



**US Army Corps
of Engineers.**

Vicksburg District

4155 Clay Street

Vicksburg, MS 39183-3435

www.mvk.usace.army.mil

Special Public Notice

INITIAL PUBLIC NOTICE

NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS

On June 1, 2016, the U.S. Army Corps of Engineers (Corps) published in the *Federal Register* (81 FR 35185) its proposal to reissue 50 of its existing Nationwide Permits (NWP) and issue two new NWP. An index of the proposed NWP, conditions and definitions is provided (enclosure 1). A full text copy of the proposed NWP, conditions and definitions can be obtained through the Corps Home Page at:

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>; or at: <https://www.regulations.gov>, docket number COE-2015-0017, or at: <https://www.gpo.gov/fdsys/pkg/FR-2016-06-01/pdf/2016-12083.pdf>.

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 NWP require pre-construction notification (PCN) to the appropriate District Engineer prior to conducting regulated activities. PCN requirements give the Corps the opportunity to evaluate certain proposed NWP activities on a case-by-case basis to ensure that they will cause no more than minimal adverse environmental effects, individually and cumulatively. Some NWP activities that require PCNs also require agency coordination. Regional conditions may add PCN requirements to one or more NWP.

National Issues Concerning the Proposed NWP: The *Federal Register* notice is the public's opportunity to comment on the proposed NWP, their general and special conditions, and definitions. Comments on national issues relating to these NWP should be submitted to docket number COE-2015-0017 at: <https://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. Additional 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.**

Regional Issues Concerning the Proposed NWP's, Including Regional Conditioning: Division Engineers are authorized to add regional conditions to take into account regional differences in aquatic resource functions and services across the country and to restrict or prohibit the use of NWP's to protect those resources. Through regional conditions, a division engineer can modify a NWP to require submission of PCNs for certain activities. Regional conditions may also restrict or prohibit the use of a NWP in certain waters or geographic areas, if the use of that NWP in those waters or areas might result in more than minimal individual or cumulative adverse environmental effects. Regional conditions may not be less stringent than the NWP's.

In conjunction with the *Federal Register* notice, Corps districts will solicit public comment for development of regional conditions for these NWP's. The proposed regional conditions currently under consideration for NWP activities within the geographic boundaries of Mississippi are provided (enclosure 2). The Vicksburg District, in its role as lead Corps district for Mississippi, is seeking comments on the proposed regional conditions and on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWP's in Mississippi are minimal. Comments on regional issues relating to the proposed NWP's and on the regional conditions can be submitted by e-mail to: regulatory@usace.army.mil; or by standard mail to: Vicksburg District, U.S. Army Corps of Engineers, Attention: Regulatory Branch, Ms. Cori Carraway, 4155 Clay Street, Vicksburg, Mississippi 39183-3435. **Comments relating to regional conditions for Mississippi are due by July 23, 2016.** Similar public notices proposing regional conditions in other regions or states are being published concurrently by other Division or lead district offices.

Decision Making and Documentation: Draft decision documents, which include environmental documentation required by the National Environmental Policy Act, have already been prepared by Corps Headquarters for the proposed NWP's. These decision documents 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 the Vicksburg District, Corps of Engineers, Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435; or, in Docket No. COE-2015-0017 at <https://www.regulations.gov>. Final decision documents will be prepared by Corps Headquarters for those NWP's 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's.

A *Federal Register* notice announcing issuance of the NWP's will be made by Corps Headquarters approximately 90 days before the March 18, 2017 expiration date of the 2012 NWP's. Division Engineers will subsequently announce final regional conditions for states or regions within their division boundaries. States and Tribes will then make their final decisions regarding Clean Water Act Section 401 water quality certification (401) and States will make their final Coastal Zone Management Act (CZMA) consistency determination. The 401/CZMA decisions must be made within 90 days of the *Federal Register* notice announcing the issuance of the NWP's. The planned effective date of the final NWP's is March 19, 2017.

Activities authorized by the 2012 NWP's remain authorized by those NWP's until March 18, 2017. An activity completed under the authorization provided by a 2012 NWP continues to be authorized by that NWP (see 33 CFR part 330.6(b)). Activities authorized by the 2012 NWP's that have commenced or are under contract to commence by March 18, 2017, will have one year (i.e., until March 18, 2018) to complete those activities under the terms and conditions of the 2012 NWP's (see 33 CFR section 330.6(b)). Activities previously authorized by the 2012 NWP's that have not commenced or are not under contract to commence by March 18, 2017, will require reauthorization under the 2017 NWP's, provided those activities qualify for authorization under the 2017 NWP's. If those activities no longer qualify for NWP authorization because they do not meet the terms and conditions of the 2017 NWP's (including any regional conditions), the project proponent will need to obtain an individual permit, or seek authorization under a regional general permit, if such a general permit is available in the applicable Corps district and can be used to authorize the proposed activity.

