



**US Army Corps
of Engineers**

Vicksburg District

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



Public Notice

FILE NO.:	MVK-2014-458 (General Permit 34)
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EXPIRATION DATE:	June 30, 2014

**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**

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Vicksburg District, the Arkansas Department of Environmental Quality, the Louisiana Department of Environmental Quality, and the Mississippi Department of Environmental Quality, are considering the reissuance of a General Permit and State Water Quality Certifications for activities described herein. Comments should be forwarded to the U.S. Army Corps of Engineers, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435, and the appropriate State Agency listed below. Comments must be received by these offices by the expiration date cited above.

In Arkansas, comments regarding Water Quality Certification in accordance with Section 401 of the Clean Water Act (P.L. 95-217) should be directed to the Arkansas Department of Environmental Quality at 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

In Louisiana, comments regarding Water Quality Certification in accordance with La. R.S. 30.2074(A)(93) and Section 401 of the Clean Water Act (P.L. 95-217) should be directed to the Louisiana Department of Environmental Quality (LDEQ), Office of Environmental Services. Additional information is on file with the above office, and may be inspected at any time between 8:00 a.m. and 4:30 p.m. weekdays. Copies of this additional information may be obtained from LDEQ upon payment of cost of copying. Comments can be filed with the Office of Environmental Services within 30 days of this notice to the following address: Louisiana Department of Environmental Quality, Office of Environmental Services, Post Office Box 4313, Baton Rouge, Louisiana 70821-4313.

In Mississippi, comments regarding Water Quality Certification in accordance with Section 401 of the Clean Water Act (P.L.95-217) should be directed to the Mississippi Department of Environmental Quality, Office of Pollution Control at Post Office Box 2261, Jackson, Mississippi 39225-2261.

The U.S. Army Corps of Engineers, Vicksburg District, is currently considering the reissuance of a Department of the Army General Permit for the construction of minor structures to facilitate the loading and/or unloading of nonhazardous materials on barges, to include the associated discharge of dredged and/or fill material, at specified sites located along navigable 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 temporary earthen ramps constructed to facilitate loading and/or unloading of forest products (e.g. logs) in undeveloped reaches of navigable waters to permanent elevated grain conveyors and associated mooring pilings in industrial ports. A map of the Vicksburg District is enclosed.

This proposed General Permit contains certain limitations intended to protect the environment, including natural and cultural resources. Conformance with conditions contained in the General Permit would not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, an application would be required for an individual permit. Construction, dredging, or fill operations not specifically authorized by this General Permit would be 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 would comply with the requirements for the issuance of General Permits will be made based in part on comments received from responders to this public notice. Documentation of the final decision will be made available for inspection at the office of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi.

If issued, this General Permit would be valid for a 5-year period beginning on the issue date. At the end of that time, the cumulative environmental effects of completed work would be reviewed and reissuance of the permit would 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. Case-specific authorizations under this General Permit would be valid until the General Permit expires or is terminated. When authorized activities are in progress on the expiration date of this General Permit, the authorization would be extended for up to 1 year to allow for completion of authorized work.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District would obtain water quality certification decisions from the Arkansas Department of Environmental Quality, the Louisiana Department of Environmental Quality, and the Mississippi Department of Environmental Quality, stating that the work authorized by the proposed General Permit would not violate applicable provisions of Sections 301, 302, 306, and 307 of the Clean Water Act.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: IN ORDER TO BE AUTHORIZED BY THIS GENERAL PERMIT, PERSONS 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 is to be conducted. (General Permit-34)
- b. Statement that the work would be conducted in compliance with the terms and conditions of the General Permit and would 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. 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 impacted in acres, and 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 (e.g. perennial, intermittent, ephemeral streams) in the work area. Wetland delineations would 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 would not start until the delineation has been submitted by the applicant or completed by the Corps, as appropriate.**
- j. If the proposed activity would 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.').**
- k. If the proposed work would 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).**
- l. For projects that would include adverse impacts to waters of the U.S., the complete application would 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 would include a conceptual mitigation**

plan stating whether compensatory mitigation requirements as determined by the Corps would 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 would not be considered complete until the Corps received 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>

m. 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 would 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 would describe all measures that would be implemented to avoid impacts to those resources.

n. The application would 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 would describe all measures that would be implemented to avoid impacts to these resources.

o. For an activity that may affect a listed 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 would 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 advise the inquiring party, in writing, either that the work is authorized under the General Permit; will request additional information, if needed; or will advise that the proposed activity will require an individual permit.

