



**DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT  
7400 LEAKE AVE  
NEW ORLEANS, LA 70118-3651**

**February 7, 2022**

**United States Army  
Corps of Engineers  
New Orleans District  
Attn: Regulatory Division, RG  
7400 Leake Avenue  
New Orleans, Louisiana 70118-3651**

**State of Louisiana  
Department of Environmental Quality  
Water Permits Division  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313**

Project Manager: James W. Little, Jr.  
(504) 862-1879  
James.little@usace.army.mil  
Permit Application Number:  
Programmatic General Permit  
MVN-2017-00676-WII

Project Manager: Ms. Elizabeth Hill  
225) 219-3225  
DEQ-WaterQualityCerifications@la.gov  
WQC Application Number:  
WQC 220131-01

**SOLICITATION OF PUBLIC COMMENT  
FOR THE  
RENEWAL OF THE PROGRAMMATIC GENERAL PERMIT  
FOR USE  
IN THE NEW ORLEANS DISTRICT  
WITHIN THE BOUNDARIES OF THE LOUISIANA COASTAL ZONE**

The U. S. Army, Corps of Engineers, New Orleans District (CEMVN), in coordination and cooperation with the following regulatory and resource agencies:

State of Louisiana, Department of Natural Resources, Office of Coastal Management,  
State of Louisiana, Department of Environmental Quality,  
State of Louisiana, Department of Wildlife and Fisheries,  
United States Environmental Protection Agency,  
United States Department of the Interior, Fish and Wildlife Service,  
United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service,

proposes re-issuance of the Programmatic General Permit (**PGP**) for use in that portion of CEMVN that lies within the Louisiana Coastal Zone.

A programmatic general permit is a type of general permit that authorizes projects that are also regulated by another federal, state, tribal, or local agency. In this case, the State of Louisiana, Department of Natural Resources, Office of Coastal Management is the other regulatory agency.

In development of the proposed general permit, CEMVN and the aforementioned agencies reviewed the existing abbreviated procedures for project authorization which include CEMVN regional general permits, nationwide permits and Letters of Permission, for type and scope of activity eligible for authorization. The enclosed proposed PGP consists primarily of consolidation of these activities and includes expansion of scope in some instances. CEMVN and the coordinating agencies anticipate a reduction in the complexity of the regulatory process for the general public while maintaining an equivalent level of protection for the aquatic environment and the public interest.

This public notice serves as the application to the State of Louisiana, Department of Natural Resources, Office of Coastal Management, that the activities proposed for authorization herein are consistent with the State's Coastal Zone Management Program. This notice also serves as the application to the Department of Environmental Quality, Office of Environmental Services, for a Water Quality Certification (WQC) in accordance with statutory authority contained in Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A (3) and provisions of Section 401 of the Clean Water Act (P.L. 95-217). The Department of Environmental Quality will make a final decision on this application within 60 days of the date of this public notice.

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close on **February 27, 2022**. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period.

Letters of comment to the Corps of Engineers concerning this general permit must reference "Programmatic General Permit" and be mailed to:

U.S. Army Corps of Engineers  
New Orleans District, Regulatory Division  
Attn: CEMVN-RG  
7400 Leake Avenue  
New Orleans, Louisiana 70118-3651

Anyone wishing to review the file pertaining to this general permit may do so during regular working hours on any business day at the Regulatory Division of this District. The location of this office is Building No. 3, Room 278, 7400 Leake Avenue, New Orleans, Louisiana 70118-3651.

Similarly, letters concerning the Water Quality Certification must reference the "Programmatic General Permit" and the WQC Application number "WQC 220131-01" and be mailed to the Louisiana Department of Environmental Quality:

Louisiana Department of Environmental Quality  
Water Quality Certifications  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 5:00 p.m. Copies may be obtained upon payment of costs of reproduction.

