

Regulatory Guidance Letter 96-01

SUBJECT: Use of Nationwide Permit Number 23 for U.S. Coast Guard
Categorical Exclusions

DATE: 5 November 1996 EXPIRES: 31 December 2001

1. We have concurred with the categorical exclusions (CE) enclosure submitted by the United States Coast Guard (Coast Guard) pursuant to the subject nationwide permit number 23 at 33 CFR Part 330, including a notification requirement for CE numbers (6) and (8). The U.S. Army Corps of Engineers published the Coast Guard CEs in 61 FR 18573, April 26, 1996, for comment regarding the applicability of nationwide permit number 23 for those activities requiring Department of the Army authorization. This Regulatory Guidance Letter supersedes the Coast Guard CEs previously approved under nationwide permit number 23 in accordance with Regulatory Guidance Letter 83-5, dated 18 April 1983.
2. The Corps has conditioned the nationwide permit to require notification to the appropriate Corps office prior to beginning work under Coast Guard CE number (6) to address potential impacts to wetlands (notification is only required to the Corps for projects where wetland impacts are proposed) and number (8) to address potential impacts/encroachment on Federal navigation projects. The District Engineer will review the notification and will either verify whether the activity meets the terms and conditions of nationwide permit 23, will require evaluation under standard permit procedures, or that additional conditioning of the activity is necessary to ensure that no unacceptable adverse effects will result to wetlands for projects under CE number (8). Authorization of the Coast Guard CEs does not restrict the Division or District Engineers' authorities to exercise discretionary authority, or the Corps modification, suspension, or revocation procedures. Development of local procedures to streamline coordination is encouraged where a Corps division or district further conditions the nationwide permit to require a notification for additional activities.
3. It should be noted that the Coast Guard provided a complete listing of CEs, including many that do not require Department of the Army authorization. However, to reduce confusion when referencing the CE number, we have included all Coast Guard CEs in the enclosure.
4. This guidance expires 31 December 2001 unless sooner revised or rescinded.

FOR THE DIRECTOR OF CIVIL WORKS:

DANIEL R. BURNS, P.E.

Chief, Operations, Construction, and Readiness Division

Directorate of Civil Works

U.S. Coast Guard Categorical Exclusion List

The following is a consolidated list prepared from the U.S. Coast Guard *Federal Register* notices (59 FR 38654, July 29, 1994, 60 FR 32197, June 20, 1995, and 61 FR 13563, March 27, 1996). The list does not include the procedures the U.S. Coast Guard must follow to determine whether certain activities qualify for a categorical exclusion.

Notification to the U.S. Army Corps of Engineers is required prior to initiation of work for activities conducted under numbers (6) (notification is only required to the Corps for projects when wetland impacts are proposed) and number (8).

- 1.** Routine personnel, fiscal, and administrative activities, actions, procedures, and policies which clearly do not have any environmental impacts, such as military and civilian personnel recruiting, processing, paying, and record keeping.
- 2.** Routine procurement activities and actions for goods and services, including office supplies, equipment, mobile assets, and utility services for routine administration, operation, and maintenance.
- 3.** Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an existing approved disposal site.
- 4.** Routine repair, renovation, and maintenance actions on aircraft and vessels.
- 5.** Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, or an impact on a historically significant element or settings.
- 6.** Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, a historically significant element, or historically significant setting. (When wetland impacts are proposed, notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work.)
- 7.** Routine repair and maintenance to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables.
- 8.** Minor renovations and additions to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables, which do not require special, site-specific regulatory permits. (Notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work.)
- 9.** Routine grounds maintenance and activities at units and facilities. Examples include localized pest management actions and actions to maintain improved grounds (such as

landscaping, lawn care, and minor erosion control measures) that are conducted in accordance with applicable Federal, State, and local directives.

10. Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas.

11. New construction on heavily developed portions of Coast Guard property, when construction, use, and operation will comply with regulatory requirements and constraints.

12. Decisions to decommission equipment or temporarily discontinue use of facilities or equipment. This does not preclude the need to review decommissioning under Section 106 of the National Historic Preservation Act.

