



**US Army Corps
of Engineers®**
Memphis District

Special Public Notice
Public Notice No. 11- 6

Date: February 24, 2011

**SUBJECT: NATIONWIDE PERMIT REISSUANCE ,
REQUEST FOR COMMENTS**

On February 16, 2011, the U.S. Army Corps of Engineers published in the Federal Register its proposal to reissue its nationwide permits (NWP).

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. Many of the proposed NWPs require notification to the district engineer before commencing the work, to ensure that the activities authorized by those NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2010-0035 at www.regulations.gov , or by email to NWP2012@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 February 11, 2011 Federal Register notice. Comments on the proposed NWPs are due by April 18, 2011.

Regional Issues Concerning the Proposed NWPs, 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 can be important mechanisms to ensure that impacts to the aquatic environment authorized by the NWPs are minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where impacts authorized by those NWPs may be more than minimal. The regional conditions proposed for the states within the boundaries of the Memphis District are attached to this notice. Regional conditions for the state of Tennessee is not being proposed at this time; however, we are seeking comments on the regional conditions proposed within the other states as well as the need for regional conditions within Tennessee to help ensure that impacts authorized by the proposed NWPs are minimal. Comments on regional issues relating to the proposed NWPs and regional conditions are to be sent to the Memphis District Regulatory Branch, 167 North Main, Memphis, TN 38103-1894, telephone (901) 544-0734. Comments relating to regional conditions are due by April 11, 2011. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

In conjunction with the Federal Register notice, Corps districts will be announcing proposed regional conditions for these NWPs for public comment. After the final NWPs 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 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 NWPs. The final NWPs will go into effect on or before March 19, 2012.

Draft decision documents, which include environmental documentation required by the National Environmental Policy Act, have been prepared by Corps Headquarters. The decision documents will address compliance of the NWPs with the requirements for issuance under general permit authority. These

documents, as well as the proposed NWP, are available for viewing at Memphis District Corps of Engineers, 167 North Main, Rm 522, Memphis, Tennessee 38103-1894 or on the Internet at www.regulations.gov, docket number COE-2010-005. Final decision documents will be prepared for those NWP that are issued. In addition, the national NWP decision documents will be supplemented by division engineers to address their decisions concerning regional conditions for the NWP.

Enclosed 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/CECW/Pages/nnpi.aspx>, www.regulations.gov, docket number COE-2010-0035, or the Federal Register address listed below.

Index of 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 and Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
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24. Indian Tribe or State Administered Section 404 Programs
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26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
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31. Maintenance of Existing Flood Control Facilities
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34. Cranberry Production Activities
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38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
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41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
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46. Discharges in Ditches
47. [Reserved]
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49. Coal Remining Activities
50. Underground Coal Mining Activities
- A. Land-Based Renewable Energy Generation Facilities
- B. Water-Based Renewable Energy Generation Pilot Projects

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. Discovery of Previously Unknown Remains and Artifacts
15. Proper Maintenance
16. Single and Complete Project
17. Wild and Scenic Rivers
18. Tribal Rights
19. Endangered Species
20. Historic Properties
21. Designated Critical Resource Waters
22. Mitigation
23. Safety of Impoundment Structures
24. Water Quality
25. Coastal Zone Management
26. Regional and Case-by-Case Conditions
27. Use of Multiple Nationwide Permits
28. Transfer of Nationwide Permit Verifications
29. Compliance Certification
30. Pre-Construction Notification

Definitions

Best management practices (BMPs)
 Compensatory mitigation
 Currently serviceable
 Discharge
 Enhancement
 Ephemeral stream
 Establishment (creation)
 High Tide Line
 Historic property

Independent utility
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

PROPOSED KENTUCKY REGIONAL GENERAL CONDITIONS

These regional conditions are proposed in addition to but do not supercede the requirements in the Federal Register (Volume 71 No. 186 of September 26, 2006)

Notifications for all Nationwide permits should include a location map (USGS topographical map) and project drawings on 8 1/2" x 11" paper.

1. For activities in Outstanding Resource Waters (ORWs) for the NWP's listed below, a Pre - Construction Notification (PCN) will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWP's for impacts to ORWs, or for impacts greater than 0.25 acre of "waters of the United States".

NWP 3 (Maintenance), 7 (Outfall Structures and Associated Intake Structures), 12 (Utility Line Activities), 14 (Linear Transportation Projects), 27 (Aquatic Habitat Restoration, Establishment and Enhancement Activities), 29 (Residential Developments), 39 (Commercial and Institutional Developments), 40 (Agricultural Activities), 41 (Reshaping Existing Drainage Ditches), 42 (Recreational Facilities), 43 (Stormwater Management Facilities), 44 (Mining Activities).

2. Nationwide Permit No. 14 – Linear Transportation Projects
 - (a) Activities in Section 10 navigable waters will require a PCN to the Corps.
 - (b) Public projects are limited to the maximum loss of 500 linear feet of stream with compensatory mitigation.
3. Nationwide Permit No. 27 – Aquatic Habitat Restoration, Establishment and Enhancement Activities
 - (a) All work in Section 10 navigable waters will require a PCN to the Corps

Further information:

Outstanding Resource Waters (ORW's) in Kentucky are streams designated by the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet. The list is attached.