Specific legislation requiring Department of the Army permits for work of this nature are:

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

The decision whether to issue this general permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects therefore; among those are conservation, economics, aesthetic, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

CEMVN is soliciting comments from the public, Federal, state, and local agencies and officials, Native American Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by CEMVN to determine whether to modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Evaluation of the probable impacts involving deposits of fill material into waters of the United States will include the application of guidelines established by the administrator of the U.S. Environmental Protection Agency.

Properties listed on the National Register of Historic Places are known to occur within the Louisiana Coastal Zone. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are being sent to the State Archeologist and the State Historic Preservation Officer.

You are requested to communicate the information in this notice to any other parties whom you deem likely to have interest in this matter.

Martin S. Mayer  
Chief, Regulatory Division

Attachments:

1. Programmatic General Permit
2. ENG Form 1721
3. Louisiana Coastal Zone Boundary Map

CEMVN  
Regulatory Division

SUBJECT: Programmatic General Permit

A PROGRAMMATIC GENERAL PERMIT  
FOR USE IN THE NEW ORLEANS DISTRICT  
WITHIN THE BOUNDARIES OF THE LOUISIANA COASTAL ZONE

Under authorization granted by applicable sections of Parts 320 through 332 of Title 33, Code of Federal Regulations, and delegated authority from the Commander, US Army Corps of Engineers, the District Commander at New Orleans has determined that it is in the public interest to extend the programmatic general permit (**PGP**) to authorize those activities that result in minimal adverse impacts within the boundaries of the Louisiana Coastal Zone, as specified by the terms and conditions of this PGP.

Specific Legislation requiring Department of the Army permits for work of this nature:

Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403).

Section 404 of the Clean Water Act (33 USC 1344).

Waters of the United States are defined in Part 328 of Title 33, Code of Federal Regulations.

Special aquatic sites means wetlands, mudflats, vegetated shallows, coral reefs, sanctuaries and refuges, and riffle and pool complexes, as defined at 40 CFR 230.40 through 230.45.

This PGP does not authorize dams in navigable waters of the United States pursuant to Section 9 of the Rivers and Harbors Act of 3 March 1899 (33 USC 401) or transportation of dredged material for ocean disposal pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act (33 USC 1413).

GENERAL EXCLUSIONS

I. The following work will not be eligible under this PGP. Applications for this work will be processed in accordance with 33 CFR Part 325:

- (1) Work outside the boundaries of the Louisiana Coastal Zone.
- (2) Activities which are not covered under the Louisiana Coastal Resources Program as implemented by the Louisiana Department of Natural Resources, Office of Coastal Management

(LDNR, OCM).

(3) No activity is authorized under this PGP which may adversely affect the continued existence, or which will destroy or adversely modify the critical habitat, of a threatened or endangered species, or a species proposed for such a designation, as identified under the Federal Endangered Species Act.

(4) Work or structures within 1,500 feet of any mainline flood control and hurricane damage risk reduction levees, structures, etc. constructed and/or maintained with federal funds without prior coordination with, and the concurrence from, CEMVN. Work that might alter US Army Corps of Engineers Civil Works projects will not qualify for this general permit until Permission pursuant to 33 USC 408 is granted by the District Commander.

(5) 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 US 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 during the review of, or with, the application for this general permit.

(6) Projects of national or individual concern. This exclusion is invoked on a case-by-case basis and represents, 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 meets 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 archaeological sites listed in the National Register of Historic Places or sites listed in the National Registry of Natural Landmarks; or specific activities for which agencies request, and provide justification for, the requirement of an individual permit review.

