

PUBLIC NOTICE ANNOUNCING ARKANSAS REGIONAL CONDITIONS FOR THE REISSUANCE OF THE NATIONWIDE PERMITS

On February 21, 2012, the U.S. Army Corps of Engineers (Corps) published the notice in the *Federal Register* announcing the reissuance of all existing nationwide permits (NWP), general conditions, and definitions with some modifications. The Corps also issued two new NWPs, three new general conditions, and three new definitions. The NWPs will be effective on March 19, 2012, and will expire on March 18, 2017.

The Corps has finalized the Arkansas Regional Conditions (listed below) for the new and reissued NWPs. The regional conditions will also be effective on March 19, 2012. Regional conditions will provide additional protection for the aquatic environment, and will help ensure that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. The regional conditions will help ensure protection of high value waters within the State of Arkansas.

The February 21, 2012, *Federal Register* notice is available for viewing at Little Rock District, Attn: Regulatory Division, 700 West Capitol, Room 6331, Little Rock, Arkansas 72201 or on the Internet at

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>. As an alternate, Internet users can access the *Federal Register* through the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>.

You may also find a copy of the Arkansas Regional Conditions on the Little Rock District's Internet Site at <http://www.swl.usace.army.mil/regulatory/index.html>

NATIONWIDE PERMIT REGIONAL CONDITIONS IN 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.

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.

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.

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 NWPs. The following list of waters may be revised periodically in the case of future updates to the status of T&E species.

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

Tyroneza 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 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. 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.