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 27 (Federal Register, Volume 71, No. 186, Tuesday September 26, 2006, pp 56296-56297).

Mitigation includes activities that avoid, minimize, and compensate for impacts

Proposed Illinois Regional Conditions for Nationwide Permits
(not applicable within the Chicago District)

1. Stormwater management facilities shall not be located within a stream, except for NWPs 21, 44, 49, or 50.
2. For newly constructed channels through areas that are unvegetated, a riparian buffer strip planted in native grasses, trees and/or shrubs a minimum of 25 feet wide from the top of bank on ephemeral streams must be planted along both sides of the new channel. The buffer width will be a minimum of 50 feet wide from the top of bank on intermittent and perennial streams. A survival rate of 80 percent of desirable species with aerial coverage of at least 50 percent shall be achieved within 3 years of establishment of the buffer strip.
3. For a single family residence authorized under Nationwide Permit No. 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.
4. For NWP 46, the discharge of dredged or fill material into ditches and canals that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

DESHA
FAULKNER
JOHNSON
LOGAN

PULASKI
SEBASTIAN
YELL

SPECIES OF CONCERN: IVORY-BILLED WOODPECKER (*Campephilus principalis* – LE), INTERIOR LEAST TERN (*Sterna antillarum athalassos* - LE), ARKANSAS RIVER SHINER (*Notropis girardi* -PE, OF HISTORIC OCCURRENCE), PALLID STURGEON (*Scaphirhynchus albus* – LE)

BAR LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* –LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BAYOU DEVIEW AND ADJACENT WETLANDS FROM THE MOUTH UPSTREAM TO US HIGHWAY 64 NEAR MORTON - MONROE AND WOODRUFF COUNTIES

SPECIES OF CONCERN: SEVERAL SPECIES OF MUSSELS, IVORY-BILLED WOODPECKER (*Campephilus principalis* – LE), BALD EAGLE (*Haliaeetus leucocephalus* – LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BEAR LAKE - ARKANSAS AND PHILLIPS COUNTIES

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BEECH FORK LITTLE RED – CLEBURNE AND STONE COUNTIES

SPECIES OF CONCERN: YELLOWCHEEK DARTER (*Etheostoma moorei* - C), SPECKLED POCKETBOOK (*Lampsilis streckeri* – LE)

BIG CREEK – CLEBURNE AND WHITE COUNTIES

SPECIES OF CONCERN: SPECKLED POCKETBOOK (*Lampsilis streckeri* – LE)

BIG LAKE - MISSISSIPPI COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BILLY MOORE LAKE – DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* – LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

BLACK RIVER - CLAY, LAWRENCE, AND RANDOLPH COUNTIES

SPECIES OF CONCERN: PINK MUCKET (*Lampsilis abrupta* -LE), OZARK HELLBENDER (*Cryptobranchus alleganiensis bishopi* – C)

BUFFALO CREEK - POLK COUNTY

SPECIES OF CONCERN: LEOPARD DARTER (*Percina pantherina*-LT)

CACHE RIVER AND ADJACENT WETLANDS from the mouth upstream to AR Highway 64 – MONROE AND WOODRUFF COUNTIES

SPECIES OF CONCERN: SEVERAL SPECIES OF MUSSELS, IVORY-BILLED WOODPECKER (*Campephilus principalis* – LE), BALD EAGLE (*Haliaeetus leucocephalus* – LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

CADDO RIVER - CLARK, MONTGOMERY AND PIKE

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT)

CLABBER CREEK – WASHINGTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

COSSATOT RIVER - HOWARD AND SEVIER COUNTIES

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* -LE), LEOPARD DARTER (*Percina pantherina*-LT)

CURRENT RIVER - CLAY AND RANDOLPH COUNTIES

SPECIES OF CONCERN: PINK MUCKET (*Lampsilis abrupta* -LE), OZARK HELLBENDER (*Cryptobranchus alleganiensis bishopi* – C)

DEVILS FORK LITTLE RED RIVER – CLEBURNE COUNTY

SPECIES OF CONCERN: YELLOWCHEEK DARTER (*Etheostoma moorei* – C), SPECKLED POCKETBOOK (*Lampsilis streckeri* – LE)

EAGLE NEST LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

ELEVEN POINT RIVER – RANDOLPH COUNTY

SPECIES OF CONCERN: OZARK HELLBENDER (*Cryptobranchus alleganiensis bishopi* – C)

FIDDLER’S CREEK - MONTGOMERY COUNTY

SPECIES OF CONCERN: HARPERELLA (*Ptilimnium nodosum* -LE)

FOURCHE LAFAVE RIVER - SCOTT COUNTY

SPECIES OF CONCERN: HARPERELLA (*Ptilimnium nodosum* -LE)

FROG BAYOU – CRAWFORD COUNTY

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* – PE)

