

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

Permits Division
Post Office Box 82135
Baton Rouge, LA 70884-2135
PHONE#: (225) 765-0508 FAX#: (225) 765-0222

**LPDES NOTICE OF INTENT (NOI) TO DISCHARGE STORMWATER ASSOCIATED
WITH CONSTRUCTION ACTIVITY**

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by an LPDES permit issued for stormwater discharges associated with construction activity in Louisiana. Submission of this Notice of Intent also constitutes that implementation of the Storm Water Pollution Prevention Plan required under the general permit will begin at the time the permittee commences work on the construction project identified in Section II below.

SECTION I
FACILITY OWNER/OPERATOR INFORMATION

Name _____
Mailing Address _____

City _____ State _____ Zip _____
Phone _____
Status of owner/operator (F= Federal; S= State; M=Public (other than federal or state); P= private) _____

SECTION II
FACILITY INFORMATION

Name of project _____
Location of Project _____
Please provide a specific street address, road, highway, or interstate location of the facility for which the application is being submitted.

City _____ Parish _____

Front Gate Coordinates:

Latitude _____ deg _____ min _____ sec **Longitude** _____ deg _____ min _____ sec

Is facility located on Indian Lands? Yes No

Has the Stormwater Pollution Prevention Plan (PPP) been prepared? _____ Yes _____ No

Indicate address of location of SWPPP if different from Project Location.

Address _____

City _____ State _____ Zip _____

Name of receiving Water _____

Estimated Construction Start Date: (mo/day/yr) _____

Estimated Construction Completion Date: (mo/day/yr) _____

Estimate of area to be disturbed (to nearest acre) _____

Estimate of Likelihood of Discharge: (choose only one) _____

Unlikely Once per month Once per week Once per day Continual

Based on the attached list of endangered or threatened species are there any listed in the project area?

Yes No

List existing or prior Water Discharge Permits for the location

CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage this system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that signature and submittal of the NOI is deemed to constitute my determination of eligibility under one or more of the requirements of Permit Part I.A.3.e(1), related to the Endangered Species Act requirements. I am also aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name _____ Date _____

Signature _____

ENDANGERED SPECIES GUIDANCE

I. INSTRUCTIONS

Below is a list of endangered and threatened species that EPA has determined may be affected by the activities covered by the construction general permit (CGP). These species are listed by parish. In order to get CGP coverage, applicants must:

- Indicate in box provided on the NOI whether any species listed in this Guidance or critical habitat are in proximity to the facility,
- Certify pursuant to Section I.A.3.e that they have followed the procedures found in this Guidance to protect listed endangered and threatened species and designated critical habitat and that the storm water discharges and BMPs to control storm water run off covered under this permit meet one or more of the eligibility requirements of Part I.A.3.e.(1) of this permit. Signature and submittal of the NOI is deemed to constitute the Applicant's certification of eligibility for permit coverage.

To do this, please follow steps 1 through 5 below when developing the pollution prevention plan.

STEP 1: DETERMINE IF THE CONSTRUCTION SITE IS FOUND WITHIN DESIGNATED CRITICAL HABITAT FOR LISTED SPECIES.

Some (but not all) listed species have designated critical habitat. Exact locations of such habitat is provided in the Service regulations at 50 CFR part 17 and part 226. To determine if their construction site occurs within (also known as “in proximity to”) critical habitat, applicants should either review those regulations or contact the nearest Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) Office.

Fish and Wildlife Service
646 Cajundome Blvd.
Suite 400
Lafayette, LA 70506
(337) 291-3124

National Marine Fisheries Service
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, FL 33702
(727) 570-5301

If the construction site is not located in designated critical habitat, then the applicant need not consider impacts to critical habitat when following steps 2 through 5. If the applicant's site is located within (i.e. in proximity to) critical habitat then the applicant must look at impacts to critical habitat when following steps 2 through 5.

