

PROPOSED NATIONWIDE PERMIT REGIONAL CONDITIONS FOR THE STATE OF ARKANSAS

Regional Condition No. 1. For Nationwide Permits (NWP) 7, 12, 57, and 58, intake structures shall be constructed with screening to prevent the entry of fish.

Regional Condition No. 2. For NWPs No. 4, 5, 12, 13, 14, 15, 18, 19, 20, 23, 25, 30, 35, 36, 51, 57, and 58, and in the following listed waters, when federally jurisdictional, the prospective permittee shall provide written notification to the appropriate District. Notification will be to the District Engineer according to *General Condition No. 32 (Federal Register, Vol. 86, No. 8, FR 2744-2877)*.

- **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. NWP No. 44 cannot be used to authorize mining activities within areas of government-managed navigation systems on rivers designated as navigable under the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

Regional Condition No. 4. Federally listed threatened or endangered species exist throughout Arkansas. To comply with Nationwide Permit (NWP) General Condition No. 18, a notification must be submitted to the District Engineer when these species are present, as specified in General Condition No. 32 (Federal Register, Vol. 86, No. 8, FR 2744-2877). This notification ensures that the project has "no effect" on T&E species and minimal impact on the aquatic environment.

The Corps of Engineers will coordinate the application with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service. No NWP activity that "may affect" a listed species or critical habitat is authorized without completing a consultation under Section 7 of the Endangered Species Act (see NWP General Condition No. 18).

For a list of potential listed species at your project location, please visit:

<https://ipac.ecosphere.fws.gov/>.

Regional Condition No. 5. For Nationwide Permits (NWPs) that affect Extraordinary Resource Waters, Ecologically Sensitive Waterbodies, and Natural Scenic Waterways as defined in APC&EC Rule 2, which pertains to the Water Quality Standards for Surface Waters of the State of Arkansas, the prospective permittee must provide written notification to the appropriate District. Impacts on these waters require an individual 401 water quality certification from the Arkansas Department of Energy & Environment. The application and application guide can be found at <https://www.adeg.state.ar.us/water/planning/instream/>. This notification should be directed to the District Engineer in accordance with General Condition No. 32 (Federal Register, Vol. 86, No. 8, FR 2744-2877).

Regional Condition No. 6. Suitable Material. In addition to the specific examples in General Condition No. 6 of the Nationwide Permits, the following materials are not suitable for fill activities in waters of the United States (WOTUS): garbage, tires, treated lumber products that do not comply with the Registration Documents issued by the U.S. Environmental Protection Agency (USEPA) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and that are not in accordance with standards issued by American Wood Protection Association of the International Code Council, 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 to withstand expected high flows. 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 WOTUS.