GAILEY HOLLOW – BENTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

GREERS FERRY LAKE - VAN BUREN AND CLEBURNE COUNTIES

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

HEALING SPRING – WASHINGTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

HORSESHOE LAKE - MONROE COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

ILLINOIS RIVER – BENTON AND WASHINGTON COUNTIES

SPECIES OF CONCERN: NEOSHO MUCKET (*Lampsilis rafinesqueana* – C)

IRONS FORK - MONTGOMERY AND YELL COUNTIES

SPECIES OF CONCERN: HARPERELLA (*Ptilimnium nodosum* -LE)

JACOBS LAKE/PECAN LAKE - ARKANSAS COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE ASHBAUGH - GREENE COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE ERLING - LAFAYETTE COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE GEORGIA PACIFIC - ASHLEY COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE MAUMELLE - PULASKI COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

LAKE OUACHITA - GARLAND COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

L'ANGUILLE RIVER - LEE COUNTY

SPECIES OF CONCERN: FAT POCKETBOOK (*Potamilus capax* - LE)

LITTLE BAY DITCH - CRAIGHEAD COUNTY

SPECIES OF CONCERN: FAT POCKETBOOK (*Potamilus capax* - LE)

LITTLE MISSOURI RIVER - CLARK AND OUACHITA COUNTIES

SPECIES OF CONCERN: WINGED MAPLELEAF (*Quadrula fragosa* - LE), PINK MUCKET (*Lampsilis abrupta* - LE)

LITTLE RED RIVER - STONE AND VAN BURN COUNTIES

SPECIES OF CONCERN: SPECKLED POCKETBOOK (*Lampsilis streckeri* -LE), YELLOWCHEEK DARTER (*Etheostoma moorei* - C)

LITTLE RIVER - LITTLE RIVER AND SEVIER COUNTIES

SPECIES OF CONCERN: OUACHITA ROCK-POCKETBOOK (*Arkansia wheeleri* -LE), PINK MUCKET (*Lampsilis abrupta* -LE)

MIDDLE FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT)

MIDDLE FORK LITTLE RED RIVER - STONE AND VAN BUREN COUNTIES

SPECIES OF CONCERN: SPECKLED POCKETBOOK (*Lampsilis streckeri* -LE), YELLOWCHEEK DARTER (*Etheostoma moorei* - C)

MILLWOOD LAKE - LITTLE RIVER COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MISSISSIPPI RIVER - CHICOT, CRITTENDEN, DESHA, LEE, MISSISSIPPI, AND PHILLIPS COUNTIES

SPECIES OF CONCERN: INTERIOR LEAST TERN (*Sterna antillarum athalassos* -LE), PALLID STURGEON (*Scaphirhynchus albus* -LE), FAT POCKETBOOK (*Potamilus capax* - LE), STURGEON CHUB (*Hybopsis gelida* - C), SICKLEFIN CHUB (*Hybopsis meeki* - C)

MOON LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* - LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MOORE BAYOU - ARKANSAS COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

MOUNTAIN FORK RIVER - POLK COUNTY

SPECIES OF CONCERN: LEOPARD DARTER (*Percina pantherina* - LT)

MUDDY CREEK - MONTGOMERY COUNTY

SPECIES OF CONCERN: HARPERELLA (*Ptilimnium nodosum* -LE)

MULBERRY RIVER – FRANKLIN COUNTY

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* – LE), SPECTACLECASE (*Cumberlandia monodonta* – C)

MYATT CREEK – FULTON COUNTY

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* – LE)

NORTH FORK OUACHITA RIVER - GARLAND COUNTY

SPECIES OF CONCERN: HARPERELLA (*Ptilimnium nodosum* -LE)

NORTH FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT)

NORTH FORK WHITE RIVER - BAXTER COUNTY FROM THE CONFLUENCE WITH THE WHITE RIVER UPSTREAM TO ARKANSAS MISSOURI STATE LINE

SPECIES OF CONCERN: PINK MUCKET (*Lampsilis abrupta* -LE), BALD EAGLE (*Haliaeetus leucocephalus* – LT), OZARK HELLBENDER (*Cryptobranchus alleganiensis bishopi* – C)

OSAGE CREEK - BENTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* - C)

OUACHITA RIVER - CALHOUN, CLARK, HOT SPRING, MONTGOMERY, OUACHITA, POLK COUNTIES

SPECIES OF CONCERN: OUACHITA ROCK-POCKETBOOK (*Arkansia wheeleri* -LE), PINK MUCKET (*Lampsilis abrupta* -LE), ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT), SCALESHELL (*Leptodea leptodon* -PE), WINGED MAPLELEAF (*Quadrula fragosa* -LE), SPECTACLECASE (*Cumberlandia monodonta* – C)

PALMER HOLLOW – BENTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

POFF BRAKE - DREW COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* - LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

RED RIVER - LAFAYETTE, LITTLE RIVER, AND MILLER COUNTIES

SPECIES OF CONCERN: INTERIOR LEAST TERN (*Sterna antillarum athalassos* - LE)