II. The following activities will likely be excluded for consideration under this PGP:

- a. Work within 1 mile of offshore navigation fairways and anchorages
- b. Commercial sand dredging in the Mississippi River
- c. Barge fleeting
- d. Mid-stream transfer facilities in the Mississippi River
- e. Channel ward extensions of existing facilities in federally maintained waterways
- f. Waterway closures (excluding plugs in abandoned canals)
- g. New marsh management
- h. New water control structures (except open culverts sized and set to maintain natural flow)
- i. Contaminated sediment excavation and/or disposal, including but not limited to such

- activities proposed in Harvey Canal and Calcasieu River
- j. Activities that would adversely impact environmentally sensitive areas (e.g., barrier islands, bird rookeries, coral reefs, seagrass beds, etc.)
  - k. Activities adversely affecting Coastal Wetlands Planning, Protection and Restoration Act (PL 646) projects
  - l. Projects which would impact the hydrology of adjacent wetlands such that the acreage criteria established in this permit are exceeded

## INCLUSIONS

### Category I Activities

What follows is a listing of activities which fall under Category I. The format of this general permit has been designed so that all similar activities have been grouped together where the purpose and the nature of that impact is similar. These activities are further limited, **unless otherwise noted**, by the acreage being impacted. CEMVN will verify qualification of specific activities for Category I authorization. The procedures for properly applying for and obtaining approval are found in the section of this document entitled 'Reporting/Acknowledgment Procedures'.

For the purposes of this permit, the acreage limitations established include the area flooded, drained, filled, or excavated, unless otherwise indicated. For activities to comply with Category I, they cannot cause the loss of greater than 0.5 of an acre of special aquatic sites.

1. Oil and gas activities including shell pads for drilling activities, exploration and production structures or extensions thereof, new channels or slips less than 0.5 of a mile in length in open water, and other related activities.
2. Survey activities not including 3D seismic activities.
3. Flowlines/pipelines 25,000 linear feet or less in length. Includes minor activities associated with pipeline abandonment.
4. Hazardous condition response activities. For purposes of this general permit, a hazardous condition is a situation which would result in an imminent safety and/or environmental hazard, loss of property, or immediate economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time period needed to process the application. Applicants will submit sufficient information to document the hazardous condition and scope of work. This authorization is conditional. Within 30 days of the authorization, permittees will be required to submit an application for any work performed, or needed to be performed, to rectify the hazardous situation. The application will be processed in the appropriate manner. Alternatively, if the structures and/or fill installed to remediate the hazard are no longer necessary, the permittee must submit a site restoration plan for review and authorization by CEMVN. Restoration plans

must be implemented within 30 days of receipt of CEMVN concurrence, unless otherwise specified (**acreage limits for the initial request do not apply**).

5. Dredging of existing waterbodies. Excavation cannot exceed 40,000 cubic yards of material.
6. Maintenance of existing structures and fill provided the structures or fill are not put to uses differing from those uses specified or contemplated for it. The activity must be the repair, rehabilitation or replacement of a currently serviceable structure or fill. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This does not include maintenance dredging or beach restoration.
7. Miscellaneous structures including mooring buoys and aids to navigation which are approved by and installed in accordance with the requirements of the U.S. Coast Guard.
8. Scientific measuring devices. Devices to measure and record scientific data such as staff gauges, tide gauges, water quality testing, etc.
9. Sealed forms or cells for pile supported structures.
10. Single piles, pile clusters.
11. Trenasse (pirogue ditch) maintenance. The maximum width of the trenasse shall not exceed 6 feet with a maximum depth of 3 feet.
12. Minor Road crossings. Placement of fill for a road, including the placement of culverts provided bank full flow is maintained. Includes cattle crossings.
13. Bank stabilization. Activity may not exceed 200 feet in length and greater than 1 cubic yard per linear foot of fill placement below the plane of the ordinary highwater mark or mean high water line whichever applies.
14. Erosion Protection and Restoration along public highways which parallels or is adjacent to waterbody, up to one mile in length provided the work is performed by LA DOTD, parish or municipal highway department. No dredging is authorized (except that material which has sloughed from the embankment), bulkheads must be placed at the existing bank line, and work may include revetment and fill to repair and maintain existing bridge sites.
15. Wharves, piers, and similar structures, structures in manmade canals, small boat slips, boat ramps, and associated fill and appurtenances. Structures may neither exceed 600 square feet in area, nor extend channel ward more than 10 percent of the waterway bank-to-bank distance, nor cause unreasonable interference to navigation. Boat slips/ramps up to 30 feet by 15 feet in area.

