

PUBLIC NOTICE



**US Army Corps
of Engineers
Memphis District**

**Nationwide Permit Reauthorization
Issue Date: **June 8, 2016**
Expiration Date: August 1, 2016**

INITIAL PUBLIC NOTICE

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On June 1, 2016, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue the 50 existing nationwide permits (NWP) and issue two new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWP require notification to the District Engineer before commencing those activities, to ensure that the activities authorized by those NWP cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWP: The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2015-0017 at www.regulations.gov, or by email to NWP2017@usace.army.mil or by mail to Headquarters, U.S. Army Corps of Engineers, Directorate of Civil Works, ATTN: CECW-CO-R, 441 G Street, N.W., Washington, D.C. 20314-1000. Instructions for submitting comments are provided in the June 1, 2016 Federal Register notice. Comments on the proposed NWP are due by August 1, 2016.

Enclosure A is an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>, at www.regulations.gov in docket number COE-2015-0017, or at the Federal Register at <https://www.gpo.gov/fdsys/pkg/FR-2016-06-01/pdf/2016-12083.pdf>.

Regional Issues Concerning the Proposed NWP, Including Regional Conditioning: Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to ensure that the adverse environmental effects of activities authorized by the NWP are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems

where the adverse environmental effects caused by activities authorized by those NWP's may be more than minimal. An enclosure for this public notice (Enclosure B) lists the proposed regional conditions currently under consideration by the Southwest Division for the State of Arkansas. The Little Rock District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWP's are minimal. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the State of Arkansas. Comments on regional issues relating to the proposed NWP's and regional conditions are to be sent to Mr. Jim Ellis at the U.S. Army Corps of Engineers, Little Rock District, Regulatory Division, 700 West Capitol Avenue, Room 6331, Little Rock, Arkansas, 72201-3221, by telephone at (501) 324-5295 or by email at jim.d.ellis@usace.army.mil. Comments relating to regional conditions are due by **July 25, 2016**. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

After the final NWP's are issued, the final regional conditions will be issued after they are approved by the Division Commander. After the final NWP are issued, States and Tribes will make their Clean Water Act Section 401 (401) water quality certification and States will make their Coastal Zone Management Act (CZMA) consistency determination decisions. The 401/CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWP's. The final NWP's will go into effect on March 19, 2017.

Draft decision documents for each of the proposed NWP's, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP's with the requirements for issuance under the Corps general permit authority. These documents, as well as the proposed NWP's, are available for viewing at www.regulations.gov, docket number COE-2015-0017. Final decision documents will be prepared for the NWP's that are issued. In addition, the final national NWP decision documents will be supplemented by division engineers to address their decisions concerning regional conditions for the NWP's.

Enclosure A

Index of 2017 Proposed Nationwide Permits, Conditions, and Definitions

Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities

41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
 - A. Removal of Low-Head Dams
 - B. Living Shorelines

Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Bird and Bald and Golden Eagle Permits
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification

- 31. Activities Affecting Structures or Works Built by the United States
- 32. Pre-Construction Notification

District Engineer's Decision

Further Information

Definitions

- Best management practices (BMPs)
- Compensatory mitigation
- Currently serviceable
- Direct effects
- Discharge
- Enhancement
- Ephemeral stream
- Establishment (creation)
- High Tide Line
- Historic property
- Independent utility
- Indirect effects
- Intermittent stream
- Loss of waters of the United States
- Non-tidal wetland
- Open water
- Ordinary high water mark
- Perennial stream
- Practicable
- Pre-construction notification
- Preservation
- Re-establishment
- Rehabilitation
- Restoration
- Riffle and pool complex
- Riparian areas
- Shellfish seeding
- Single and complete linear project
- Single and complete non-linear project
- Stormwater management
- Stormwater management facilities
- Stream bed
- Stream channelization
- Structure
- Tidal wetland
- Vegetated shallows
- Waterbody

Enclosure B
**NATIONWIDE PERMIT REGIONAL CONDITIONS
FOR THE STATE OF ARKANSAS**

Regional Condition No. 1. For Nationwide Permits (NWP) 7 and 12, intake structures shall be constructed with screening to prevent the entry of fish.

*****We do not anticipate any significant changes to this condition.***

Regional Condition No. 2. For NWPs 4, 5, 12, 13, 14, 15, 18, 19, 20, 23, 25, 29, 30, 35, 36, 39, 40, 42, 43, 51, and 52 in the following listed waters, the prospective permittee shall provide written notification to the appropriate District. Notification will be to the District Engineer according to *General Condition No. 31 (Federal Register, Vol. 77, No. 34, FR 10286-10287)*:

- **Fens** - A peat-accumulating wetland that receives some drainage from surrounding mineral soil and usually supports marshlike vegetation.

- **Bogs** - A peat-accumulating wetland that has no major inflows or outflows and supports acidophilic mosses, particularly sphagnum.

- **Groundwater seeps** - Wetlands at the base of steep slopes where the groundwater surface intersects with the land surface.

