

REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN MISSISSIPPI

A. Regional Conditions for All Nationwide Permits

1. 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:

a. all tidal waters in Hancock, Harrison, and Jackson counties, Mississippi, and

b. 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.

2. For all NWP authorizations in federally designated Wild and Scenic River reaches in Mississippi, the applicant must submit a PCN to the District Engineer according to General Condition No. 27 (72 FR 11092). Such designated reaches include that 21-mile reach of Black Creek in Perry County between Moody's Landing downstream to the Fairley Bridge Road crossing. The Black Creek Wild and Scenic River reach is managed by the U.S. Forest Service (USFS). The complete PCN must include a written statement from the USFS that the activity will not adversely affect the Wild and Scenic River designation.

3. Pre-Construction Notification (PCN) shall be required for all regulated activities, excluding those authorized under NWP 47, that might affect a Federally-listed threatened or endangered species or critical habitat occurring in the Mississippi waterways listed below. As stated in General Conditions 17 and 27 (72 FR 11092 - 11198), 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. NOTES: 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 - In Claiborne, Copiah, and Hinds Counties
Species of Concern: bayou darter (*Etheostoma rubrum* - LT)

Bear Creek - Tishomingo County

Species of Concern: the cumberlandian combshell mussel (*Epioblasma brevidens* - LE) and the slabside pearl mussel (*Lexingtonia dolabellodes* - C)

Bogue Chitto Creek - Pike County

Species of Concern: gulf sturgeon (*Acipenser oxyrinchus desotoi*- LT, CH)
from State Highway 570 south

**COE and Other Reservoirs - Bay Springs, Pickwick, Aberdeen, and Columbus
Lakes; Ross Barnett, Sardis, Enid, and Grenada Reservoirs - In the following
Counties:**

Clay Lafayette Panola Tishomingo
Desoto Madison Prentiss Tate
Grenada Monroe Rankin Yalobusha

Species of Concern: bald eagle (*Haliaeetus leucocephalus* - LT), nesting
occurrence

**Mississippi River and adjacent land west of Main line levee - 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), bald eagle (*Haliaeetus leucocephalus* -
LT), 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 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 - In Hancock, Harrison, and Jackson
Counties**

Species of Concern: Brown pelican (*Pelecanus occidentalis* - LE), piping
plover (*Charadrius melodus*, LE, CH), bald eagle (*Haliaeetus leucocephalus* -
LT), 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 - 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 - 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 in Itawamba, Lowndes, 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 17. 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 need to contact the USFWS/NMFS to first determine if T&E species or their critical habitat/essential fish habitat occur within the Project Area. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS. If informal consultation is initiated, the Corps must notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation. [Note: These PCN procedures may be modified at the completion of the Corps/USFWS effort to develop and implement Standard Local Operating Procedures for Endangered Species (SLOPES) for the State of Mississippi].

4. For all regulated activities in (i) tidal waters and/or (ii) waters of the U.S. adjacent to tidal waters 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-Application-Notification-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.

B. Corps Regional Conditions for Specific NWPs

1. Nationwide Permit 7: Outfall Structures and Maintenance.

Activities involving the construction of associated intake structures shall be constructed with fish screening devices.

2. 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. ESA, NHPA).

Gopher Tortoise (*Gopherus polyphemus* -LT), **Black Pine Snake** (*Pituophis melanoleucus* ssp. *Lodingi* - C), and/or **Eastern Indigo Snake** (*Drymarchon corais couperi* - LT), upland habitats - 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 - 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 - 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 - Jackson County

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

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

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - 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.

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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 17. 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 need to contact the USFWS/NMFS to first determine if T&E species or their critical habitat/essential fish habitat occur within the Project Area. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS. If informal consultation is initiated, the Corps must notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation. [Note: These PCN procedures may be modified at the completion of the Corps/USFWS effort to develop and implement Standard Local Operating Procedures for Endangered Species (SLOPES) for the State of Mississippi].

3. 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. ESA, NHPA).

Gopher Tortoise (*Gopherus polyphemus* -LT), **Black Pine Snake** (*Pituophis melanoleucus* ssp. *Lodingi* - C), and/or **Eastern Indigo Snake** (*Drymarchon corais couperi* - LT), upland habitats - 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 - 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 - 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 - Jackson County

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

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

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - 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.

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4. 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.

5. 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.

2. 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.

D. **REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION FOR MISSISSIPPII BAND OF CHOCTAW INDIAN TRIBAL LANDS**

The Environmental Protection Agency, Region 4, issued water quality certifications for Nationwide Permit (NWP) activities on Mississippi Band of Choctaw Indian Tribal Lands on February 17, 2007. EPA stated that, as proposed, the NWPs would not violate water quality standards in waters of the United States located within these Tribal lands.

E. **REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION**

1. NWP No. 44, Mining Activities. The Mississippi Department of Environmental Quality (DEQ) denied water quality certification for NWP No. 44, Mining Activities. Applicants shall obtain certification or a waiver from the Mississippi Department of Environmental Quality prior to commencement of work.