Index of Nationwide Permits, General 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

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

PROPOSED FOR MISSISSIPPI
NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS

A. REGIONAL CONDITIONS FOR ALL NATIONWIDE PERMITS

1. In Hancock, Harrison, and Jackson Counties, Mississippi: A pre-construction notification (PCN) is required for all regulated activities in the following waters of the United States (U.S.):

- a. All tidal waters, and;
- b. All waters of the U.S. having a hydrologic connection to tidal waters in “a” above, and that are located no more than 200 feet landward from the mean high tide line.

PCNs required by this condition shall be prepared using the Mississippi Department of Marine Resources (MS-DMR) and U.S. Army Corps of Engineers (Corps) Joint Application Form. The Joint Application and Notification Form may be downloaded or printed from the MS-DMR website at:

<http://www.dmr.ms.gov/index.php/coastal-resources-management/wetland-permitting>

In addition to the information provided via the Joint Application Form, a complete PCN packet must include information to address items listed in the attachment (NWP General Condition 32) to these Regional Conditions.

The completed PCN packet shall be submitted directly to MS-DMR at the following address:

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

For these PCNs, regulated activities can only be initiated after the applicant has received verification from the Corps of authorization of an NWP, or other applicable joint-agency authorization. The Corps District will only verify authorizations under a NWP after it has received MS-DMR’s concurrence that the activity is consistent with the Mississippi Coastal Management Program.

2. A PCN to the appropriate Corps District is required for all regulated activities located within or adjacent to Black Creek within the reach beginning approximately ¼-mile upstream of Moody’s Landing and ending approximately ¼-mile downstream of the Fairly Road Bridge crossing. The Corps will coordinate the PCN with the National Forest Service per requirements of Section 7 of the Wild and Scenic Rivers Act and General Condition 16 of the NWPs.

3. NWP authorizations for regulated activities in the Grand Bay National Estuarine Research Reserve, a designated critical resource water located in Jackson County, Mississippi, shall adhere to General Condition 22 of the NWPs.

4. For all regulated activities that might affect a Federally-listed threatened or endangered species or designated critical habitat, marine mammal, or essential fish habitat:

Submittal of a complete PCN to the appropriate Corps District is required. Note: For activities in waters described in Regional Condition A.1., all PCN's shall instead be submitted directly to MS-DMR using the Mississippi Department of Marine Resources (MS-DMR) and U.S. Army Corps of Engineers (Corps) Joint Application Form. Waterways in Mississippi with reported occurrences of Federally-listed threatened or endangered species and their critical habitats, as of March 2016, are listed below. The list below also includes certain types of essential fish habitat (EFH) for federally-managed fisheries that may occur in coastal waterways. Applicants are advised that the Federal protection status of species and habitats may change during the time period in which these Regional Conditions are in effect, and that those changes may not be reflected in the list below.

Further, this Regional Condition does not lessen the restrictions or requirements provided by General Condition 18. As stated in General Conditions 18 and 32 (77 FR 10184-10290), the PCN from non-Federal applicants must include a delineation of waters of the U.S. in the project area and the name(s) of the threatened or endangered species and/or marine mammals that might be affected by the proposed work or that utilize designated critical habitat or EFH that might be affected by the proposed work. PCNs from Federal applicants must include documentation of compliance with the Endangered Species Act, Marine Mammal Protection Act, and Magnuson-Stevens Fishery Conservation and Management Act, as applicable. 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, marine mammal, or EFH.

NOTE: The following definitions apply to the list below, as well as the list in Section B.1. of these Regional Conditions: C = Candidate Species; CH = Critical Habitat; LE = Listed Endangered; LT = Listed Threatened; EFH = Waters and substrate necessary to MSA-protected fish for spawning, breeding, feeding, or growth to maturity

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

Bear Creek – Located in Tishomingo County
Species: cumberlandian combshell mussel (*Epioblasma brevidens* – LE, CH); slabside pearl mussel (*Lexingtonia dolabelloides* – LE, CH), rabbitsfoot mussel (*Quadrula cylindrica cylindrica* – LT, CH), snuffbox mussel (*Epioblasma triquetra* - LE) and snail darter (*Percina tanasi* – LT)

Big Black River – Located in Hinds and Warren Counties

Species: rabbitsfoot mussel (*Quadrula cylindrica cylindrica* – LT, CH) from Porter Creek confluence south to Highway 27

Big Sunflower River – Located in Sunflower County

Species: rabbitsfoot mussel (*Quadrula cylindrica cylindrica* – LT, CH) and sheepnose mussel (*Plethobasus cyphus*- LE) from Highway 442 south to Quiver River confluence

