



**US Army Corps
of Engineers**

Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435
www.mvk.usace.army.mil

General Permit

FILE NO.: GENERAL PERMIT – 34
DATE: September 30, 2014
EXPIRES: September 30, 2019

**FOR: THE CONSTRUCTION OF MINOR STRUCTURES FOR BARGE
LOADING AND UNLOADING OF NONHAZARDOUS MATERIALS ON
NAVIGABLE WATERS OF THE UNITED STATES AND THE
ASSOCIATED DISCHARGE OF DREDGED AND/OR FILL MATERIAL**

**WHERE: REGULATORY JURISDICTION OF THE VICKSBURG DISTRICT IN
ARKANSAS, LOUISIANA, AND MISSISSIPPI**

**BY WHOM: DISTRICT ENGINEER, VICKSBURG DISTRICT, ON BEHALF OF
THE PUBLIC**

The U.S. Army Corps of Engineers, Vicksburg District, is hereby reissuing a Department of the Army General Permit for the construction of structures for barge loading and unloading of nonhazardous materials on navigable waters of the United States and the associated discharge of dredged and/or fill material into waters of the United States within the regulatory jurisdiction of the Vicksburg District in the States of Arkansas, Louisiana, and Mississippi. Typical activities range from construction of temporary earthen ramps to facilitate loading/offloading of forest products in undeveloped reaches of navigable waters to permanent elevated grain conveyors and associated mooring pilings in industrial ports. A map of the Vicksburg District boundary is provided (enclosure 1).

This General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Conformance with conditions contained in the General Permit does not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, an application for an individual permit will be required. Construction, dredging, or fill operations not specifically authorized by this General Permit are prohibited unless authorized by a separate permit.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for activities in waters of the United States. These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting waters of the

United States under Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

General Permits may be issued for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency, provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. The final decision regarding a determination that the proposed activities comply with the requirements for issuance of General Permits was made using information which is available for inspection at the offices of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District has obtained water quality certifications (WQCs) from the Arkansas Department of Environmental Quality and the Louisiana Department of Environmental Quality stating that the work authorized by the General Permit will not violate applicable provisions of Sections 301, 302, 306, and 307 of the Act. A copy of the Arkansas and Louisiana water quality certifications are attached (enclosure 2).

As of the issuance date of this General Permit, the Vicksburg District has not received a WQC from the Mississippi Department of Environmental Quality (MDEQ). Until the Vicksburg District receives a WQC decision for the State of Mississippi, the applicant proposing work in Mississippi will be responsible for obtaining an individual WQC prior to initiation of any work authorized under this General Permit. If the Corps receives a WQC from MDEQ, we will review the certification and any associated conditions to assure that they are reasonably implementable or enforceable, according to 33 CFR 325.4(c). If the Corps accepts the certification and conditions, a copy of the certification will be included in enclosure 2 of this General Permit.

Authorization to conduct work under this General Permit does not negate the responsibility of the applicant to obtain other State or local authorizations or permits required by law for the proposed activity.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: IN ORDER TO BE AUTHORIZED BY THIS GENERAL PERMIT, PARTIES PROPOSING THE WORK ARE REQUIRED TO SUBMIT TO THE DISTRICT ENGINEER, IN WRITING, THE FOLLOWING INFORMATION IN 8 ½ x 11 INCH FORMAT AT LEAST 60 DAYS PRIOR TO CONDUCTING THE WORK:

a. State the number of the General Permit under which the work will be conducted. (General Permit-34)

b. A statement that the work will be conducted in compliance with the terms and conditions of the General Permit and will not adversely impact adjoining properties.

c. Name, mailing address, telephone number, and e-mail address of the party (person/company) applying for authorization and for the agent (if applicable).

d. A location map showing the proposed worksite (including latitude, longitude, section, Township, Range, County or Parish, and State).

e. A description of the present conditions at the project site(s), including bank elevations, substrate type, vegetation type and coverage, existing structures, etc.

f. A description of the proposed activity, its purpose, and intended use to include: (1) type of commodity to be loaded or unloaded, (2) dates of planned operation of the barge loading/unloading activities, and (3) number and approximate size of barges to be used.

g. A sufficiently labeled drawing of any proposed structures/excavations/fills to illustrate elevations (when available), dimensions, total area to be impacted in acres, and the proposed amounts of excavated and fill material in cubic yards.