16. Artificial reefs constructed for the purpose of enhancing fishing opportunities.
17. Categorical Exclusions: Activities which are undertaken, funded, authorized, regulated, or financed, in whole or in part, by another federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, that the activity work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.
18. Work not specifically excluded which clears, grades, fills or excavates no greater than 0.5 of an acre of special aquatic sites, as deemed applicable by CEMVN.

### **Category II Activities**

What follows is a listing of all of the activities which fall under Category II. The format of this general permit has been designed so that all similar activities have been grouped together where the purpose and the nature of that impact is similar. These activities are further limited, **unless otherwise noted**, by the acreage being impacted. For activities to comply with Category II the impact is limited as follows:

Non-oil and gas related activities may result in the loss of no greater than 2.0 acres of tidal or 3.0 acres of non-tidal, special aquatic sites. Oil and gas related activities may result in the loss of no greater than 3.5 acres tidal or non-tidal special aquatic sites.

1. Oil and gas activities, including board roads, ring levees, exploration and production structures or extensions, new oil and gas canals and slips, parallel/perpendicular slips, etc.
2. Seismic surveys (**acreage limits do apply**).
3. Any flowlines, pipelines and utility lines up to 50,000 linear feet in length, and all aerial transmission lines. Must utilize the least damaging, practicable route and construction method, otherwise an individual permit will be required. Power transmission lines must comply with regulations found at 33 CFR Part 322.5(i).
4. Cleanup of hazardous and toxic waste. For toxic and hazardous waste, the activity must be sponsored by a government agency with established legal or regulatory authority or be court ordered (**acreage limits do not apply**).
5. Oil spill cleanup. Activities will be subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300), and work must be done in accordance

with the Spill Control and Countermeasure Plan required by 40 CFR part 112.3. Work must also comply with any State Contingency plan and the Regional Response Team must concur with the action (**acreage limits do not apply**).

6. Dredging of existing waterbodies. Excavation cannot exceed 100,000 cubic yards of material (volume limits do not apply to activities being conducted for the purpose of wetland restoration, and; up to 250,000 cubic yards allowed for removal of silt accumulations around existing docks, barge fleets and mooring areas in the Mississippi River with disposal beyond the minus 55-foot contour).
7. Outfall structures. Provided the effluent is in compliance with regulations issued under the National Pollutant Discharge Elimination System (Section 402 of the Clean Water Act).
8. Wharves, piers, and similar structures, structures in manmade canals, small boat slips, boat ramps, and associated fill and appurtenances. Structures may exceed 600 square feet in area but may neither extend channel ward more than 20 percent of the waterway bank-to-bank distance, nor cause unreasonable interference to navigation. Boat slips/ramps up to 60 feet by 25 feet in area.
9. Erosion Protection and Restoration along public highways which parallels or is adjacent to waterbody, one mile in length and greater provided the work is performed by the LA DOTD, parish or municipal highway department. No dredging is authorized (except that material which has sloughed from the embankment), bulkheads must be placed at the existing bank line, and work may include revetment to repair and maintain existing bridge sites.
10. Bank stabilization. Activities that are greater than 200 linear feet in length, but do not exceed 500 linear feet, or where fill placement exceeds 1 cubic yard per running foot below the plane of the ordinary highwater mark or mean high water line whichever applies. District Engineer may grant a waiver to this limitation for proposed activities up to 1000 feet if determined to have minimal individual and cumulative adverse environmental effect.
11. Categorical Exclusions. Activities which are undertaken, funded, authorized, regulated, or financed, in whole or in part, by another federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, that the activity work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually or cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.

