

§ 233.22

40 CFR Ch. I (7-1-08 Edition)

the Act) that the regulated activities will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment.

(e) The Director may, without revoking the general permit, require any person authorized under a general permit to apply for an individual permit. This discretionary authority will be based on concerns for the aquatic environment including compliance with paragraph (b) of this section and the 404(b)(1) Guidelines (40 CFR part 230.)

(1) This provision in no way affects the legality of activities undertaken pursuant to the general permit prior to notification by the Director of such requirement.

(2) Once the Director notifies the discharger of his decision to exercise discretionary authority to require an individual permit, the discharger's activity is no longer authorized by the general permit.

§ 233.22 Emergency permits.

(a) Notwithstanding any other provision of this part, the Director may issue a temporary emergency permit for a discharge of dredged or fill material if unacceptable harm to life or severe loss of physical property is likely to occur before a permit could be issued or modified under procedures normally required.

(b) Emergency permits shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of § 233.23.

(1) Any emergency permit shall be limited to the duration of time (typically no more than 90 days) required to complete the authorized emergency action.

(2) The emergency permit shall have a condition requiring appropriate restoration of the site.

(c) The emergency permit may be terminated at any time without process (§ 233.36) if the Director determines that termination is necessary to protect human health or the environment.

(d) The Director shall consult in an expeditious manner, such as by telephone, with the Regional Administrator, the Corps, FWS, and NMFS

about issuance of an emergency permit.

(e) The emergency permit may be oral or written. If oral, it must be followed within 5 days by a written emergency permit. A copy of the written permit shall be sent to the Regional Administrator.

(f) Notice of the emergency permit shall be published and public comments solicited in accordance with § 233.32 as soon as possible but no later than 10 days after the issuance date.

§ 233.23 Permit conditions.

(a) For each permit the Director shall establish conditions which assure compliance with all applicable statutory and regulatory requirements, including the 404(b)(1) Guidelines, applicable section 303 water quality standards, and applicable section 307 effluent standards and prohibitions.

(b) Section 404 permits shall be effective for a fixed term not to exceed 5 years.

(c) Each 404 permit shall include conditions meeting or implementing the following requirements:

(1) A specific identification and complete description of the authorized activity including name and address of permittee, location and purpose of discharge, type and quantity of material to be discharged. (This subsection is not applicable to general permits).

(2) Only the activities specifically described in the permit are authorized.

(3) The permittee shall comply with all conditions of the permit even if that requires halting or reducing the permitted activity to maintain compliance. Any permit violation constitutes a violation of the Act as well as of State statute and/or regulation.

(4) The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit.

(5) The permittee shall inform the Director of any expected or known actual noncompliance.

(6) The permittee shall provide such information to the Director, as the Director requests, to determine compliance status, or whether cause exists for permit modification, revocation or termination.