h. The estimated starting and completion dates of construction.

i. A delineation of wetlands, other special aquatic sites, and other waters of the U.S. (WOTUS) (e.g. perennial, intermittent, ephemeral streams) in the work area. Wetland delineations will be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the wetlands, other special aquatic sites, and other waters of the United States on the project site, but this may delay preparation of a complete application, especially if the project site is large or contains many waters of the U.S.. Furthermore, the application evaluation period will not start until the delineation has been submitted by the applicant or completed by the Corps, as appropriate.

j. An impact table detailing the total impacts in acres (wetland and streams) and linear feet (streams only), type of wetland(s) or stream(s) to be impacted, impact activity (discharge of dredged or fill material, conversion, etc.), impact duration (temporary or permanent), and the latitude/longitude for each impact.

[NOTE: An Impact Table template is available for use on the Vicksburg District's Regulatory Web Page]:

<http://www.mvk.usace.army.mil/Missions/Regulatory/Permits.aspx>

k. The application must include a description of best management practices that will be used to minimize movement of disturbed soil(s) from the project site into adjacent areas.

l. If the proposed activity will occur within the Coastal Zone area of Louisiana or Mississippi, the complete application shall also include an approval (e.g. waiver or coastal use permit) from the coastal zone management agency (see Special Condition 'j.').

m. If the proposed work will occur within 1500 linear feet of a federal flood control levee, the application shall include an affirmative statement that the applicant has also submitted a permit application to the appropriate agency that manages the levee (i.e. levee district, board, commission).

n. For projects that include adverse impacts to waters of the U.S., the complete application will include information on mitigation in all forms (i.e. avoidance, minimization, and compensation) to minimize overall adverse impacts to waters of the U.S. For projects with unavoidable impacts greater than 0.10 acre to wetlands, the complete application will include a conceptual mitigation plan stating whether compensatory mitigation requirements as determined by the Corps will be provided through: (1) purchase of mitigation credits from an approved bank or approved "in lieu fee" provider, or (2) permittee responsible mitigation. If the applicant proposes permittee responsible mitigation, the application will not be considered complete until the Corps receives an acceptable permittee responsible mitigation plan.

[NOTE: Information on the Vicksburg District's current mitigation requirements is available on the MVK Regulatory Web Page]:

<http://www.mvk.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

o. If any Federally-listed threatened or endangered species or candidate species are in the vicinity of the project area, or if the project area is located in designated critical habitat for a listed species, the application will include the name(s) of those listed species or candidate species. If individuals, evidence of individuals, and/or suitable habitat within an area designated as critical habitat are present at the project site, the application will describe all measures that would be implemented to avoid impacts to those resources.

p. The application will state if there is a known migratory wading bird rookery site or an American bald or golden eagle nest site in the vicinity of the project location. If individuals or evidence of individuals are present at the project site, the application will describe all measures that would be implemented to avoid impacts to these resources.

q. For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the application will state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

Upon receipt of this information, the District Engineer will evaluate the proposal and notify the inquiring party, in writing, either that the work will be authorized under the General Permit; will require additional information; or will advise the inquiring party that the proposed activity will require an individual permit.

Special Conditions:

a. The authorized structures shall not extend into the channel of the receiving stream so as to interfere with navigation (including recreational boating) or adversely affect the flow-carrying capacity of the receiving stream.

b. The amount of excavated or fill material used in a single operation shall not exceed 100 cubic yards. In Louisiana: if any fill is to be removed from a State of Louisiana water body, the applicant must contact the Louisiana Department of Wildlife and Fisheries for fee requirements prior to conducting the work.

c. Material used for fill may be obtained from site preparation. Additional fill may be obtained from an upland source and must be nonpolluting, in conformance with 'n.', below. The additional fill shall not be obtained from an offsite wetland or in a manner that would adversely affect an adjacent wetland.

d. No activity that may adversely impact a site listed or eligible for listing on the National Register of Historic Places, or a site that has previously been unevaluated, shall be allowed by this General Permit. Additional fill material shall not be taken from a known historical or archaeological site within or outside of regulated areas. If the permittee, during prosecution of work authorized herein, inadvertently discovers or accidentally destroys a cultural resource such as a cemetery, shipwreck, mound, historic structure, or archaeological site, within the area subject to Department of the Army jurisdiction, they shall cease work in the immediate area and notify the District Engineer within 24 hours. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Federally recognized Tribe, will comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

e. No activity shall be authorized under this General Permit which would likely directly or indirectly jeopardize the continued existence of a Federally- listed threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which would likely directly or indirectly destroy or adversely modify the critical habitat of such species. No activity shall be authorized under this General Permit which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

f. The permittee shall be responsible for obtaining any "take" permits required

under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for the activity.