Special Conditions:

a. The authorized structures would 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. Additionally, the use of the structure would not interfere with navigation.

b. The amount of excavated or fill material used in a single operation would 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 could be obtained from site preparation. Additional fill could be obtained from an upland source and must be nonpolluting, in conformance with 'n.', below. The additional fill would not be obtained from an offsite wetland or in a manner that would adversely affect an adjacent wetland.

d. No activity which may adversely impact a site listed or eligible for listing on the National Register of Historic Places, or a site that has been previously been unevaluated, would be allowed by this General Permit. Additional fill material would 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 would 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, would comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

e. No activity would be authorized under this General Permit which would be likely to 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 directly or indirectly destroy or adversely modify the critical habitat of such species. No activity would 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 would 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 would contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits would be required for the activity.

g. If the activities are conducted over revetted areas of the river, sufficient fill material would be placed on top of the revetment for protection. This General Permit would 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 would be required to make necessary repairs at his own expense. These repairs would meet specifications designated by the District Engineer.

h. Persons conducting work under this General Permit would 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 would be installed and maintained at the expense of the permittee.

i. The discharge would 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 would not occur in a Coastal Zone Management area without the appropriate State authorization. The coastal zone approval would 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 would 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 would 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 would not be authorized without written release/approval from the NRCS. Under such situations, the application would not be considered complete until the Corps is provided written documentation of release/approval from the agreement by the NRCS.

m. Activities would 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 would 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 would be performed in a manner that would 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 would be required.

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

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

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

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

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

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

v. Authorizations for this General Permit would 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 would 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. The permittee would maintain the activity authorized by the permit in good condition and in conformance with the terms and conditions of the permit. The permittee would not be 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, would be acceptable. If the permittee desires to abandon the authorized activity without a good faith transfer, or wishes to cease

to maintain the authorized activity, a modification of the authorization must be obtained from this office, which may require restoration of the area.

b. If the permittee sells the property associated with the authorization under this General Permit, the permittee would notify this office to ensure that the authorization is transferred to the new owner.

c. Representatives from this office would 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 would not obviate the need to obtain other Federal, State, or local authorizations required by law.

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

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

g. This permit would not authorize interference with any existing or proposed Federal project.

h. In issuing this permit, the Federal Government would 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 would rely on the information and data which 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, the authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

j. This General Permit would be valid for 5 years from the date of issuance.

Further Information:

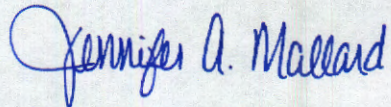
a. Additional copies of this Public Notice are available upon request from this office. Requests may be addressed to: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

b. The decision whether to issue a permit will be based on an evaluation of the probable impacts 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 benefits, 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 thereof; among those are conservation, economics, aesthetics, 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, considerations of property ownership and, in general, the needs and welfare of the people.

c. The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, 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 the 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.

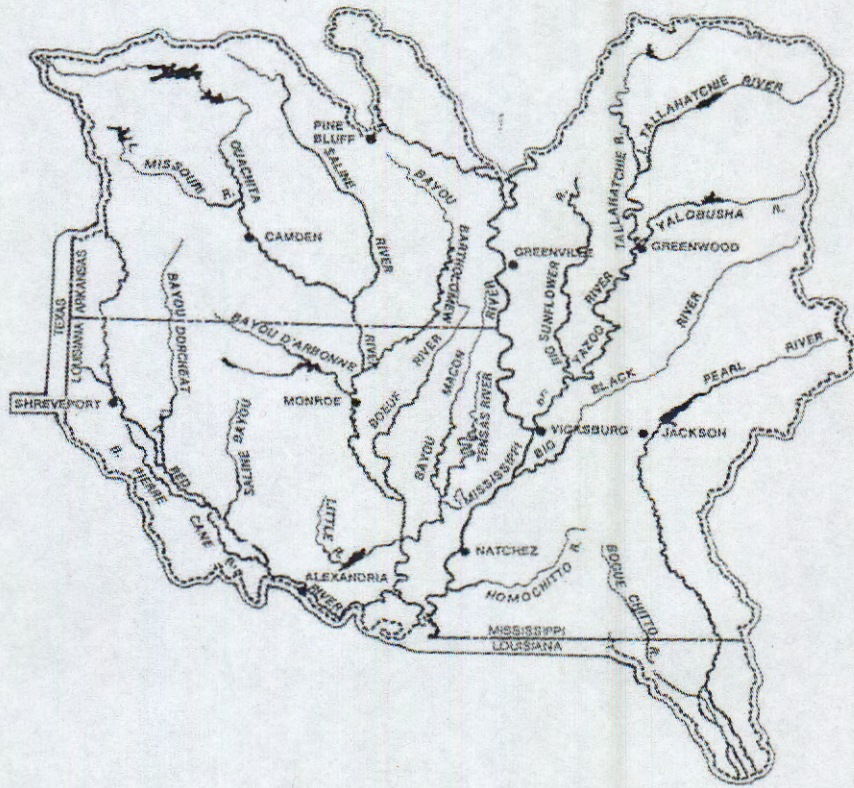
d. Any person may make a written request for a public hearing to consider this proposed General Permit. This request must be made by the expiration date of this public notice and must clearly state why a hearing is necessary. Any individual or agency may comment on the project described in this notice; however, failure to comment will be interpreted to mean that there is no objection to this proposed General Permit. All comments received will be evaluated during the review process of this proposed General Permit.

e. Please bring this announcement to the attention of anyone you know who might be interested in this matter. Anyone wishing to make comments may communicate with us at the following address: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435. Please refer to Identification No. MVK-2014-458.



Jennifer A. Mallard
Chief, Permit Section
Regulatory Branch

Vicksburg District Regulatory Boundary



Enclosure