- **Dune depressional wetlands** - Wetlands in shallow depressions that have no major outflows but receive runoff from the surrounding land, located between sandy ridges in northeast Arkansas and southeast Missouri. These wetlands often support pondberry (*Lindera melissifolia*), a federally-listed endangered plant.

- **Cache River and adjacent wetlands** - from the mouth upstream to AR Highway 18 near Grubbs.

*****We do not anticipate any significant changes to this condition. NOTE: General Condition 31 in the 2012 NWPs is now listed as No. 32 in the proposed 2017 NWPs.***

Regional Condition No. 3. Mining activities in navigable waters designated by the Corps of Engineers shall require an individual Department of the Army permit or authorization by a regional general permit. These activities will not be authorized by NWP 44.

*****We do not anticipate any significant changes to this condition.***

Regional Condition No. 4. For NWPs 4, 5, 12, 13, 14, 15, 18, 19, 20, 23, 25, 27, 29, 30, 35, 36, 39, 40, 41, 42, 43, 44, 51, and 52 in the waters listed below, the prospective permittee shall provide

written notification to the appropriate District. Notification will be to the District Engineer according to *General Condition No. 31 (Federal Register, Vol. 77, No. 34, FR 10286-10287)*. This notification shall be used to review the project for federally listed threatened or endangered (T&E) species and to determine if the project would have a minimal impact on the aquatic environment. The application will be coordinated with the U.S. Fish and Wildlife Service and other agencies as determined appropriate by the Corps of Engineers. This condition doesn't lessen the restrictions provided by General Condition 18 of the NWP's. The following list of waters may be revised periodically in the case of future updates to the status of T&E species.

*****We anticipate that the following list will be updated to reflect the current status of T&E species within the listed waters. NOTE: General Condition 31 in the 2012 NWP's is now listed as No. 32 in the proposed 2017 NWP's.***

Alum Fork Saline River - Saline County; Species: Arkansas Fatmucket - LT

Antoine River - Pike County; Species: Arkansas Fatmucket - LT

Archey Creek - Van Buren County; Species: Yellowcheek Darter - LE, Speckled Pocketbook - LE

Arkansas River - in the following counties:

Conway	Perry
Crawford	Pope
Desha	Pulaski
Faulkner	Sebastian
Johnson	Yell
Logan	

Species: Interior Least Tern - LE, Pallid Sturgeon - LE

Bayou Bartholomew - Jefferson, Lincoln, Desha, Drew, and Ashley Counties; Species: Pink Mucket - LE

Beech Creek - Cleburne and Stone Counties; Species: Yellowcheek Darter - LE, Speckled Pocketbook - LE

Big Creek - Cleburne and White Counties; Species: Speckled Pocketbook - LE

Black River - Clay, Lawrence, and Randolph Counties; Species: Pink Mucket - LE, Ozark Hellbender - LE

Buffalo Creek - Polk County; Species: Leopard Darter - LT

Caddo River - Clark, Montgomery, and Pike Counties; Species: Arkansas Fatmucket - LT

Cossatot River - Howard, Polk, and Sevier Counties; Species: Scaleshell - LE, Leopard Darter – LT

Current River - Clay and Randolph Counties; Species: Pink Mucket - LE, Ozark Hellbender – LE

Devils Fork Little Red River - Cleburne County; Species: Yellowcheek Darter - LE

Dry Fork Fourche LaFave River - Perry and Yell Counties; Species: Harperella – LE

Eleven Point River - Randolph County; Species: Ozark Hellbender - LE, Pick Mucket – LE

Fiddler’s Creek - Montgomery County; Species: Harperella - LE

Fourche Lafave River - Scott County and Yell Counties; Species: Harperella - LE

Frog Bayou - Crawford County; Species: Scaleshell - PE

Irons Fork - Polk County; Species: Harperella - LE

Iron Mines Creek - Poinsett County; Species: Fat Pocketbook - LE

Irons Fork Ouachita River - Montgomery, Yell, and Garland Counties; Species: Harperella - LE

Kings River - Carroll and Madison Counties; Species: Suffbox - LE

L’anguille River - Lee and St. Francis Counties; Species: Fat Pocketbook - LE

Left Hand Chute Little River - Mississippi and Poinsett Counties; Species: Fat Pocketbook - LE

Lewis Creek - Polk County; Species: Arkansas Fatmucket - LT

Little Missouri River - Clark and Ouachita Counties; Species: Winged Mapleleaf - LE, Pink Mucket - LE

Little River - Little River, Hempstead, and Sevier Counties; Species: Ouachita Rock-Pocketbook - LE, Pink Mucket - LE

Middle Fork Saline River - Garland and Saline Counties; Species: Arkansas Fatmucket - LT

Middle Fork Little Red River - Searcy, Stone, and Van Buren Counties; Species: Speckled Pocketbook - LE, Yellowcheek Darter - LE

