

Operations Division
Regulatory Branch

SUBJECT: CEMVN-OD-SE(General Permit)NOD-130

DEPARTMENT OF THE ARMY
GENERAL PERMIT

Authorization No.: (General Permit)NOD-130
EL-20-000-2158

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:

Dredge for material and/or install and maintain fill material and structures associated with mitigation activities required by a Department of the Army (DOA) authorized project.

Specific legislation requiring DOA permits for work of this nature:

- a. Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and
- b. Section 404 of the Clean Water Act (33 U.S.C. 1344).

"Waters of the United States" are defined in Part 328.3(a) of Title 33, Code of Federal Regulations.

Prior to written approval from the New Orleans District (NOD), each request for work covered by this general permit will be reviewed to consider impacts to the environment and other areas of concern to determine if approval is not contrary to the public interest.

This general permit will authorize work in those areas which are located within the boundaries of the U.S. Army Engineer District, New Orleans. A map attached to this

approval shows the approximate boundaries of the district (Attachment 1).

The District Engineer will review each application to determine that provisions for siting, constructing, monitoring, operating, maintaining, and/or managing the mitigation projects are consistent with the following standards:

a. The purpose of the work is to compensate for unavoidable adverse impacts to wetlands associated with implementation of a DOA authorized project by constructing, enhancing and/or restoring the "natural" wetland hydrology, vegetation, and/or other functions of altered and/or degraded wetlands;

b. The stated goals of the mitigation plan are practicable and achievable;

c. Conflicts among competing uses of the navigable waters of the United States and of the resources in such waters are minimized;

d. The environmental risk and risks to personal health and property are minimized; and

e. Any unreasonable obstruction to navigation is prevented.

This general permit is also subject to the following special conditions:

a. The work covered by this general permit must be part of a mitigation plan developed to compensate for unavoidable impacts associated with implementation of a permitted activity.

b. Federal, state and local agencies commenting on the permitted project must have reviewed and been allowed to provide input into the mitigation plan as a prerequisite for consideration under this general permit.

c. This general permit does not authorize the conversion of natural wetlands to another aquatic use.

d. For work to be performed under authority of this general permit, applicants must provide the following:

(1) A copy of the Department of the Army permit with approved mitigation plan.

(2) A letter from the landowner approving the mitigation plan.

e. Wetlands that are not specifically part of the authorized project but are disturbed during construction, including the temporary crossing of wetland areas, will be restored to their preproject elevations and conditions, including replanting.

f. When work is done by heavy equipment in wetland areas, mats will be utilized and activities confined to matted areas. When work is completed, the mats will be removed.

g. All work authorized by this general permit must be made visible to the boating public both day and night by installing and maintaining, at the permittee's expense, any safety lights, signs and/or signals prescribed by the U.S. Coast Guard, through regulations or otherwise.

h. This general permit may be revised, suspended, modified or revoked by the District Engineer any time such action is found to be in the public interest.

i. The District Engineer reserves the right to withhold approval under this general permit for specific proposals and require an individual permit be processed.

j. The District Engineer may include additional conditions to this permit at any time and as necessary to protect the public interest.

k. Additional public notice will be given to advise the interested public of major revisions to this general permit or of its suspension or revocation.

l. Issuance of this general permit does not relieve the permittee from obtaining any required permits or licenses from local, state or other federal agencies before commencing work on any project authorized by this general permit; this includes but is not limited to:

(1) A Coastal Use Permit or letter stating that a Coastal Use Permit is not required for the activity signed by the Secretary of the Louisiana Department of Natural Resources or his designee;

(2) A water quality certification from the Louisiana Department of Environmental Quality, Office of Environmental Services; and

(3) A determination from the Louisiana Department of Natural Resources, Division of State Lands that work authorized by this GP does not affect any state-owned water bottoms.

m. Inclusions: The following are examples of work that will likely be eligible under this permit:

(1) Earthen plugs with or without armor in man-made canals or dredged material banks; this includes the dredging for construction material from adjacent waterways;

(2) Dredging of "splays" and/or breaks in natural levees or dredged material banks for the purpose of introducing freshwater or reestablishing "natural" wetland hydrology. Dredged material would be deposited on adjacent dredged material banks or in open water at elevations conducive to establishment of wetland vegetation where practicable;

(3) Sediment and vegetation retention fences along shorelines of navigable waterways and man-made canals and/or across man-made canals;

(4) Breakwaters constructed in open water along eroding shorelines; such structures would not block navigable waterways;

(5) Dredging in open water areas for fill material to be deposited in shallow open water areas or broken marsh areas for the purpose of marsh construction, restoration or enhancement; work would include the dredging for material to be used for constructing retention dikes to control the flow of material;

(6) Construction of small nesting islands;

(7) Clearing and grading for preparation of a site for planting with wetland vegetation; work includes filling of ditches and/or contouring to establish required hydrological gradients needed for wetland construction.

(8) Additional water control structures, not previously authorized, on permitted or "grandfathered" marsh management areas where the structure is required to improve water exchange or aquatic resource passage;

n. The permittee shall take all appropriate and practicable steps to minimize potential adverse effects of the discharge on the aquatic ecosystem including the use of nonwetland disposal sites when practicable.

o. Dredged and/or fill material for the work authorized by this general permit shall be clean and free of waste material, metal products, chemical pollutants, and unsightly debris.

p. Activities at or in close proximity to any known historic or archeological site or within the boundaries of an historic district are not authorized by this general permit without the written approval or waiver from the State Historic Preservation Officer or the appropriate authority. Should a cultural resource site be discovered during construction, the permittee or his contractor shall cease activities and notify the State Historic Preservation Office.

q. No activity is authorized under this general permit within 1,000 feet of a levee or other flood control facilities constructed or maintained with federal funds, or owned and operated by agencies of state and local governments without written consent of the appropriate agency or governing body.

r. No activity that is likely to adversely affect federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species, is authorized under this general permit.

s. This general permit does not authorize any work within 1,500 feet of a colonial bird nesting site.

t. This general permit does not authorize any work within 3,000 feet of a bald eagle nesting site.

To perform work or install structures under authority of this general permit, the permittee must provide sufficient maps and drawings, 8.5 inch by 11 inch, to clearly describe the proposed work and location including the following:

a. The location of the work, i.e., latitude and longitude; section, township, range, or other physical description.

b. Size and configuration of the structure(s) and/or quantity, source and a description of the dredged or fill material to be used.

c. The location of any pipelines and/or structures within the immediate vicinity of the work area.

No work shall begin prior to receiving written notice from this office that it may proceed. This notice to proceed will usually be provided within 10 to 20 working days.

Authorizations by this general permit are subject to applicable conditions of our standard permit, ENG Form 1721 (see Attachment 2).

Individual approvals granted to applicants under this general permit allow 3 years, from the date of the approval letter, for completion of the project.