



Standard Local Operating Procedures for Endangered Species in Louisiana

between

U.S. Army Corps of Engineers, New Orleans District

and

U.S. Fish and Wildlife Service, Louisiana Ecological Services Office

1. BACKGROUND

SLOPES is an acronym for Standard Local Operating Procedures for Endangered Species. The development of SLOPES is supported in the U.S. Fish and Wildlife Service Consultation Handbook (1998) which states “*Although no counterpart regulations have been issued to date, field stations may consider entering into optional procedures that provide better working relationships with other agencies at a local level consistent with 50 CFR §402.*”

2. APPLICABILITY

This operating procedure (SLOPES) shall apply to the U.S. Army Corps of Engineers (USACE), New Orleans District and the U.S. Fish and Wildlife Service, Louisiana Ecological Services Office (Service) for proposed projects that are reviewed under the USACE’s Regulatory Program within the geographic boundary of the New Orleans District (see attached map). Nothing in this procedure shall supersede the terms and conditions of previously-issued Department of the Army (DA) Clean Water Act Section 404/Rivers and Harbors Act Section 10 permits.

3. PURPOSE

The USACE and the Service will use the procedures described in this document to effectively carry out their respective responsibilities under the Endangered Species Act (ESA) and to maintain and promote an efficient permit application review process.



4. GENERAL RESPONSIBILITIES

USACE

Upon deciding that an application will be considered for a permit, the USACE will make an initial determination on potential impacts to federally-listed species using the SLOPES document and/or other information from the Service, the USACE, or scientifically-credible outside sources. The USACE may request project-specific species information from the Service by letter, facsimile, or electronic mail to assess potential project impacts to federally-listed species. The USACE is encouraged to document its rationale for reaching any determination of effect or no effect to listed species or to critical habitat in official USACE files and records.

Service

The Service will respond to any correspondence from the USACE within statutorily-defined or previously agreed-to timeframes. The Service will provide project-specific species and critical habitat information to USACE, if requested. The Service will update any existing SLOPES if changes in listing category occur, species range maps are modified, or changes to critical habitat boundaries occur. The Service will develop additional SLOPES if new species are added to the Federal List of Endangered and Threatened Species. The Service will meet with USACE personnel as needed to assist them in understanding and utilizing this SLOPES document.

The Service recognizes that Department of the Army regulations provide that USACE will accept and process applications for after-the-fact permits in accordance with standard permitting procedures. These SLOPES, however, are not intended to be used in those cases. SLOPES are specifically designed for small, routine actions, so that limited staff time may be spent on more significant actions. As such, after-the-fact permits will be handled on a case by case basis.

5. DETERMINATION OF EFFECTS

The USACE's determination of direct or indirect effects to a federally-listed species as a result of permit issuance will be based on the criteria below and further coordination will be conducted with the Service as indicated herein.

- a. "No effect" to listed species or to designated critical habitat:
 - i. If the species is not registered on the parish list where the project is proposed, then a determination of "no effect" is reasonable and no further coordination with the Service is necessary.
 - ii. If the species is registered on the parish list where the project is proposed, but no suitable habitat is present within the action area, then a determination of "no effect" is reasonable and no further coordination with the Service is necessary.



iii. If designated critical habitat is not present within the proposed action area, then a determination of “no effect” to critical habitat is reasonable and no further coordination with the Service is necessary.

b. “May affect” listed species:

i. If the species is registered on the parish list where the project is proposed, and suitable habitat is present within the action area, then a determination of “may affect” is warranted. The USACE will notify the applicant that work may not proceed until the listed species issue is resolved.

1. Not likely to adversely affect:

This secondary determination is appropriate when the project’s effects are insignificant, discountable, or completely beneficial; and no take is likely. Species protective measures (contained within individual SLOPES keys) will be used by the applicant and will be incorporated into any special conditions of a DA permit. Under such conditions, the Service concurs that a “may affect, not likely to adversely affect” determination is reasonable and no further coordination with the Service is necessary.

2. Likely to adversely affect:

This secondary determination is appropriate if any project-related impacts adversely affect federally-listed species and those adverse impacts cannot be ameliorated through modifying the project design. When USACE makes this determination, the USACE will request initiation of formal Section 7 consultation with the Service and will prepare a biological assessment. Close coordination with Service staff is encouraged during development of the biological assessment. Once the Service receives the request and completed biological assessment, the Service will have up to 135 days to complete its biological opinion.

c. “May affect” designated critical habitat:

i. If critical habitat is present in the parish where the project is proposed, and the project site will affect critical habitat, then either:

1. A determination of “may affect” is warranted. The USACE will notify the applicant that work may not proceed until the designated critical habitat issue is resolved. With this determination the USACE will request initiation of formal Section 7 consultation with the Service and will prepare a biological assessment. Close



coordination with Service staff is encouraged during development of the biological assessment. Once the Service receives the request and completed biological assessment, the Service will have up to 135 days to complete their biological opinion.

Or-

2. If critical habitat protective measures (contained within individual SLOPES keys) will be used by the applicant and will be incorporated into any DA permit special conditions, then in such cases, the Service concurs that a “may affect, not likely to adversely affect” determination is reasonable and no further coordination with the Service is necessary.

6. EFFECTIVE DATE

This procedure is effective upon acceptance by both parties; however, the USACE commitment to use each individual Species Effects Determination Key will be contingent upon acceptance of the key after beta-testing it for 30 days (or longer if requested) after submittal by the Service. This procedure shall remain in effect until terminated. Both parties may amend the procedure by mutual agreement, and either agency may terminate it with a 30-day written notice.

The USACE and Service will review this operating procedure on an annual basis and will consider whether to modify, extend, or revoke the procedure at least every three (3) years. If the procedure is not revoked in writing by either agency, it will be automatically extended.

Date: 10/22/14

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Date: 22 Oct 2014

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