ROBINSON CREEK - POLK AND SEVIER COUNTIES

SPECIES OF CONCERN: LEOPARD DARTER (*Percina pantherina*- LT)

SALINE RIVER - ASHLEY, BRADLEY, GRANT, HOWARD AND SALINE COUNTIES

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT), PINK MUCKET (*Lampsilis abrupta* -LE), SCALESHELL (*Leptodea leptodon* - LE), WINGED MAPLELEAF (*Quadrula fragosa* - LE)

SOUTH FORK LITTLE RED – VAN BUREN COUNTY

SPECIES OF CONCERN: YELLOWCHEEK DARTER (*Etheostoma moorei* – C), SPECKLED POCKETBOOK (*Lampsilis streckeri* – LE)

SOUTH FORK OUACHITA RIVER - MONTGOMERY COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT)

SOUTH FORK SALINE RIVER - SALINE COUNTY

SPECIES OF CONCERN: ARKANSAS FAT MUCKET (*Lampsilis powelii* -LT)

SOUTH FORK SPRING RIVER - FULTON COUNTY

SPECIES OF CONCERN: CURTIS PEARLY MUSSEL (*Epioblasma florentia curtisi* -LE), SCALESHELL (*Leptodea leptodon* -PE)

SOUTH FOURCHE LAFAVE – PERRY COUNTY

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* – LE)

SPRING RIVER - FULTON, LAWRENCE, RANDOLPH AND SHARP COUNTIES

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE), CURTIS PEARLY MUSSEL (*Epioblasma florentia curtisi* -LE), TURGID BLOSSUM (*Epioblasma turgidula* -LE, HISTORIC OCCURRENCE), PINK MUCKET (*Lampsilis abrupta* -LE), OZARK HELLBENDER (*Cryptobranchus alleganrensis bishopi* - C)

ST. FRANCIS RIVER SYSTEM AND ASSOCIATED DITCHES - CROSS, LEE, POINSETT AND ST. FRANCIS COUNTIES

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* - LE), FAT POCKETBOOK (*Potamilus capax* - LE), PALLID STURGEON (*Scaphirhynchus albus* - LE)

STRAWBERRY RIVER – LAWRENCE COUNTY

SPECIES OF CONCERN: SCALESHELL (*Leptodea leptodon* – LE)

SWAN LAKE - DESHA COUNTY

SPECIES OF CONCERN: BALD EAGLE (*Haliaeetus leucocephalus* -LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE)

TURKEY CREEK – STONE COUNTY

SPECIES OF CONCERN: YELLOWCHEEK DARTER (*Etheostoma mooreii* – C), SPECKLED POCKETBOOK (*Lampsilis streckeri* – LE)

WHITE RIVER - ARKANSAS, BAXTER, CARROLL, DESHA, INDEPENDENCE, JACKSON, JEFFERSON, LINCOLN, MARION, MONROE, PHILIPS, PRAIRIE, WHITE AND WOODRUFF COUNTIES

SPECIES OF CONCERN: IVORY BILLED WOODPECKER (*Campephilus principalis* – LE), PINK MUCKET (*Lampsilis abrupta* -LE), SCALESHELL (*Leptodea leptodon* -PE), BALD EAGLE (*Haliaeetus leucocephalus* –LT, PROPOSED FOR DELISTING, NESTING OCCURRENCE), PALLID STURGEON (*Scaphirhynchus albus* – LE), OZARK HELLBENDER (*Cryptobranchus alleganiensis bishopi* – C), PADDLEFISH (C), FAT POCKETBOOK (*Potamilus capax* - LE)

WILDCAT CREEK – WASHINGTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

WILSON SPRINGS – WASHINGTON COUNTY

SPECIES OF CONCERN: ARKANSAS DARTER (*Etheostoma cragini* – C)

IN ADDITION TO THE ABOVE WATERBODIES, THE FOLLOWING FEDERAL CONCERN SPECIES ARE KNOWN TO OCCUR IN VARIOUS WETLAND AREAS, OR CAVE STREAMS:

PONDBERRY (LINDERA MELISSIFOLIA - LE)

ASHLEY

CLAY

JACKSON

LAWRENCE

WOODRUFF

CRAIGHEAD

OZARK CAVEFISH (AMBLYOPSIS ROSAE - LE)

BENTON

CAVE CRAYFISH (CAMBARUS ACULABRUM - LE)