g. If the activities are to be conducted over revetted areas of the river, sufficient fill material shall be placed on top of the revetment for protection. This General Permit does not authorize barge mooring activities involving spuds or other objects that could damage the revetment. If damage to revetment occurs as a result of work authorized by this General Permit, the permittee shall be required to make necessary repairs at his own expense. These repairs must meet specifications designated by the District Engineer.

h. Persons conducting work under this General Permit shall be required to comply with applicable navigation regulations. If the display of lights and signals on activities authorized by the General Permit is not otherwise required by law, such lights and signals as may be prescribed by the U.S. Coast Guard shall be installed and maintained at the expense of the permittee.

i. The discharge shall not occur in a component of the National Wild and Scenic River System or in a component of a State Natural and Scenic River System without the appropriate Federal or State authorization.

j. The discharge shall not occur in a Coastal Zone Management area without the appropriate State authorization. The coastal zone approval shall be submitted with the request for authorization under this General Permit. In order to be authorized by this General Permit for work in Hancock County, Mississippi, or St. Tammany Parish, Louisiana, persons proposing work in these coastal areas shall be required to send complete plans to the appropriate State at one of the following addresses:

Mississippi Department of Marine Resources
1141 Bayview Avenue
Suite 101
Biloxi, Mississippi 39530

Louisiana Department of Natural Resources
Office of Coastal Management
Post Office Box 44487
Baton Rouge, Louisiana 70804-4487

k. The work and/or discharge of dredged/fill material authorized by this General Permit shall not adversely affect tidal waters, including tidal wetlands.

l. Projects located on property encumbered by a Natural Resources Conservation Service (NRCS) Wetlands Reserve Program (WRP) easement shall

not be authorized without written release/approval from the NRCS. Under such situations, the application will not be considered complete until the Corps is provided written documentation of release/approval from the agreement by the NRCS.

m. Activities shall not be authorized on a property/area managed by a state or federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.) without documented approval (e.g. special use permit, waiver, etc.) by the managing agency.

n. Dredged, excavated, or fill material used for construction shall be nonpolluting material, in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.

o. All construction activities shall be performed in a manner that will minimize increased turbidity of waters within and adjacent to the work area to avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons. Adequate best management practices are required.

p. Impacted stream embankments shall be stabilized or restored after completion of construction activities.

q. All excavated material not used to construct the loading/unloading structure shall be placed in an upland or other non-jurisdictional area. Runoff water from excavated material placed at such a disposal site shall not be allowed to reenter the waterway or adjacent wetlands.

r. The discharge site shall not be located so as to adversely affect a public water supply intake or a national fish hatchery intake.

s. The discharge shall not contain unacceptable levels of pathogenic organisms in areas used for sports involving physical contact with the water.

t. The discharge shall not occur in areas of concentrated shellfish production.

u. No sewage, oil, refuse, or other pollutants shall be discharged into the waterbody.

v. Authorization by this General Permit will not be granted to an applicant who is in noncompliance with a Department of the Army permit until such noncompliance has been resolved.

w. Any conditions on the water quality certifications issued from the State in which the work is proposed shall be incorporated by reference. Enforcement actions resulting from noncompliance with these conditions may be initiated by the State or the Environmental Protection Agency.

General Conditions:

a. You shall maintain the activity authorized by the permit in good condition and in conformance with the terms and conditions of the permit. You are not relieved of this requirement if the permitted activity is abandoned. However, a good faith transfer to a third party in compliance with General Condition b., below, will be acceptable. If you desire to abandon the authorized activity without a good faith transfer, or wish to cease to maintain the authorized activity, you must obtain a modification of the authorization from this office, which may require restoration of the area.

b. If you sell the property associated with the authorization under this General Permit, you shall notify this office to ensure that the authorization is transferred to the new owner.

c. Representatives from this office shall be allowed 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 the permit.

d. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

e. This permit does not grant any property rights or exclusive privileges.

f. This permit does not authorize any injury to the property or rights of others.

g. This permit does not authorize interference with or damages to any existing or proposed Federal project.

h. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.