(EPA notes that many measures imposed to protect listed species under steps 2 through 5 will also protect critical habitat. However, obligations to ensure that an action is not likely to result in the destruction or adverse modification of critical habitat are separate from those of ensuring that an action is not likely to jeopardize the existence of threatened and endangered species. Thus, meeting the eligibility requirements of this permit may require measures to protect critical habitat that are separate and distinct from those to protect listed species.).

STEP 2: REVIEW THE PARISH SPECIES LIST TO DETERMINE IF ANY SPECIES ARE LOCATED IN THE PARISH WHERE THE CONSTRUCTION ACTIVITIES OCCUR:

If no species are listed in a facility's parish or if a facility's parish is not found on the list, an applicant is eligible for CGP coverage and may indicate in the NOI that no species are found in proximity and certify that it is eligible for CGP coverage under Part I.A.3.e.(1)(a) of the permit by marking "No" on the NOI. Where a facility is located in more than one parish, the lists for all parishes should be reviewed. *If species are located in the parish, follow step 3 below.*

STEP 3: DETERMINE IF ANY SPECIES MAY BE FOUND "IN PROXIMITY" TO THE CONSTRUCTION ACTIVITY'S STORM WATER DISCHARGES:

A species is in proximity to a construction activity's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from construction activities to the point of discharge into the receiving water.
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of construction activities potentially covered by the CGP, no specific method to determine whether species are in proximity is required for permit coverage under the CGP. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular construction activities. These methods may include:

- Conducting visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
- Contacting the nearest State or Tribal Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices. Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to State, Tribal, or Federal wildlife agencies.
- Contacting local/regional conservation groups. These groups inventory species and their locations and maintain lists of sightings and habitats.
- Conducting a formal biological survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.
- Conducting an Environmental Assessment Under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in proximity. (CGP coverage does not trigger NEPA because it does not regulate any dischargers subject to New Source Performance Standards under

Section 306 of the Clean Water Act. See CWA § 511(c). However, some construction activities might require review under NEPA because of Federal funding or other Federal nexus.)

If no species are in proximity, an applicant is eligible for CGP coverage under Part I.A.3.E.(1)(a) of the permit.

If listed species are found in proximity to a facility, applicants must indicate the location and nature of this presence in the storm water pollution prevention plan and follow step 4 below.

STEP 4: DETERMINE IF SPECIES OR CRITICAL HABITAT COULD BE ADVERSELY AFFECTED BY THE CONSTRUCTION ACTIVITY'S STORM WATER DISCHARGES OR BY BMPs TO CONTROL THOSE DISCHARGES.

Scope of Adverse Effects: Potential adverse effects from storm water include:

- Hydrological. Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- Habitat. Storm water may drain or inundate listed species habitat.
- Toxicity. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impacts from BMPs are likely to occur from the construction activities. However, it is possible that the operation of some BMPs (for example, larger storm water retention ponds) may affect endangered and threatened species.

If adverse effects are determined to be not likely, then the applicant is eligible for CGP coverage under Part I.A.3.e(1)(a) of the permit.

If adverse effects are likely, applicants should follow step 5 below.

STEP 5: DETERMINE IF MEASURES CAN BE IMPLEMENTED TO AVOID ANY ADVERSE EFFECTS:

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or limiting the size of construction activity that will be subject to storm water discharge controls.

At this stage, applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to listed species and/or critical habitat. (See 50 CFR 402.13(b)). This can entail the initiation of informal consultation with the FWS and/or NMFS that is described in more detail below at step 6.

If applicants adopt measures to avoid or eliminate adverse effects, they must continue to abide by them during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions.

If appropriate measures to avoid the likelihood of adverse effects are not available to the applicant, the applicant should follow step 6 below.

STEP 6: DETERMINE IF THE ELIGIBILITY REQUIREMENTS OF PART I.A.3.E.(1)(b)-(e) CAN BE MET.