BENTON

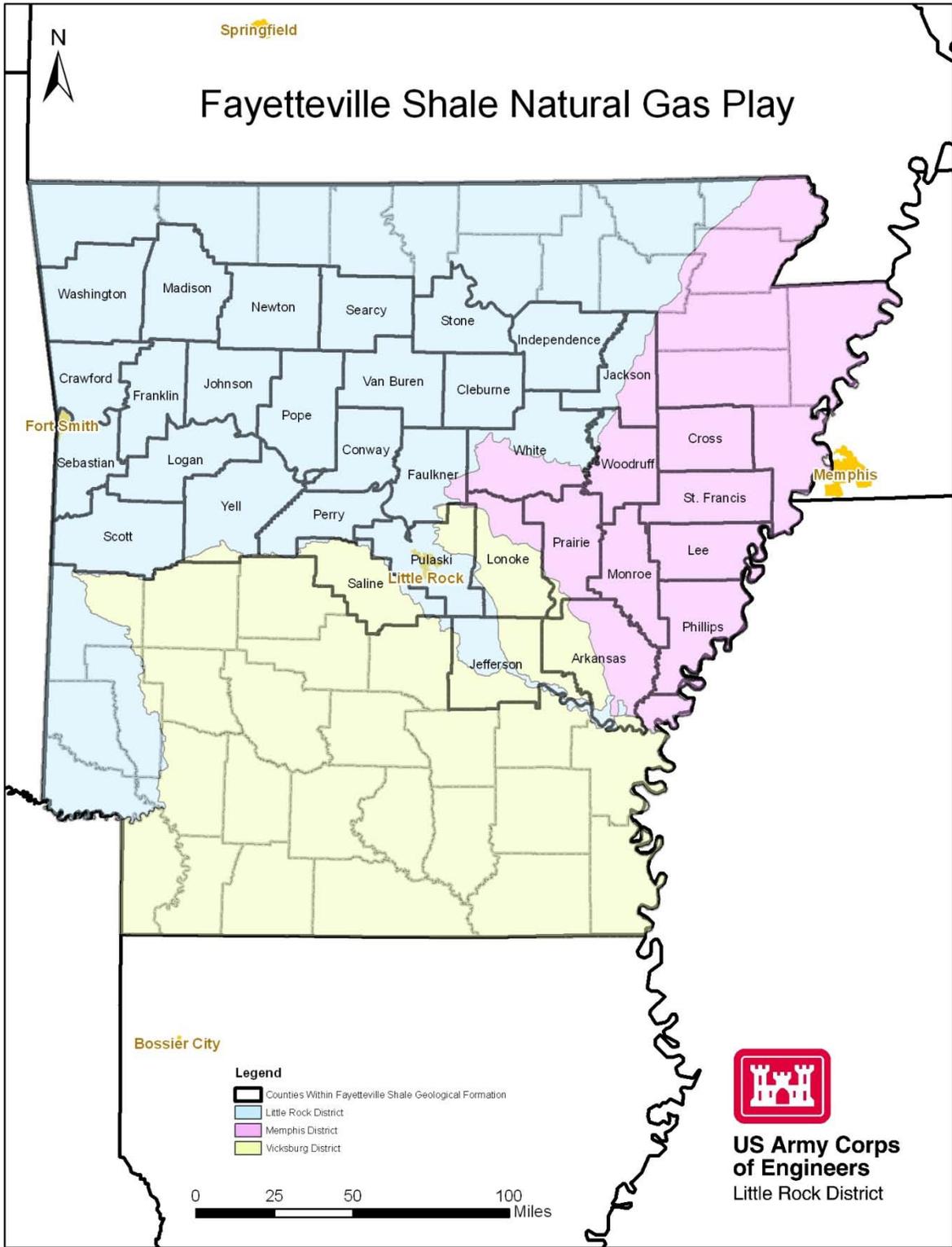
CAVE CRAYFISH (CAMBARUS ZOPHONASTES -LE)

STONE

Legend:

- C = Candidate species. The U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species for listing as endangered or threatened under the Endangered Species Act.
- 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 NWPs 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. 30 (Federal Register, Vol. 76, No. 32, FR 9203-9205)*. 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.



PROPOSED NATIONWIDE PERMIT REGIONAL CONDITIONS FOR MISSOURI

The following Regional Conditions are proposed to be implemented for the 2012 Nationwide Permits as authorized under General Condition (26).

For All Nationwide Permits:

- 1. Stream Crossings.** In addition to requirements in the applicable Nationwide Permit and General Condition (2) for Aquatic Life Movements and General Condition (9) for Management of Water Flows, the General Guidelines for Stream Crossings must be followed for all Nationwide Permits. The guidelines are available at: http://www.nwk.usace.army.mil/regulatory/NWP_2012/MO/MORG1Streams.pdf
- 2. Seasonal Restrictions for Activities Proposed in Spawning Areas.** In addition to the requirements of General Condition (3) of the Nationwide Permits, for any regulated activity, the following specific seasonal restrictions apply. Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into the listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at: http://www.nwk.usace.army.mil/regulatory/NWP_2012/MO/SpawningList.pdf
- 3. Invasive and Exotic Species.** Plant species listed by the National Invasive Species Information Center shall not be used for revegetation unless this requirement is waived by the District Engineer based on a case specific analysis of the revegetation plan. Best management practices are required where practicable to reduce the risk of transferring invasive plant and animal species to or from the project site. Information concerning state specific lists and threats can be found at: <http://www.invasivespeciesinfo.gov/unitedstates/mo.shtml>. Best management practices can be found at: <http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters within Missouri can be found at <http://nas.er.usgs.gov/queries/zmbyst.asp>.
- 4. Suitable Material.** In addition to the specific examples in General Condition (6) of the Nationwide Permits, the following materials are not suitable for fill activities in waters of the United States in conjunction with any Nationwide Permit: vehicle bodies, construction or demolition debris, garbage, loose or improperly placed tires, treated lumber (chromated copper arsenate (CCA), creosote, and pentachlorophenol), liquid concrete not poured into forms, grouted riprap, bagged cement, and sewage or organic waste.