Bogue Chitto River – Located in Pike and Walthall Counties

Species: 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, and Wilkinson

Species: interior least tern (*Sterna antillarum* - LE), pallid sturgeon (*Scaphirhynchus albus* - LE), and fat pocketbook mussel (*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: Alabama red-bellied turtle (*Pseudemys alabamensis* - LE)

EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

Mississippi Sound and other back bays – Located in Hancock, Harrison, and Jackson Counties

Species: piping plover (*Charadrius melodus* - LE, CH), red knot (*Calidris canutus rufa* – LT), West Indian manatee (*Trichechus manatus* – LE), green turtle (*Chelonia mydas* - LT), kemp's ridley turtle (*Lepidochelys kempii* - LE), leatherback sea turtle (*Dermochelys coriacea* – LE), loggerhead turtle (*Caretta caretta* - LT), and Gulf sturgeon (*Acipenser oxyrinchus desotoi* - LT, CH).

EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

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, and Wayne

Species: yellow-blotched map turtle (*Graptemys flavimaculata* - LT), Gulf sturgeon (*Acipenser oxyrinchus desotoi* - LT, CH), pearl darter (*Percina aurora* - C), and Alabama red-bellied turtle (*Pseudemys alabamensis* - LE)

EFH: estuarine emergent wetlands, submersed aquatic vegetation or vegetated shallows, live bottoms (e.g. oyster bars, limestone outcroppings)

Pearl River – Located in the following Counties: Covich, Leake, Neshoba, Scott, Hinds, Madison, Pearl River, Hancock, Simpson, Lawrence, Marion, and Rankin

Species: ringed map turtle (*Graptemys oculifera* - LT), Gulf sturgeon (*Acipenser oxyrinchus desotoi* - LE, CH), and inflated heelsplitter (*Potamilus inflatus* - LT)

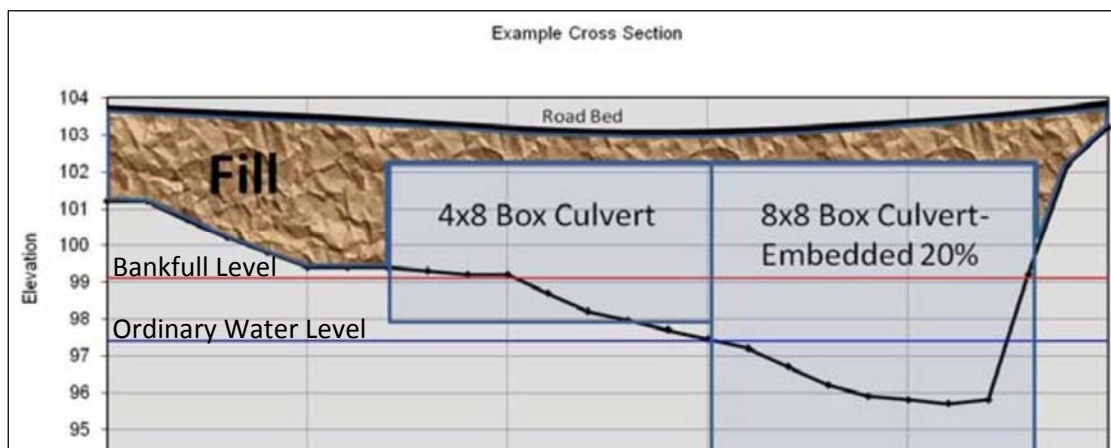
EFH: estuarine emergent wetlands, submersed aquatic vegetation, live bottoms (e.g. oyster bars, limestone outcroppings)

Tombigbee River and the following tributaries: Buttahatchie, Luxapalilla, Noxubee, and Bull Mountain – Located in Itawamba, Lowndes and Monroe Counties

Species: heavy pigtoe mussel (*Pleurobema taitianum* - LE), southern combshell mussel (*Epioblasma penita* - LE), southern clubshell mussel (*Pleurobema decisum* - LE), ovate clubshell mussel (*Pleurobema perovatum* - LT), black clubshell mussel (*Pleurobema curtum* - LE), Alabama moccasinshell (*Medionidus acutissimus* - LT), orange-nacre mucket (*Lampsilis perovalis* - LT), and inflated heelsplitter (*Potamilus inflatus* - LT)

5. Supplement to General Condition 2 – Aquatic Life Movement & Culverts. To support compliance with General Condition 2 of the NWPs, it is recommended that culverts be bottomless, or be installed below the natural grade of perennial and intermittent streams wherever practicable. While general guidance suggests twenty percent (20%) of the culvert diameter (20% of the height of elliptical culverts) be installed below the natural grade of the stream bed, the culvert must be sufficiently sized to maintain high water flows and be installed at a sufficient depth to maintain low flows to sustain the movement of aquatic species.

For all proposed projects that require PCN to the Corp, the applicant shall provide a scale cross-sectional diagram (example below) showing proposed as-built conditions, including location of the culvert in the channel, culvert dimensions, water elevations, and areas of excavation and fill. The diagram shall represent the typical conditions at the culvert crossing.