12. Small weirs, flumes and similar scientific measuring devices provided aquatic organism movement is minimally impeded.
13. Wetland restoration and creation activities. Activities specifically designed which have a beneficial effect on wetlands and/or aquatic resources, as determined applicable by CEMVN. Limits on the volume of dredged material and acreage of fill area do not apply. Mitigation banks/areas excluded.
14. Work not specifically excluded which clears, grades, fills or excavates no greater than 2.0 acres of tidal, or 3.0 acres of non-tidal, special aquatic sites, as determined applicable by CEMVN.

## REPORTING/ACKNOWLEDGMENT PROCEDURES

### A. COMPLETE APPLICATION

Requests for authorization under the PGP require the applicant to submit an application to the DNR, OCM; **an electronic version of the application can be found at <http://www.dnr.la.gov>**. The applicant's submittal must include a fully completed joint application form and project plans showing all work for which a permit is being requested. LDNR, OCM will electronically forward the application to CEMVN.

A "**complete**" application consists of the following:

- (1) A completely filled out joint on-line application form.
- (2) Vicinity Map - You may use an existing road map or U.S. Geological Survey topographic map. This map should include:
  - (i) Location of activity site (draw an arrow showing the exact location of the site on the map).
  - (ii) Latitude, longitude, and section, township and range, if known.
  - (iii) Names, descriptions and location of landmarks.
  - (iv) Name of and distance to nearest town, community, or other identifying locations, including parish.
  - (vi) Names or numbers of all roads in the vicinity of the site.
  - (vii) North arrow.
  - (viii) Appropriate dimensions (length x width x depth) or drawings to scale.

- (3) Plan view and cross section drawings of the proposed work which include:
  - (a) Primary dimensions of the activity.
  - (b) Appropriate dimensions (length x width x depth) or drawings to scale.
  - (c) Volume (cubic yards), source, and type of dredged/fill material(s).
  - (d) Mean low and highwater marks.
- (4) A statement that the proposed project is consistent with the approved state coastal zone management program.

For the following application types to be considered "complete", additional information may be required:

- 1) New oil/gas well or reinjection well applications that would result in adverse impacts to special aquatic sites must have undergone an interagency Geologic Review Meeting. The least damaging practicable alternative identified therein may qualify for PGP authorization provided it complies with the criteria of the PGP.
- 2) Residential subdivisions or an individual single-family home within an existing subdivision must include a subdivision layout.
- 3) Activities on state operated wildlife management areas or federal refuges must include a written approval from the management area/refuge manager.
- 4) Projects where the permitted activity requires site restoration upon abandonment of the activity must include signed statements from the affected landowners that they have no objection to the required restoration and that they agree not to develop the restoration areas without prior approval from CEMVN.
- 5) Projects where a Corps jurisdictional determination is necessary in order to assess the potential impacts of the proposed work.

Proposals not considered "complete" will be placed "on-hold" until such time as **all** required information is obtained.

## B. PROCEDURE

### 1. Category I activities:

Within 10 working days of CEMVN receiving a complete application, it will determine whether the requirements of Category I are met and advise the applicant if the application is complete or if additional information is needed. CEMVN will finalize a permit decision upon completion of all requisite reviews.

### 2. Category II activities:

Within 10 working days of CEMVN receiving a complete application, it will notify the applicant that the project will be evaluated as a Standard Permit or forward a copy of the application and drawings to the National Marine Fisheries Service, US Environmental Protection Agency, and Louisiana Department of Wildlife and Fisheries for review. These agencies will have 5 working days to submit comments or request additional review time not to exceed 20 working days total. Concurrences may be forwarded to CEMVN via telephone or electronic mail, non-concurrences must be made in writing with an information copy sent to the applicant which includes a description of the impact(s) considered to be more than minimal\*. Lack of a response from these resource agencies within the appropriate time frame will be considered as no objection or no position by those agencies.

To the extent practicable and subject to completion of all requisite reviews within 15 days thereafter, CEMVN will either:

- a) issue an authorization letter (with any necessary special conditions), to the permittee, or;
- b) issue an authorization letter with modifications as recommended by the resource agencies or CEMVN, or;
- c) issue a notice to the applicant that the project will be evaluated as a Standard Permit.