Broken concrete used as bank stabilization must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Applicants must break all large slabs to conform to the well graded requirement. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume when using broken concrete as fill. All protruding reinforcement rods, trash, asphalt, and other extraneous materials must be removed from the broken concrete prior to placement in waters of the United States.
- 5. Priority Watersheds.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity in a priority watershed. The list of priority watersheds requiring notification is available on request from the Corps or at http://www.nwk.usace.army.mil/regulatory/NWP_2012/MO/PriorityWatersheds.pdf
- 6. Special Aquatic Resources in Missouri.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity which may impact a jurisdictional fen, seep or bog of any size.

For Specific Nationwide Permits:

- 7. NWP 12 – Utility Line Activities.** Applicants must submit a preconstruction notification to the District Engineer prior to commencing the activity if the discharge is in a special aquatic site or when new utility line construction activities have multiple crossings of the same stream and/or parallel a stream. The preconstruction notification must include a revegetation plan for impacted wetlands and riparian areas. Impacted wetlands and riparian areas must be revegetated with native species similar to the composition removed (i.e., native trees or grasses), except for a minimal corridor that is essential for operation and maintenance of the utility line. If the impacted areas cannot be restored using native vegetation (i.e., existing urban or residential landscapes), the permittee must request and receive prior authorization for alternative site restoration measures. Where preconstruction notification is required for utility line activities within streams, the submittal must include site-specific plans for the stabilization of disturbed channel bed and bank areas.
- 8. NWP 27 – Stream and Wetland Restoration Activities.** Applicants must submit a preconstruction notification to the District Engineer prior to commencing the activity if the discharge is associated with impacts to forested wetlands.
- 9. NWP 44 – Mining Activities.** Nationwide Permit 44 cannot be used to authorize in-stream sand and gravel mining projects.
- 10. Requirements for Waiver of 300 Linear Foot Limit Associated with NWPs 21, 29, 39, 40, 42, 43, 44, 50, Permit A, and Permit B.** The applicant must request the waiver in writing and provide documentation and environmentally based reasons to support the waiver request in accordance with the requirements of General Condition (30)(e) for making waiver determinations.
- 11. Lake of the Ozarks:** Applicants must provide preconstruction notification to the District Engineer for any regulated activity associated with Nationwide Permits 3, 7, 12, 14, 15, 18, 22, 27, 33, and 45. A copy of this notification must also concurrently be sent to Ameren Missouri. Nationwide Permits 2, 13, 16, 19, 25, 29, 31, 35, 36, 39, 41, and 44 are revoked in the Lake of the Ozarks. NWPs 1, 9, 10, 11 and 28 are only valid when both Ameren Missouri and the Missouri State Water Patrol have approved the activity. The Corps and Ameren Missouri, regardless of the request to use any Nationwide Permit, may verify the activity under the provisions of Regional General Permit 38M (<http://www.nwk.usace.army.mil/regulatory/gp/GP-38M.pdf>). Additional information on Ameren Missouri and Lake of the Ozarks permit requirements can be found at the following webpage: <http://www.ameren.com/sites/ae/lakeoftheozarks/Pages/Home.aspx>

Note: Preconstruction Notification to the District Engineer must be in accordance of General Condition (30) of the Nationwide Permits.

**Proposed Regional Conditions (RCs) for Mississippi
2012 NATIONWIDE PERMITS (NWPs)**

A. Regional Conditions for All Nationwide Permits

1. For all Nationwide Permit (NWP) authorizations in the Coastal Zone of Mississippi, which includes Hancock, Harrison, and Jackson Counties:

On March 26, 2007, the Mississippi Department of Marine Resources (DMR) found that all Nationwide Permits are consistent to the maximum extent practicable with the Mississippi Coastal Program (copy attached) provided that the following Regional Conditions are followed in the Coastal Zone of Mississippi.

a. For all Nationwide Permit (NWP) authorizations, including those for activities that do not require Pre-Construction Notification (PCN) to the District Engineer (DE), activities in the following waters of the U.S. cannot be initiated until the applicant has received a Coastal Use Permit (CUP) or waiver from the Mississippi Department of Marine Resources (MS-DMR). Those waters of the U.S. requiring a CUP or waiver from MS-DMR prior to project initiation include:

1. All tidal waters in Hancock, Harrison, and Jackson counties, Mississippi, and
2. All waters of the U.S. having a hydrological connection to tidal waters in “a” above and that are located no more than 200 feet landward of the mean high tide mark.