13. Demolition or disposal actions that involve buildings or structures when conducted in accordance with regulations applying to removal of asbestos, PCB's, and other hazardous materials, or disposal actions mandated by Congress. In addition, if the building or structure is listed, or eligible for listing, in the National Register of Historic Places, then compliance with Section 106 of the National Historic Preservation Act is required.

14. Outleasing of historic lighthouse properties as outlined in the Programmatic Memorandum of Agreement between the Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers.

15. Transfer of real property from the Coast Guard to the General Services Administration, Department of the Interior, and other Federal departments and agencies, or as mandated by Congress; and the granting of leases, permits, and easements where there is no substantial change in use of the property.

16. Renewals and minor amendments of existing real estate licenses or grants for use of government-owned real property where prior environmental review has determined that no significant environmental effects would occur.

17. New grants or renewal of existing grants of license, easements, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles; for such existing rights-of-way as electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and irrigation facilities; and for similar utility and transportation uses.

18. Defense preparedness training and exercises conducted on other than Coast Guard property, where the lead agency or department is not Coast Guard or Department of Transportation and the lead agency or department has completed its NEPA analysis and documentation requirements.

- 19.** Defense preparedness training and exercise conducted on Coast Guard property that do not involve undeveloped property or increase noise levels over adjacent property and that involve a limited number of personnel, such as exercises involving primarily electric simulation or command post personnel.
- 20.** Simulated exercises, including tactical and logistical exercises that involve small numbers of personnel.
- 21.** Training of an administrative or classroom nature.
- 22.** Operations to carry out maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs.
- 23.** Actions performed as a part of Coast Guard operations and the Aids to Navigation Program to carry out statutory authority in the area of establishment of floating and minor fixed aids to navigation, except electronic sound signals.
- 24.** Routine movement of personnel and equipment, and the routine movement, handling, and distribution of nonhazardous materials and wastes in accordance with applicable regulations.
- 25.** Coast Guard participation in disaster relief efforts under the guidance or leadership of another Federal agency that has taken responsibility for NEPA compliance.
- 26.** Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.
- 27.** Natural and cultural resource management and research activities that are in accordance with interagency agreements and which are designed to improve or upgrade the Coast Guard's ability to manage those resources.
- 28.** Contracts for activities conducted at established laboratories and facilities, to include contractor-operated laboratories and facilities, on Coast Guard-owned property where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations.
- 29.** Approval of recreational activities (such as Coast Guard unit picnic) which do not involve significant physical alteration of the environment, increase disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species.
- 30.** Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DOT and that relate to matters that are not the primary responsibility of the Coast Guard.

31. Planning and technical studies which do not contain recommendations for authorization or funding for future construction, but may recommend further study. This includes engineering efforts or environmental studies undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed and does not exclude consideration of environmental matters in the studies.

32. Bridge Administration Program actions which can be described as one of the following:

- (a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches. **(Approach fills regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act will require a separate individual or general permit.)**
- (b) Construction of pipeline bridges for transporting potable water.
- (c) Construction of pedestrian, bicycle, or equestrian bridges and stream gauging cableways used to transport people.
- (d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.
- (e) Promulgation of operating regulations or procedures for drawbridges.
- (f) Identification of advance approval waterways under 33 CFR 115.70.
- (g) Any Bridge Program action which is classified as a CE by another Department of Transportation agency acting as lead agency for such action.

34. Preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other Federal agency regulations, procedures, manuals, and other guidance documents.

- (a) Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.
- (b) Regulations concerning internal agency functions or organization or personnel administration, such as funding, establishing Captain of the Port boundaries, or delegating authority.
- (c) Regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.
- (d) Regulations concerning manning, documentation, measurement, inspection, and equipping of vessels.
- (e) Regulations concerning equipment approval and carriage requirements.
- (f) Regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds.
- (g) Regulations establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones.

(h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations.

(i) Regulations in aid of navigation, such as those concerning rules of the road, International Regulations for the Prevention of Collisions at Sea (COLREGS), bridge-to-bridge communication, vessel traffic services, and marking of navigation systems.

35. Approvals of regatta and marine event permits for the following events:

(a) Events that are not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the Coast Guard determines, based on consultation with the Government agency, that the event will not significantly affect the environmentally sensitive area.