Mississippi River - Chicot, Crittenden, Desha, Lee, Mississippi, and Phillips Counties Species: Interior Least Tern - LE, Pallid Sturgeon - LE, Fat Pocketbook - LE

Mountain Fork River - Polk County; Species: Leopard Darter – LT

Muddy Creek - Montgomery County; Species: Harperella – LE

Myatt Creek - Fulton County; Species: Scaleshell - LE

North Fork Creek - Garland County; Species: Harperella - LE

North Fork Ouachita River - Montgomery County; Species: Arkansas Fatmucket - LT

North Fork Saline River - Saline County; Species: Arkansas Fatmucket - LT

Ouachita River - Calhoun, Clark, Hot Springs, Montgomery, Ouachita, and Polk Counties Species: Ouachita Rock-Pocketbook - LE, Pink Mucket - LE, Arkansas Fatmucket - LT, Scaleshell - PE, Winged Mapleleaf - LE, Spectaclecase - PE

Poteau River - Scott County; Species: Pink Mucket - LE

Rainy Creek – Montgomery County; Species: Harperella - LE

Red River - Lafayette, Little River, and Miller Counties; Species: Interior Least Tern - LE

Right Hand Chute Little River and Ditches – Poinsett and Mississippi Counties; Species: Fat Pocketbook - LE

Robinson Creek - Polk and Sevier Counties; Species: Leopard Darter - LT

Saline River - Ashley, Bradley, Grant, Cleveland, and Saline Counties Species: Arkansas Fatmucket - LT, Pink Mucket - LE, Scaleshell - LE, Winged Mapleleaf - LE

South Fork Little Red River - Van Buren County; Species: Yellowcheek Darter - LE, Speckled Pocketbook - LE

South Fork Ouachita River - Montgomery County; Species: Arkansas Fatmucket - LT

South Fork Saline River - Garland and Saline Counties; Species: Arkansas Fatmucket – LT

South Fork Spring River - Fulton County; Species: Curtis Pearly Mussel - LE,

Scaleshell – LE

South Fourche Lafave - Perry and Yell Counties; Species: Scaleshell - LE,
Harperella - LE

Spring River - Fulton, Lawrence, Randolph and Sharp Counties; Species: Curtis Pearly Mussel -
LE, Turgid Blossom - LE, Pink Mucket - LE, Scaleshell - LE, Ozark Hellbender - LE, Snuffbox -
LE

St. Francis River System and associated ditches - Cross, Craighead, Lee, Poinsett and St.
Francis Counties; Species: Scaleshell - LE, Fat Pocketbook - LE

Ditch No's. 9, 10, 46, 60, 61, 103, 123

Connector Ditch 60-61

Clark Corner Cutoff

Cross County Ditch

Little Bay Ditch

St. Francis Bay

Straight Slough

Strawberry River - Fulton, Izard, Lawrence, and Sharp Counties; Species: Scaleshell - LE,
Snuffbox - LE

Turkey Creek - Stone County; Species: Yellowcheek Darter - LE, Speckled Pocketbook
– LE

Tyronza River - Crittenden, Mississippi, and Poinsett Counties; Species: Fat
Pocketbook – LE

White River - Arkansas, Baxter, Carroll, Independence, Jackson, Marion, Monroe,
Prairie, White, and Woodruff Counties; Species: Pink Mucket - LE, Scaleshell - PE,
Pallid Sturgeon - LE, Ozark Hellbender - LE, Fat Pocketbook - LE

**In addition to the above waterbodies, the following federal concern species are known to
occur in various wetland areas, or cave streams:** Regulatory project manager should check
the GIS map data layer for the listed counties to determine if project site is in the specific habitat
area.

Ashley, Clay, Jackson, Lawrence, Woodruff, and Craighead Counties; Species:
Pondberry - LE Benton County; Species: Ozark Cavefish - LE
Benton and Stone Counties; Species: Cave Crayfish - LE

Legend:

LE - Listed Endangered; the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act.

LT - Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

PE - Proposed Endangered; the U.S. Fish and Wildlife Service has proposed these species for listing as endangered.

Regional Condition No. 5. For NWP 6, 12, 14, and 18 in waters of the United States located in the Fayetteville Shale Play region, the prospective permittee shall provide written pre-construction notification (PCN) to the appropriate district. PCN will be to the District Engineer according to *General Condition No. 31 (Federal Register, Vol. 77, No. 34, FR 10286-10287)*. This PCN shall be used to review the project to determine if it will result in more than minimal effects to the watersheds within the Fayetteville Shale Play region. This condition does not lessen the restrictions provided by any General Conditions of the NWPs. To expedite the PCN requirement, the submittal will be accepted by email.

*****The Little Rock District proposes to remove this regional condition due to a significant decline in permit requests for natural gas exploration or mining within the Fayetteville Shale Natural Gas Play in the State of Arkansas. NOTE: General Condition 31 in the 2012 NWPs is now listed as No. 32 in the proposed 2017 NWPs.***