b. For all regulated activities in (i) tidal waters and/or (ii) waters of the U.S. adjacent to tidal waters located in Hancock, Harrison, or Jackson counties, all Pre-Construction Notifications (PCNs) required by a specific NWP shall be completed using the Joint Application Form and shall be submitted to the Mississippi Department of Marine Resources (DMR) at the following address:

Mississippi Department of Marine Resources
Bureau of Wetlands Permitting
1141 Bayview Drive Suite 101
Biloxi, MS 39530

Joint Application Forms may be printed or downloaded from the Mississippi Department of Marine Resources (DMR) website at:

<http://www.dmr.state.ms.us/Coastal-Ecology/permitting/Joint-ApplicationNotification-Form2.pdf>, from the Vicksburg District Regulatory Program website at: <http://www.mvk.usace.army.mil/offices/od/odf/main.htm>,

or from the Mobile District Regulatory Program website at:

<http://www.sam.usace.army.mil/RD/reg/application.htm>.

NOTE: Where the Corps District and DMR have developed Programmatic General Permits for the type of activity proposed, DMR may process and issue the appropriate DA permit(s) along with any required Coastal Use Permit requirements. For activities not covered by Programmatic General Permits, DMR shall forward all application materials to the appropriate Corps District office for processing of any required DA permits. If the application is forwarded to the Corps for processing, DMR shall notify the Corps District if a Coastal Use Permit will be required for the activity.

1. **For all NWP authorizations on Black Creek in Perry County between Moody’s Landing, downstream to the Fairley Bridge Road crossing** -a federally designated Wild and Scenic River reach in Mississippi -the applicant must obtain a written statement from the U.S. Forest Service (USFS) that the activity will not adversely affect the Wild and Scenic River designation prior to initiating any construction activities (see General Condition 1517). If the proposed activity otherwise requires pre-construction notification (PCN) to the Corps, the PCN must include such written statement of approval from the USFS. (*U.S. Forest Service, P.O. Box 248, 654 West Frontage Road, Wiggins, MS 39577*)

2. **For all regulated activities, excluding those authorized under NWP 47, that might affect a Federally-listed threatened or endangered species or critical habitat** -Pre-Construction Notification (PCN) shall be required. Waterways in Mississippi with reported occurrences of Federally-listed threatened or endangered species or critical habitat, as of July 1, 2007, are listed below. Applicants are advised that the U.S. Fish and Wildlife Service (USFWS) may change the Endangered Species Act status of species in Mississippi waterways, and those changes would affect the list of waterways and associated “Species of

Concern”. Further, this Regional Condition does not lessen the restrictions or requirements provided by General Condition 179. As stated in General Conditions 1719 and 2730 (76 FR 9174 - 9207), the PCN from non-Federal applicants must include the name(s) of the threatened or endangered species that might be affected by the proposed work or that utilize designated critical habitat that might be affected by the proposed work. PCNs from Federal applicants must include documentation of compliance with the Endangered Species Act. For NWP 6, 12, and 14 activities that trigger this PCN requirement, the PCN required by this condition may be limited to those portions of the activity that might affect a Federally-listed threatened or endangered species or critical habitat.

NOTE: The following definitions apply to the “listing index” following scientific names of the listed species of concern: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. 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.

Bayou Pierre River and following tributaries: White Oak Creek, Foster Creek, and Turkey Creek – Located in Claiborne, Copiah, and Hinds Counties Species of Concern: bayou darter (*Etheostoma rubrum* - LT)

Bear Creek – Located in Tishomingo County Species of Concern: the cumberlandian combshell mussel (*Epioblasma brevidens* -LE) and the slabside pearlymussel (*Lexingonia dolabelloides* -C)

Bogue Chitto River – Located in Pike County Species of Concern: gulf sturgeon (*Acipenser oxyrinchus desotoi*-LT, CH) from State Highway 570 south

Mississippi River and adjacent land west of Main line levee – Located in the following Counties: Adams Coahoma Jefferson Warren Bolivar DeSoto Sharkey Washington Claiborne Issaquena Tunica Wilkinson Species of Concern: interior least tern (*Sterna antillarum* -LE), pallid sturgeon (*Scaphirhynchus albus* -LE), and/or the fat pocketbook (*Potamilus capax* -LE)

MS Coastal Waterways and Streams including: Back Bay of Biloxi, Biloxi River, Escatawpa River, Old Fort Bayou, Pascagoula River, and Tchoutacabouffa River – Located in Harrison and Jackson Counties Species of Concern: Alabama red-bellied turtle (*Pseudemys alabamensis* -LE) and/or the yellow-blotched map turtle (*Graptemys flavimaculata* -LT)

Mississippi Sound and other back bays – Located in Hancock, Harrison, and Jackson Counties Species of Concern: Brown pelican (*Pelecanus occidentalis* -LE), piping plover (*Charadrius melodus* -LE, CH), West Indian manatee (*Trichechus manatus* -LE), green turtle (*Chelonia mydas* -LT), kemp’s ridley turtle (*Lepidochelys kempii* -LE), loggerhead turtle (*Caretta caretta* -LT), and/or the gulf sturgeon (*Acipenser oxyrinchus desotoi* -LT, CH).