To the extent practicable, LDNR, OCM will be notified at the same time the applicant is notified of CEMVN's determination in all of the above situations.

\* CEMVN's non-concurrence with the reviewing resource agencies objections and/or recommendations will be made in writing by the District Commander (or his designee) to the respective agency.

## C. MITIGATION

Appropriate compensatory mitigation will be required for unavoidable adverse impacts which remain after all appropriate and practicable minimization has been attained. The objective of compensatory mitigation is to replace wetland functions, values and services impacted by implementation of the permitted activity. Compensatory mitigation may include, but is not limited to, contracting with a mitigation bank to provide the credits to fully offset the impact; acquisition of credits from the Louisiana Department of Natural Resources' In-lieu Fee Program for the creation, restoration or enhancement of wetlands, or; the permittee's implementation of a wetland mitigation project determined to be acceptable by CEMVN and LDNR, OCM (i.e., permittee responsible mitigation).

CEMVN is obligated to ensure the appropriateness and adequacy of compensatory mitigation in accordance with the 2008 Final Rule on Compensatory Mitigation for Losses of Aquatic Resources, 33 CFR Part 332 and 40 CFR Part 230. CEMVN recognizes that although the State supports a goal of achieving no net loss of coastal wetlands as specified in the April 1997 Louisiana Coastal Wetlands Conservation Plan, differences in regulations and policies promulgated by the state and federal programs may not facilitate alignment of compensatory mitigation requirements in all instances. When CEMVN determines potentially affected resource values to be of sufficient concern so as to ensure the compliance of a prospective PGP with Corps mitigation policy, CEMVN will coordinate such findings with LDNR, OCM with the intent to implement compensatory mitigation requirements that are consistent with state and federal regulations. Should CEMVN and LDNR, OCM achieve concurrence on compensatory mitigation requirements, CEMVN will finalize the decision on the PGP accordingly. In the event concurrence on the compensatory mitigation requirement is not achieved, CEMVN will either stipulate its compensatory mitigation requirements in the PGP authorization or pursue evaluation of the activity in accordance with Standard Permit application procedures, whichever is appropriate. Although it is recognized that the complexity of compensatory mitigation coordination may increase process time, CEMVN will adhere to the procedural timeframe defined above to the extent practicable.

CEMVN also recognizes the interest of the State in locating compensatory mitigation for those actions located outside the Louisiana Coastal Zone, but within the Louisiana Coastal Wetlands Conservation Plan Area (LCPA), within the LCPA. CEMVN is committed to facilitate mitigation site selection within the LCPA to the extent that adherence to Corps national mitigation policy is not compromised.

CEMVN and LDNR, OCM will assess mitigation performance instituted pursuant to PGP implementation as needed, or when requested by either agency.

## D. GENERAL CONDITIONS

1. Activities authorized under this general permit shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single and complete project shall be treated together as constituting one single and complete project. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. This general permit shall not be used for any activity that is part of an overall project for which an individual permit is required.
2. No activity is authorized under this general permit which may adversely affect significant cultural resources listed or eligible for listing in the National Register of Historic Places until the requirements for Section 106 of the National Historic Preservation Act are met. Upon discovery of the presence of previously unknown historic and/or prehistoric cultural resources, all work must cease, and the permittee must notify the State Historic Preservation Office and the Corps of Engineers (CEMVA). We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. The authorization is suspended until it is determined whether or not the activity will have an adverse effect on cultural resources. The authorization may be reactivated or modified through specific conditions, if necessary, if it is determined that the activity will have no adverse effect on cultural resources. The Programmatic General Permit (PGP) authorization will be revoked if it is determined that cultural resources would be adversely affected, and an individual permit may be necessary.
3. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the activity's primary purpose is to block or impound water.
4. If the **authorized** activity involves the installation of aerial transmission lines, submerged cable, or submerged pipelines across navigable waters of the United States the following is applicable:

