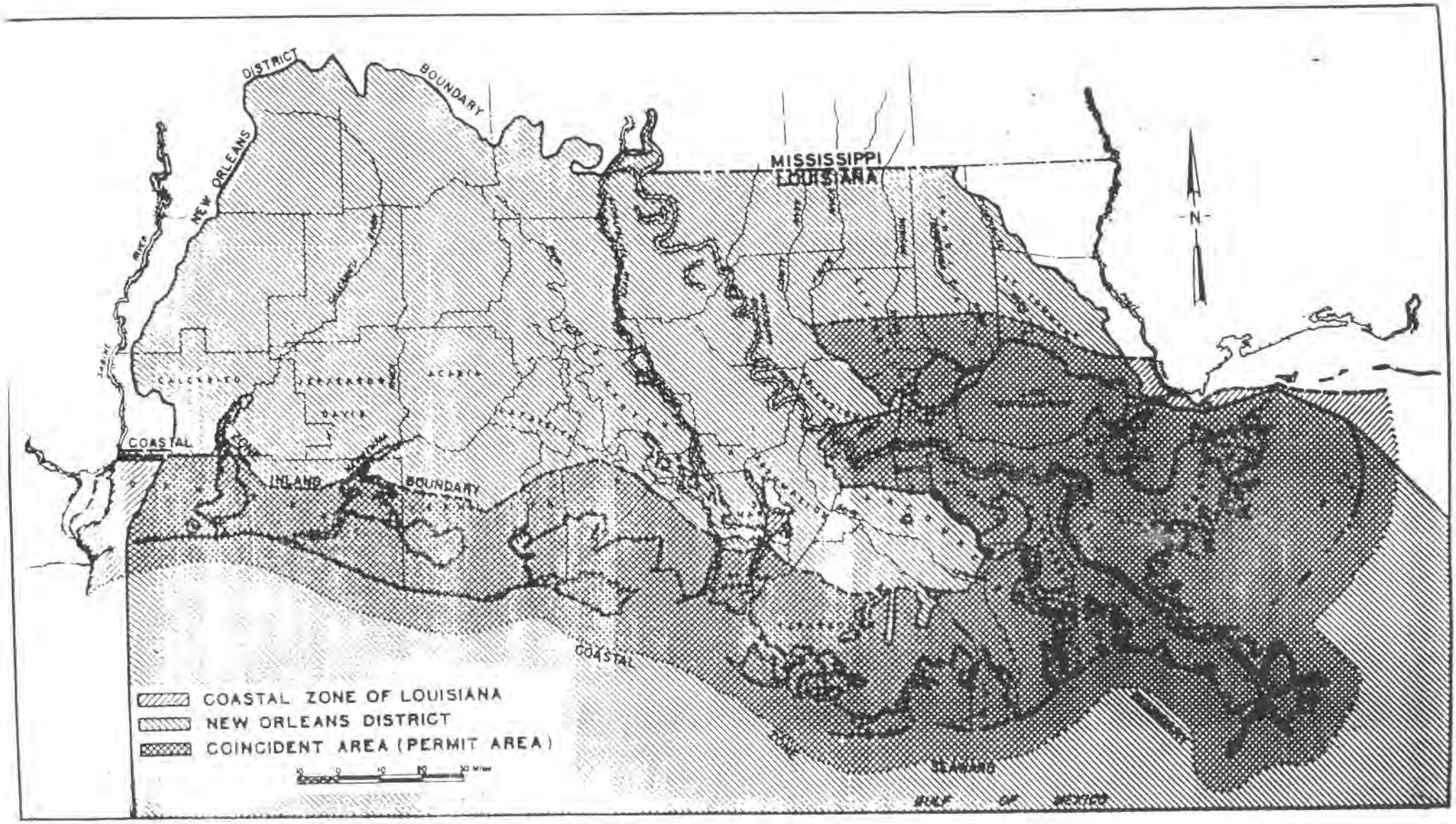
Applicants whose proposals meet the requirements of NOD-22 will be notified by letter that their project is being considered for approval under the general permit. Copies of the letter will be sent to the U. S. Fish & Wildlife Service, National Marine Fisheries Service and the Louisiana Department of Wildlife and Fisheries for review and comment. Concurrences may be forwarded to the Corps via telephone or e-mail; however, non-concurrences must be made in writing with an information copy sent to the applicant, and must include a description of the impact(s) considered to be more than minimal. These agencies may comment on this project or request additional information needed for their analysis during the comment period. If additional time is needed for their evaluation, they may request a time extension of up to 20 days. Lack of response within 5 days by these federal agencies will be considered as no objection or no position by those agencies. Corps of Engineers' decision of non-concurrence with reviewing federal agencies' objections and/or recommendations will be made in writing by the District Engineer to the respective agency.

After receipt of comments from the federal agencies or after 5 days from the start of the comment period, the proposal will be evaluated in consideration of the comments from the federal agencies, and a decision will be made to issue the general permit approval as requested, issue the general permit approval with modifications, or require the project to be evaluated as a standard permit. The applicant will be notified of our decision by letter.

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

[redacted]

Pete J. Serio
Chief, Regulatory Branch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