(2) 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.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.


i. In issuing individual authorization under this General Permit, the Government will rely on the information and data that the permittee provides in connection with the permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

j. The permittee shall immediately notify the Corps of any unforeseen activities, including emergency activities, that are directly or indirectly associated with the authorized activity and that may require authorization by a separate Department of the Army permit.

k. This General Permit is valid for 5 years. At the end of that time, the cumulative environmental effects of completed work will be reviewed and reissuance of the permit may be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it may be modified or terminated at any time.

l. Authorizations under this General Permit are valid until the General Permit expires. Authorized activities that are under construction, or that are under contract to commence construction, in reliance upon this General Permit, will remain authorized provided the activity is completed within 12 months of the date of expiration.

Additional copies of this notice are available upon request from this office. Requests may be addressed to: USACE, Attention: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.



^{for}
Michael F. McNair, R.F.
Chief, Regulatory Branch

Enclosures

ADEQ

ARKANSAS
Department of Environmental Quality

SEP 09 2014

Colonel John W. Cross
U.S. Army Corps of Engineers
4155 Clay Street
Vicksburg, MS 39183-3435

RE: Public Notice: Re-issuance of General Permit 34: MVK-2014-458

Dear Colonel Cross:

The Arkansas Department of Environmental Quality ("ADEQ") has completed its review of the above referenced public notice for re-issuance of the U.S. Army Corps of Engineers General Permit 34 for the State of Arkansas.


ADEQ has determined that there is a reasonable assurance that this activity will be conducted in a manner which, according to the Arkansas Pollution Control and Ecology Commission's Regulation No. 2, will not physically alter a significant segment of a waterbody and will not violate the water quality criteria.

Pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby **issues** water quality certification for this project contingent upon the following conditions:

- 1) Individual Water Quality Certification requests must be submitted to ADEQ for any activity impacting Extraordinary Resource Waters, Ecologically Sensitive Waters, and Natural and Scenic Waters as identified in Regulation # 2.
- 2) The applicant shall contact ADEQ for a Short Term Activity Authorization needs determination for activities that have the potential to violate water quality criteria.
- 3) The applicant shall comply with NPDES Storm Water Program requirements.

Please contact Mark Hathcote of the Water Division at (501) 682-0028 if you have any questions regarding this certification.

Sincerely,



Ellen Carpenter
Chief, Water Division

cc: Ms. Jennifer Mallard, Chief, Permits Section, Jennifer.A.Mallard@usace.army.mil
Mr. Mike Stewart, Permits Section, Robert.M.Stewart@usace.army.mil
Ms. Wanda Boyd, Region VI, Environmental Protection Agency, Boyd.Wanda@epa.gov

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

July 14, 2014

Ms. Jennifer Mallard
Chief, Permit Section
U.S. Army Corps of Engineers – Vicksburg District
ATTN: Regulatory Branch
4155 Clay Street
Vicksburg, Mississippi 39183-3435

AI No.: 120958
Activity No.: CER20140001

RE: Corps of Engineers Permit MVK-2014-458
Water Quality Certification WQC 140610-02

Dear Ms. Mallard:

The Louisiana Department of Environmental Quality, Water Permits Division (LDEQ), has reviewed the application to reissue the Department of the Army General Permit and Louisiana Water Quality Certification for construction of minor structures to facilitate the loading and/or unloading of nonhazardous materials on barges and the associated discharge of dredged and/or fill material within the jurisdiction of the Vicksburg District.

Based on the information provided in the application, LDEQ has determined that the requirements for a Water Quality Certification have been met. LDEQ concludes the placement of fill material will not violate water quality standards as provided for in LAC 33:IX.Chapter 11. Therefore, LDEQ hereby issues the U.S. Army Corps of Engineers – Vicksburg District Water Quality Certification, WQC 140610-02.

Should you have any questions concerning any part of this certification, please contact Elizabeth Johnson at (225) 219-3225, or by email at elizabeth.johnson@la.gov. To ensure all correspondence regarding this certification is properly filed into the Department's Electronic Document Management System, please reference Agency Interest (AI) number 120958 on all future correspondence to this Department.

Sincerely,

A handwritten signature in blue ink that reads "Scott Guilliams".

Scott Guilliams
Administrator
Water Permits Division

c: IO-W

07-17-14 14:28 RCVD