Where adverse effects are likely, the applicant must contact the EPA and FWS/NMFS. Applicants may still be eligible for CGP coverage if any likelihood of adverse effects are addressed through meeting the criteria of Part I.A.3.e.(1)(b)-(e) of the permit if:

- I.A.3.e.(1)(b). The applicant's activity has received previous authorization through an earlier Section 7 consultation or issuance of a Endangered Species Act (ESA) Section 10 permit (incidental taking permit) and that authorization addressed storm water discharges and/or BMPs to control storm water runoff (e.g., developer included impact of entire project in consultation over a wetlands dredge and fill permit under Section 7 of the ESA).

- I.A.3.e.(1)(c). The applicant's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered and threatened species and /or critical habitat under Section 7 or Section 10 of the Endangered Species Act that which accounts for storm water discharges and BMPs to control storm water runoff (e.g., where an area-wide habitat conservation plan and Section 10 permit is issued which addresses impacts from construction activities including those from storm water or a NEPA review is conducted which incorporates ESA Section 7 procedures).

- I.A.3.e.(1)(d). Enter Section 7 consultation with the FWS and/or NMFS for the applicant's storm water discharges and BMPs to control storm water runoff.

In such cases, EPA automatically designates the applicant as a non-federal representative. *See I.A.3.e.(4)*. When conducting Section 7 consultation as a non-federal representative, applicants should follow the procedures found in 50 CFR 402 the ESA regulations. Applicants must also notify EPA and the appropriate FWS/NMFS office of its intention to conduct consultation as a non-federal representative.

Coverage by the CGP is permissible under Part I.A.3.E.(1)(b) if the consultation results in either: 1) FWS/NMFS written concurrence with a finding of no likelihood of adverse effects (*see* 50 CFR 402.13) or 2) issuance of a biological opinion in which FWS and/or NMFS finds that the action is not likely to jeopardize the continued existence of listed endangered threatened species or result in the adverse modification or destruction of adverse habitat (*see* 50 CFR 403.14(h)).

Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the pollution prevention plan. As noted above, applicants may, if they wish, initiate consultation during step Four above (upon becoming aware that endangered and threatened species are in proximity to the facility).

•I.A.3.e.(1)(e). The applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered and threatened species by the owner or other operator of the site when it developed a SWPPP and that permittee certified eligibility under items I.A.3.e.(1)(a), (b), (c), or (d) of the permit (e.g., owner was able to certify no adverse impacts for the project as a whole under item (a), so contractor can then certify under item (e)). Utility companies applying for area-wide permit coverage may certify under item (e) since authorization to discharge is contingent on a principal operator of a construction project having been granted coverage under this, or an alternative LPDES permit for the areas of the site where utilities installation activities will occur.

The determination of eligibility under the conditions of permit paragraphs I.A.3.e.(1) (b)-(e) shall be documented in the facility's SWPPP and copies of all applicable documents, such as FWS approval letters, included in the SWPPP.

The applicant must comply with any terms and conditions imposed under the eligibility requirements of permit paragraphs I.A.3.e.(1)(a), (b), (c), (d), (e) to ensure that storm water discharges or BMPs to control storm water runoff are protective of listed endangered and threatened species and/or critical habitat. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.

If the eligibility requirements of Part I.A.3.e.(1)(a)-(e) cannot be met then the applicant may not receive coverage under this permit. Applicants should then consider applying to LDEQ for an individual permit.

This permit does not authorize any "taking" (as defined under Section 9 of the Endangered Species Act) of endangered or threatened species unless such takes are authorized under Sections 7 or 10 the Endangered Species Act. Applicants who believe their construction activities may result in takes of listed endangered and threatened species should be sure to get the necessary coverage for such takes through an individual consultation or Section 10 permit.

This permit does not authorize any storm water discharges or BMPs to control storm water runoff that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act or result in the adverse modification or destruction of designated critical habitat.

II. ENDANGERED SPECIES PARISH LIST

(See Attached list)

PARISH/SPECIES LIST

See <http://www.deq.state.la.us/permits/lpdes/species.pdf>