



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: July 10, 2023  
Comment Deadline: July 25, 2023

## **Wilmington District's Removal of the Nationwide Permit (NWP)/Regional General Permit (RGP) condition regarding the Northern long-eared bat and use of the Wilmington District's Standard Local Operating Procedure for Endangered Species (SLOPES)**

### **Request for Comments**

The U.S. Fish and Wildlife Service (Service) listed the Northern long-eared bat (NLEB) (*Myotis septentrionalis*) as threatened on April 2, 2015, and on January 14, 2016, the Service finalized a special rule under the authority of Section 4(d) (4(d) rule) of the Endangered Species Act (ESA). To address the listing of the NLEB and the 4(d) rule, the Wilmington District, U.S. Army Corps of Engineers (USACE) and the Service's Asheville and Raleigh Ecological Services Field Offices created an agreement titled, "Standard Local Operating Procedures for Endangered Species Act Compliance for the Northern long-eared bat in North Carolina". This agreement (NLEB SLOPES), signed in January 2017, detailed procedures to ensure that activities regulated under Section 404 of the Clean Water Act (CWA) and/or Section 10 of the Rivers and Harbors Act (RHA) of 1899 in North Carolina were processed in accordance with the requirements of Section 7(a)(2) of the ESA.

On April 1, 2023, the federal listing status of the NLEB changed from threatened to endangered.

**Proposed Permit Condition Modification/Removal:** The Wilmington District would remove Regional Condition #13 from all the current NWPs, scheduled to expire in March of 2026. Regional Condition #13 required permit applicants to use the consultation process of the NLEB SLOPES for projects verified under any of the USACE Nationwide Permits. The Wilmington District would also remove the specific RGP Special Condition that requires permit applicants to use the consultation process of the NLEB SLOPES for projects verified under all current/active Wilmington District RGPs. The proposed removal is necessary because the NLEB SLOPES is no longer valid for Section 7(a)(2) ESA compliance due to the listing status change of the species from threatened to endangered. ESA compliance for this species would follow the standard consultation process. All other Nationwide Permit General and Regional Conditions and all other Regional General Permit Special Conditions remain

valid. The District proposes to update the Nationwide Permit Regional Conditions and Regional General Special Permit Conditions in a manner that would not affect the numbering/lettering or identification of the remaining conditions (i.e., the wording for the NLEB SLOPES condition would be removed and that specific condition number/letter would be reserved).

The Wilmington District is seeking comments on the proposed removal of the condition (from the Nationwide Regional Conditions and Regional General Permit Special Conditions) that required permit applicants to use the consultation process of the NLEB SLOPES to ensure that the adverse environmental effects of activities authorized by the NWPs and RGPs are no more than minimal, individually, and cumulatively. The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed Regional Condition modification/removal, as outlined above, until 5pm, July 25, 2023. Comments should be submitted to Andrew Williams, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, or via email at [Andrew.e.williams2@usace.army.mil](mailto:Andrew.e.williams2@usace.army.mil). The Corps Project Manager can be contacted at (919) 554-4884. Comments may also be submitted to [RaleighNCREG@usace.army.mil](mailto:RaleighNCREG@usace.army.mil).