B. REGIONAL CONDITIONS FOR SPECIFIC NATIONWIDE PERMITS

1. NWP 12 (Utility Line Activities) and NWP 14 (Linear Transportation Projects)

Submittal of a complete PCN to the appropriate Corps District is required for all Clean Water Act, Section 404 regulated activities that include new construction (i.e. excludes maintenance of existing structures or fill), if impacts to the following species or their designated critical habitat might occur within the “Project Area” of the proposed NWP 12 or NWP 14 regulated activity.

NOTE: For regulated activities in waters described in Regional Condition A.1., all PCN’s shall instead be submitted directly to MS-DMR using the Mississippi Department of Marine Resources (MS-DMR) and U.S. Army Corps of Engineers (Corps) Joint Application Form.

Gopher tortoise (*Gopherus polyphemus* - LT), and black pine snake (*Pituophis melanoleucus lodingi* - LT) – Located in Clarke, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Lamar, Marion, Pearl River, Perry, Smith, Stone, Walthall, and Wayne Counties; Associated with upland habitats.

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

Dusky gopher frog (*Rana sevosa* – LE, CH) – Located in Jackson, Forrest, Perry, and Harrison Counties; Associated with isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat.

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

Mitchell’s satyr butterfly (*Neonympha mitchellii mitchellii* – LE) – Located in Alcorn, Itawamba, Monroe, Prentiss, and Tishomingo Counties; Associated with wetlands created by beaver ponds and other similar habitats.

Gray bat (*Myotis grisescens* – LE), Indiana bat (*Myotis sodalis* - LE) and Northern Long-eared Bat (*Myotis septentrionalis* – LT), – Located in counties north of Interstate 20; Associated with caves and/or forested uplands, wetlands, and riparian habitats (trees over 5 inches dbh)

Pondberry (*Lindera melissifolia* - LE) - Located in Bolivar, Coahoma, Holmes, Humphreys, Issaquena, Leflore, Quitman, Sharkey, Sunflower, Tallahatchie, Tunica, Warren, Washington, and Yazoo Counties; Associated with bottomland hardwood wetlands.

Price's potato bean (*Apios priceana* - LT) – Located in Alcorn, Chickasaw, Clay, Kemper, Lee, Lowndes, Monroe, Noxubee, Oktibbeha, Pontotoc, Prentiss, and Union Counties; Associated with wooded areas that grade into creek and river bottoms.

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

Wood stork (*Mycteria americana* - LT) – Located Statewide; Associated with freshwater marshes, tidal pools, cypress swamps; Species does not breed in MS, foraging habitat only.

White fringeless orchid (*Platanthera integrilabia* – C) – Located in Alcorn, Itawamba, Monroe, Prentiss, and Tishomingo Counties; Associated with wet boggy areas at heads of streams and on seepage slopes that are partially shaded.

2. Complete PCNs for authorizations under NWPs 12, 14, 21, 29, 39, 40, 42, and 43 that include a regulated discharge into a monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment must also include the following information:

- 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 ensure 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.

C. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION FOR MISSISSIPPI BAND OF CHOCTAW INDIAN TRIBAL LANDS

The Mississippi Band of Choctaw Indians, or the Environmental Protection Agency, Region 4, acting on their behalf, will make final decisions on water quality certifications for Nationwide Permit (NWP) activities on Mississippi Band of Choctaw Indian Tribal Lands. Those decisions will insure that activities authorized by NWPs will not violate water quality standards in waters of the United States located within these Tribal lands. Any conditions imposed by those water quality certification decisions will be incorporated in these Regional Conditions by reference.

D. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION

The Corps will request water quality certification (WQC) under Section 401 of the Clean Water Act for the NWP activities in Mississippi.

E. REGIONAL CONDITIONS FOR COASTAL ZONE MANAGEMENT ACT CONSISTENCY

The Corps will request Coastal Zone Management Act (CZMA) consistency concurrence for the NWP activities in Mississippi.

F. NWPs NOT APPLICABLE IN MISSISSIPPI

The Vicksburg District, as Lead Corps District for Mississippi, determined that NWP 8 (Oil and Gas Structures on the Outer Continental Shelf) and NWP 24 (Indian Tribe or State Administered Section 404 Programs) are not applicable for Department of the Army permit requirements in Mississippi.

Attachment

Additional PCN Requirements (to be used during the Corps review)

- (1) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate.

- (2) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands, the applicant must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the applicant may submit a conceptual or detailed mitigation plan.

- (3) If any federally listed threatened or endangered species might be affected or is in the vicinity of the regulated activity, or if the regulated activity is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected or might utilize the designated critical habitat that may be affected by the proposed regulated activity. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act.

- (4) For a regulated activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed regulated activity or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.