The National Ocean Service (NOS) has been notified of this authorization. You must notify NOS and this office in writing, at least two weeks before you begin work and upon completion of the activity authorized by this permit. Your notification of completion must include a drawing which certifies the location and configuration of the completed activity (a certified permit drawing may be used). Notification to NOS will be sent to the following address: National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Spring, Maryland 20910-3282.
5. For pipelines under an anchorage or a designated fairway in the Gulf of Mexico the following is applicable: The NOS has been notified of this authorization. You must notify NOS and this office in writing, at least two weeks before you begin work and upon completion of the activity authorized by this permit. Within 30 days of completion of the pipeline, 'as built' drawings certified by a professional engineer registered in Louisiana or by a registered surveyor shall be furnished to this office, the Commander (dpw), Eighth Coast Guard District,

Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, Louisiana 70130, and to the Director, National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Spring, Maryland 20910-3282. The plans must include the location, configuration and actual burial depth of the completed pipeline project.

6. 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, pretreatment 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.

7. Substantive changes to the Louisiana Coastal Resources Program may require immediate suspension and revocation of this permit in accordance with 33 CFR 325.7.

8. Irrespective of whether a project meets the other conditions of this permit, the Corps of Engineers retains discretionary authority to require an individual Department of the Army permit when circumstances of the proposal warrant this requirement.

9. Any individual authorization granted under this permit may be 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 any of the terms or conditions of this permit or that such action would otherwise be in the public interest.

10. CEMVN may suspend, modify, or revoke this general permit if it is found in the public interest to do so.

11. Activities authorized under the PGP must comply with all other necessary federal, state, and/or local permits, licenses, or approvals. Failure to do so would result in a violation of the terms and conditions of the PGP.

12. The permittee shall allow the District Commander or his authorized representative(s) or designee(s) to make periodic inspections of the project site(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.

13. This general 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 requirements to obtain state or local assent required by law for the activity authorized herein.

14. 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 authorization may be modified, suspended, or revoked, in whole or in part.

15. For activities resulting in sewage generation at the project site, such sewage shall be processed through a municipal sewage treatment system or, in areas where tie-in to a municipal system is not practical, the on-site sewerage system must be approved by the local parish sanitarian before construction

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

17. Additional conditions deemed necessary to protect the public interest may be added to the general permit by the District Commander at any time. If additional conditions are added, the public will be advised by public notice. Individual authorizations under the PGP may include special conditions deemed necessary to ensure minimal impacts and compliance with the PGP.

18. The PGP is subject to periodic formal review by CEMVN and the Louisiana Department of Natural Resources, Office of Coastal Management (LDNR, OCM) in coordination with the Environmental Protection Agency, the National Marine Fisheries Service, and the Louisiana Department of Wildlife and Fisheries. Comments from reviewing agencies will be considered in determination as to whether modifications to the general permit are needed. Should the District Commander decide not to incorporate a change proposed by a reviewing agency, after normal negotiations between the respective agencies, the District Commander will explain in writing to the reviewing agency the basis and rationale for his decision.

19. CEMVN retains discretion to review the PGP, its terms, conditions, and processing procedures, and decide whether to modify, reissue, or revoke the permit. If the PGP is not modified or reissued within 5 years of its effective date, it automatically expires and becomes null and void.

20. 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.

21. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

22. You must install and maintain, at your expense, any safety lights, signs and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on your authorized facilities. Any inquiries concerning a U.S. Coast Guard Private Aids to Navigation marking determination may be directed to the Eighth Coast Guard District (dpw), Hale Boggs Federal Building, 500 Poydras St., Suite 1230, New Orleans, Louisiana 70130, at (504) 671-2330 or via email to: [D8oanPATON@uscg.mil](mailto:D8oanPATON@uscg.mil). For general information related to Private Aids to Navigation, you may visit the Eighth CG District web site at: <http://www.atlanticarea.uscg.mil/district-8/district-divisions/waterways/PATON>

23. If the authorized project, or future maintenance work, involves the use of floating construction equipment (barge mounted cranes, barge mounted pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.) in the waterway, you are advised to notify the Eighth Coast Guard District so that a Notice to Mariners, if required, may be prepared. Notification with a copy of this permit approval and drawings can be emailed to: [D8MarineInfo@uscg.mil](mailto:D8MarineInfo@uscg.mil), or mailed to the Commander (dpw), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Suite 1230, New Orleans, Louisiana 70130. Telephone inquiries can be directed to the Eighth Coast Guard District, Waterways Management at (504) 671-2118.

24. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party as described in General Condition 25 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

25. If you sell the property associated with this permit, you must provide this office with a copy of the permit and a letter noting your agreement to transfer the permit to the new owner and the new owner's agreement to accept the permit and abide by all conditions of the permit. This letter must be signed by both parties.

26. Many local governing bodies have instituted laws and/or ordinances in order to regulate dredge and/or fill activities in floodplains to assure maintenance of floodwater storage capacity and avoid disruption of drainage patterns that may affect surrounding properties. If your project involves dredging and/or placement of fill, you must contact the local municipal and/or parish governing body regarding potential impacts to floodplains and compliance of your activities with local floodplain ordinances, regulations or permits. Project designs and any associated drainage plans associated with the undertaking shall comply with all local Parish Government, Drainage Authority, Flood Plain Administrator, and/or other applicable agency requirements. Should it be determined by any of these agencies that the project is creating unnatural inundation conditions on adjacent properties, the permittee will be required to remediate the situation, as directed by these agencies. Should there be any changes required in the project design, the permittee shall coordinate with this office to obtain a permit amendment and/or review and decision on the plans, prior to commencement of those alterations.

27. In issuing authorizations under this permit, the federal government does not assume any liability for: damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit, and; design or construction deficiencies associated with the permitted work.

28. All work shall be done in accordance with the approved plans and confined to the permitted work area(s) represented within the attached drawings. If the project requires modifications to the authorized plans, the permittee shall contact this office to obtain a permit amendment and/or review and decision on the plans, prior to commencement of those alterations. The permittee is responsible for ensuring that any contractors and/or workers associated with project construction and implementation, are equally aware of the authorized plans, conditions, and/or restrictions associated with this approval.

29. The permittee shall properly install adequate erosion/siltation control measures around construction areas that require land-based earthwork (i.e., excavation and/or deposition of fill materials, land contouring, machinery rutting, fill maneuvering and redistribution, etc.), to aid in preventing project related sediments, debris and other pollutants from entering adjacent wetlands or waters. Acceptable measures include but are not limited to the proper use and positioning of temporary silt fences, straw bales, fiber/core logs, wooden barriers, seeding or sodding of exposed soils, or other approved EPA construction site storm-water runoff control and best management practices. Control techniques shall be installed prior to the commencement of earthwork activities and maintained until the project is complete and/or the subject areas are stabilized.

#### E. AUTHORIZATIONS

No work may be performed under the PGP unless and until:

(1) CEMVN has reviewed the application and has issued a written authorization or, in exceptional cases, a verbal authorization.

(2) All required local, state and other federal permits, licenses, authorizations, and certifications are obtained. This includes, but is not limited to:

(a) A Coastal Use Permit, consistency determination, or finding of No Direct Significant Impact signed by the Secretary of the Louisiana Department of Natural Resources or his designee, and

The PGP expires on *date TBD*, unless otherwise modified or reissued.

Individual authorizations granted to applicants under this PGP are valid for 5 years from the date of the authorization letter.

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

Martin S. Mayer  
Chief, Regulatory Division

**DEPARTMENT OF THE ARMY PERMIT**

Permittee \_\_\_\_\_

Permittee No. \_\_\_\_\_

Issuing Office \_\_\_\_\_

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Project Location:

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on \_\_\_\_\_. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

2. Limits of the authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT ENGINEER) (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE) (DATE)