2. The Mississippi Department of Environmental Quality (DEQ) issued water quality certification for the Nationwide Permits listed below with conditions. (Note: Nationwide Permit Nos. 1, 2, 8, 9, 10, 11, 24, 28, and 35 are not listed because they do not authorize section 404 regulated discharges and therefore do not require 401 WQCs). DEQ will be the primary responsible party for the enforcement of the water quality certification conditions listed below and may be contacted as follows:

Mississippi Department of Environmental Quality

Office of Pollution Control
Post Office Box 10385
Jackson, Mississippi 39289-0385
Telephone: (601) 961-5171

Nationwide Permits 3, 4, 5, 6, 7, 11, 13, 15, 16, 17, 19, 20, 22, 23, 25, 30, 32, 33, 34, 37, 38, 45, 46, 47, 48, 49, and 50 are authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

3. NWP No. 12, Utility Line Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. MDEQ shall be notified of projects that have associated discharges of cuttings, drilling mud, hydrostatic testing water, or any other waste material.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

4. NWP No. 13, Bank Stabilization, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

5. NWP No. 14, Linear Transportation Crossings, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

a. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.

b. This NWP shall not apply to natural tidal waters for personal transportation.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

6. NWP No. 18, Minor Discharges, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the activity must comply with the following:

(1) The applicant shall provide documentation that the residence or establishment can make a connection to the an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

(2) A no-fill buffer zone shall be permanently maintained between any construction activity and any waterbody. The minimum buffer zone for the subject parcel is defined as 15% of the parcel depth. The parcel depth is defined as the maximum length of a line extending from the Ordinary High Water Mark (OHWM) and/or top bank or High Tide Line (HTL) to the opposite property boundary. In cases of an asymmetrical parcel, the Parcel Depth will be measured as the maximum length of a line extending from OHWM or HTL to the junction of two landward property boundaries. The buffer zone shall be measured as the distance between the edge of the construction activity and the top bank of the adjacent water body or HTL.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

7. NWP No. 21, Surface Coal Mining Operations, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a

completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

8. NWP No. 27, Stream and Wetland Restoration Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For permitting of activities associated with mitigation banking, a Mitigation Banking Instrument approved by the Mitigation Banking Review Team shall be required.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

9. NWP No. 28, Modifications of Existing Marinas, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. This NWP shall only apply to marinas that have an existing operating wastewater pumpout facility with appropriate signage showing its location as well as other appropriate waste disposal information.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

10. NWP No. 29, Residential Developments, is authorized by this certification for a period of five years from its effective date provided the project complies with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the activity must comply with the following:

(1) The applicant shall provide documentation that the residence or establishment can make a connection to the an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

(2) A no-fill buffer zone shall be permanently maintained between any construction activity and any waterbody. The minimum buffer zone for the subject parcel is defined as 15% of the parcel depth. The parcel depth is defined as the maximum length of a line extending from the Ordinary High Water Mark (OHWM) and/or top bank or High Tide Line (HTL) to the opposite property boundary. In cases of an asymmetrical parcel, the Parcel Depth will be measured as the maximum length of a line extending from OHWM or HTL to the junction of two landward property boundaries. The buffer zone shall be measured as the distance between the edge of the construction activity and the top bank of the adjacent water body or HTL.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

11. NWP No. 31, Maintenance of Existing Flood Control Facilities, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

a. Maintenance work shall not exceed the limitation or contours previously authorized by a Department of the Army Permit.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

12. NWP No. 36, Boat Ramps, is authorized by this certification for a period of five years from its effective date provided the project complies with the following conditions:

a. Boat ramp parking areas with impervious surfaces (concrete, asphalt) that have a surface area equal to or greater than one acre shall provide for storm water management. The first 0.5 inch of storm water runoff from impervious parking and road surfaces shall be treated using MDEQ approved best management practices before release. The storm water plan should be submitted upon application for coverage under a NWP and shall be forwarded to MDEQ.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

13. NWP No. 39, Commercial and Institutional Developments, is authorized by this permit for a period of five years from its effective date, provided projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central

sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

14. NWP No. 40, Agricultural Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

b. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

15. NWP No. 41, Reshaping Existing Drainage Ditches, is authorized by this certification for a period of five years from their effective date, provided projects comply with the following conditions:

a. The side slopes of banks and spoil disposal areas shall be 3:1 (horizontal:vertical) or flatter.

b. This NWP shall apply to created ditches only. No impacts to naturalized streams shall be allowed.

c. This NWP shall not authorize the modification of more than 500 linear feet of existing serviceable drainage ditches constructed in non-tidal waters.

d. Buffer zones shall be 25 feet minimum from top of drainage ditch.

e. Spoil disposal area shall be discontinuous and immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.

f. Work shall be conducted from one side of the waterbody only, where possible.

g. Large trees on the work side shall be avoided where possible.

h. Banks shall be immediately seeded and stabilized upon completion of construction.

i. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

j. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

k. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

16. NWP No. 42, Recreational Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For the construction or expansion of golf courses or attendant features, the applicant shall obtain approval or waiver for a Storm Water Quality Management Plan from MDEQ prior to construction.

c. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

d. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

e. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

f. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

g. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

17. NWP No. 43, Storm Water Management Facilities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. This certification shall not authorize in-stream treatment of stormwater.

c. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

d. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303 (d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

e. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

F. REGIONAL CONDITIONS FOR COASTAL ZONE PROGRAM CONSISTENCY

The Mississippi Department of Marine Resources (DMR) found that all Nationwide Permits are consistent to the maximum extent practicable with the Mississippi Coastal Program provided that the following Regional Conditions are incorporated into the final Nationwide Permits within the Coastal Zone of Mississippi, which consists of Hancock, Harrison, and Jackson Counties:

1. For Non-Reporting NWP authorizations, regulated activities in (i) tidal waters and/or (ii) waters of the U.S. having a hydrological connection to tidal waters and located no more than 200 feet landward of the mean high tide mark are not authorized until the applicant has received a Coastal Use Permit (CUP) or waiver from the Mississippi Department of Marine Resources (DMR).
2. For all regulated activities in (i) tidal waters and/or (ii) waters of the U.S. adjacent to tidal waters 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 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-Application-Notification-Form2.pdf>.