Pascagoula River and the following tributaries: Bouie, Chickasawhay, Okatoma, and Leaf Rivers – Located in the following Counties: Clarke, Greene, Perry, Forrest, Jackson, Stone, George, Jones & Wayne Species of Concern: yellow-blotched map turtle (*Graptemys flavimaculata* LT), gulf sturgeon (*Acipenser oxyrinchus desotoi* LT, CH), pearl darter (*Percina aurora* -C), and/or Alabama red-bellied turtle (*Pseudemys alabamensis* -LE)

Pearl River – Located in the following Counties: Copiah, Leake, Neshoba, Scott, Hinds, Madison, Pearl River, Simpson, Lawrence, Marion & Rankin

Species of Concern: ringed map turtle (*Graptemys oculifera* - LT), gulf sturgeon (*Acipenser oxyrinchus desotoi* -LE, CH), and/or the inflated heelsplitter (*Potamilus inflatus* -LT)

Tombigbee River and the following tributaries: Buttahatchie, Luxapalilla, and Bull Mountain – Located in Itawamba, Lowndes and Monroe Counties Species of Concern: heavy pigtoe mussel (*Pleurobema taitianum* -LE), southern combshell mussel (*Epioblasma penita* -LE), southern clubshell mussel (*Pleurobema decisum* -LE), the ovate clubshell mussel (*Pleurobema perovatum* LT), the black clubshell mussel (*Pleurobema curtum* -LE), the threatened Alabama moccasinshell (*Medionidus acutissimus* -LT), the threatened orange-nacre mucket (*Lampsilis perovalis* -LT)

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 179. The Corps’ responsibility before

initiating this coordination is to make a “No effect” or “May effect” determination for the activity. If sufficient information is not available from the applicant or from “in-house” information, the Corps may determine and inform the applicant that the PCN is incomplete. If a “May Affect” determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

B. Corps Regional Conditions for Specific NWP

1. Nationwide Permit 12. Utility Lines.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the “Project Area” of the proposed NWP 12 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* -LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* -C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* – LT), upland habitats – Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* -LT) -No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies -Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* -LE) -intermittent and small perennial streams – Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosa* – LE) – Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat – Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* – LE) – pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge -Located in Jackson County

Pondberry (*Lindera melissifolia* -LE) -bottomland hardwood wetlands – Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* -LT) -wooded areas that grade into creek and river bottoms – Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* -LE), excavates nesting cavities in mature pine trees (60+ years old) – Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. 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.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 179. The Corps’ responsibility before initiating this coordination is to make a “No effect” or “May effect” determination for the activity. If sufficient information is not available from the applicant or from “in-house” information, the Corps may determine and inform the applicant that the PCN is incomplete. If a “May Affect” determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

2. Nationwide Permit 14: Linear Transportation Crossings.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the “Project Area” of the proposed NWP 14 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* -LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* -C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* – LT), upland habitats – Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* -LT) -No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies -Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* -LE) -intermittent and small perennial streams – Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosa* – LE) – Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat – Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* – LE) -pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge – Located in Jackson County

Pondberry (*Lindera melissifolia* -LE) -bottomland hardwood wetlands – Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* -LT) -wooded areas that grade into creek and river bottoms – Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* -LE), excavates nesting cavities in mature pine trees (60+ years old) – Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. 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.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 179. The Corps’ responsibility before initiating this coordination is to make a “No effect” or “May effect” determination for the activity. If sufficient information is not available from the applicant or from “in-house” information, the Corps may determine and inform the applicant that the PCN is incomplete. If a “May Affect” determination is made, the Corps shall enter into informal consultation with USFWS/NMFS, and the Corps will notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

3. Nationwide Permit 41: Reshaping Existing Drainage Ditches.

- a. Any clearing of vegetation or side casting of excavated material shall be restricted to one side of the drainage ditch, where practicable, with gaps between side-cast material every 50 feet.
- b. Banks shall be seeded and stabilized upon completion of excavation activities.

4. Nationwide Permit 44: Mining Activities.

Pre-Construction Notification to the appropriate Corps District is required for all NWP 44 activities, **due to the denial of Water Quality Certification** for NWP 44 by the Mississippi Department of Environmental Quality.

C. ADDITIONAL APPLICATION REVIEW REQUIREMENTS FOR PCNs FOR SPECIFIC NWPS

1. Complete PCNs for authorizations under NWPs 12, 14, 21, 29, 39, 40, 42, and 43 that include a discharge into a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed TMDL for sediment or biological impairment shall include:

- a. a statement of why the discharge cannot be avoided;
- b. a description of best management practices that will be utilized on the project site to minimize adverse impacts within the project area at the site;
- c. if the Corps determines that compensation is required to insure that adverse impacts resulting from the activity will be no more than minimal, the applicant shall also submit a compensatory mitigation plan for approval by the Corps.

3. For PCNs described in C.1, above, the DE shall give Mississippi Department of Environmental Quality (MS-DEQ) staff an opportunity to comment on all of the above mitigation measures.