



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM-RD-C

13 May 2010

**SPECIAL PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT EMERGENCY PERMIT PROCEDURES
for the STATES OF ALABAMA and MISSISSIPPI
within the Boundaries of the Mobile District, South Atlantic Division**

TO WHOM IT MAY CONCERN: In accordance with 33 CFR Part 325.2(e)(4), emergency procedures have been initiated for authorization of work in wake of a recent explosion on a drilling rig in the Gulf of Mexico (Transocean Deepwater Horizon Incident - Mississippi Canyon 252) and subsequent oil spill affecting areas within the regulatory boundaries of the U.S. Army Corps of Engineers (USACE), Mobile District, South Atlantic Division.

By regulation, "an emergency" is defined as a situation, which would result in an unacceptable hazard to life, a significant loss of property or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. These emergency procedures are being put in place to save lives, property and the environment.

Any emergency permitting request will be reviewed as expeditiously as possible to determine if they truly constitute an emergency situation in accordance with 33 CFR 325.2(e)(4). All requests which qualify for evaluation under the District's emergency procedure will be forwarded by email for agency review and will be posted on the District website for public comment. Emergency requests will be evaluated pursuant to the District Emergency Permit Procedures for the States of Alabama and Mississippi within the Boundaries of the Mobile District, South Atlantic Division which were implemented April 30, 2010. The Emergency Permit Procedure will evaluate activities under the following authorities: Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC 1344) and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 (33 USC 1413).

A decision will be made after review by the agencies. For most projects, it is anticipated that the evaluation process can be finalized within 24-48 hours from time of agency notification.

In an emergency situation the district engineer will make every reasonable effort to receive comments from the U.S. Fish and Wildlife Service and National Marine Fisheries Service. Section 402.5 (a) and (b), Emergencies, of the Endangered Species Act of 1973, states that where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedures that the Director determines to be

consistent with the requirement of sections 7(a)–(d) of the Act. This provision applies to situations involving acts of God, disasters, casualties, national defense or security emergencies, etc. Formal consultation would be initiated as soon as practicable after the emergency is under control.

In an emergency situation the district engineer will make every reasonable effort to receive comments from the SHPO and the ACHP, when the proposed undertaking can reasonably be expected to affect a potentially eligible or designated historic property and will comply with the provisions of 33 CFR 325 Appendix C to the extent that time and the emergency situation allows.

Use of this Emergency Permitting Procedure is allowed if the following procedures are followed:

1. BEFORE WORK COMMENCES the applicant must obtain approval under this Emergency Permit. The Corps will determine whether or not the proposed action is an emergency situation based on information the applicant provides.

2. The following information must be provided to the Mobile District Office:

a. Name of responsible party (having legal interest to perform the work) and day-time phone number. Agent representing the applicant must provide written verification of their designation as agent.

b. Work Description:

(1) The description of work must include an explanation of the nature and circumstance of the emergency.

(2) The project description must include all proposed new work and any work completed and/or begun without prior written authorization from the Corps.

(3) Dredging: Provide area (square feet) of area to be dredged and estimated cubic yards of material to be dredged. Provide location of disposal area and retention method of dredged material.

(4) Filling of Wetlands: Provide area (square feet) of area to be filled, type of wetlands, and estimated cubic yards of material that will be placed in wetlands. Provide type and source of fill material and retention method.

(5) Legible Site Plan showing proposed work area. Construction drawings, if available, are to be provided.

(6) Vicinity Map showing the work area: street address, city, county, state, include Section, Township, and Range, river mile (if applicable), etc.

c. Statement from applicant acknowledging the following:

(1) All mitigation, as required by Corps, would be performed.

(2) The work would be performed in a manner that would avoid and minimize impact to waters of the US, including wetland to the maximum extent practicable.

(3) Should historic or cultural resources be discovered during the work, all work would immediately cease, and the Corps and State Historic Preservation Officer would be immediately notified.

- (4) No impacts would occur to threatened or endangered federally-listed species under the Endangered Species Act.
- (5) The work would be completed in an expeditious manner.
- (6) In areas of temporary wetland fill, the impacted area would be restored as near as possible to pre-emergency conditions.

3. Information must be provided to the following address:

Department of the Army
Mobile District, Corps of Engineers
Attention: CESAM-RD - Emergency Procedures
P. O. Box 2288
Mobile, AL 36628-0001

Via email: munther.n.sahawneh@usace.army.mil, or
Via fax: 251-690-2660 or 251-694-3864

4. AFTER APPROVED EMERGENCY WORK IS COMPLETE, the permittee must submit the following information to the Corps:

- (1) Description of completed work.
- (2) Number of acres of waters of the United States and/or wetlands impacted.
- (3) As-built drawings.

This Emergency Permitting Procedure does not grant any property rights or exclusive privileges. It does not authorize any injury to the property or rights of others or obviate the need to obtain other Federal, state, or local authorizations required by law. In addition, it does not authorize interference with any existing or proposed Federal project.

Applications made under these Emergency Procedures must be received within six months from April 30, 2010, the date this incident was designated a Spill of National Significance. Work authorized under these procedures must be completed within 180 days from the date the work is authorized, unless a longer period is justified on a case-by-case basis. The procedures may be modified, suspended, or revoked if these activities are found to be contrary to the public interest.

If you have any questions concerning this publication, you may contact the Regulatory Division Office by telephone at (251) 684-2658. Please refer to Special Public Notice – Emergency Permit Procedures.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you're there. Your responses are appreciated and will allow us to improve our services.

MOBILE DISTRICT
U.S. Army Corps of Engineer