



US Army Corps
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PUBLIC NOTICE

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Omaha District

Nationwide Permits Reissuance Request for Comments

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) published in the Federal Register its proposal to reissue 56 existing nationwide permits (NWP) and issue one new NWP. One NWP is not proposed for reissuance.

NWPs are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWPs require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWPs cause no more than minimal individual and cumulative adverse environmental effects.

National Issues Concerning the Proposed NWPs:

The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2025-0002 at **www.regulations.gov**, or by email to **2026nationwidepermits@usace.army.mil** or by mail to U.S. Army Corps of Engineers, Attn: CECW-CO-R, 441 G Street NW, Washington, DC 20314-1000. Instructions for submitting comments are provided in the June 18, 2025, Federal Register notice. Comments on the proposed NWPs are due by July 18, 2025.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning:

Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are an important mechanism to help ensure that the adverse environmental effects of activities authorized by the NWPs are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWPs may be more than minimal. An enclosure for this public notice (Enclosure 1) lists the proposed regional conditions currently under consideration by the Northwest Division of the U.S Army Corps of Engineers for the Omaha District in Montana. The Omaha District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWPs are no more than minimal, individually and

cumulatively. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the state of Montana. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to Omaha District Regulatory Office in Montana at 100 Neill Avenue, Helena, MT 59601-3329 or at Montana.Reg@usace.army.mil. Please include “**NWP Reissuance Regional Condition Comments**” in the email subject line. Comments relating to regional conditions are due by August 2, 2025. Similar public notices proposing regional conditions in other regions or states are being published concurrently by other division or district offices. After the final NWPs are issued, the final regional conditions will be issued after they are approved by the Division Commander.

401 Water Quality Certification and Coastal Zone Management Act:

States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification (WQC) decisions after reviewing the proposed NWPs. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWPs.

Draft Decision Documents:

Draft decision documents for each of the proposed NWPs, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWPs with the requirements for issuance under the Corps’ general permit authority. These draft decision documents, as well as the proposed NWPs, are available for viewing at www.regulations.gov, docket number COE-2025-0002. Final decision documents will be prepared for the NWPs that are issued.

Enclosed is an index of the proposed NWPs and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWPs through the Corps Home Page at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>, at www.regulations.gov in docket number COE-2025-0002, or at the following Federal Register address:
<https://www.federalregister.gov/documents/2025/06/18/2025-11190/proposal-to-reissue-and-modify-nationwide-permits>.

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Nationwide Permit Definitions

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**2026 Nationwide Permits
Regional Conditions
Omaha District
State of Montana
Proposed**

The following Nationwide Permit (NWP) regional conditions will be used in the State of Montana. The issuance of the 2026 NWPs was announced in the June 18, 2025, issue of the Federal Register (90 FR 26100). Regional conditions are placed on NWPs to ensure projects result in no more than minimal adverse impacts to the aquatic environment and to address local resources concerns.

A. PRECONSTRUCTION NOTIFICATION REQUIREMENTS APPLICABLE TO ALL NWPs

For all NWPs, permittees must notify the Corps in accordance with General Condition 32 Preconstruction Notification (PCN) requirements for regulated activities located within or comprised of the following:

1. Aquatic Resources of Special Concern:

Aquatic resources of special concern are resources that are difficult to replace, unique, and/or have high ecological function. PCN required for any regulated activity located in aquatic resources of special concern that fall into the categories listed below. The District Engineer may authorize activities under NWPs only after determining that the impacts to the following aquatic resources of special concern will be no more than minimal:

- a. **Wetlands classified as peatlands:** For purposes of this condition, peatlands are permanently or seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches) or more thick. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Any peat-covered areas, including fens, bogs, and muskegs, are all peatlands.
 - i. PCN required for NWP 3, 5, 6, 20, 27, 32, 38, and 45.
 - ii. All NWPs not listed above are revoked for use in peatlands.
- b. **Natural Springs:** Within 100 feet of the water source in natural spring areas. For the purpose of this condition, a spring water source is defined as any location where there is flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source of waters. Springs do not include drain tile outlets.
- c. **Specific Waters:** Within the following waters and their impoundments:
 - i. Bitterroot River
 - ii. Clark Fork River
 - iii. East Rosebud Creek
 - iv. Flathead Lake
 - v. Flathead River
 - vi. Kootenai River
 - vii. Milk River
 - viii. Missouri River
 - ix. Yellowstone River



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- d. **Special River Management Zone (SRMZ) of the Upper Yellowstone River:** Within the SRMZ. This area is defined within the Special Area Management Plan (SAMP) as the 48-mile reach of the upper Yellowstone River (River Miles 531.8 to 483.6) from upstream of Emigrant River downstream to a few miles below the Shields River and Mission Creek confluences (0.7 miles downstream from the bridge at the community of Springdale). It includes secondary channels, side channels, and the main (primary) channels, and adjacent wetlands within the channel migration zone (CMZ) or, in absence of a CMZ, within areas flooded by the 100-year discharge. The SRMZ is located entirely within Park County, Montana.
- i. In addition to any NWP revocations, restrictions, and regional conditions listed here, additional revocations, restrictions, and conditions apply within the SRMZ described above.
 - ii. See the current Special Area Management Plan (SAMP) found here:
<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/EA-Upper-Yellowstone-River/>.

2. Tribal Reservations and Tribal Trust Lands:

PCN required for any regulated activity located within Tribal Reservations and Tribal Trust Lands. The following link provides a map showing Tribal Reservations and Tribal Trust Lands:
<https://onemap-bia-geospatial.hub.arcgis.com/apps/718497a94a15450d8d48b51625dc330f/explore>

3. Bank Stabilization Activities (verified under any NWP):

PCN required for any regulated activity that involves bank stabilization impacting an area greater than 3/100 of an acre (1,306.8 square feet) below the Ordinary High-Water Mark or includes features that extend out from the existing bank line greater than 25% of the bankfull channel width.

B. CONSTRUCTION PRACTICES:

1. Suitable Material:

Permittees are reminded of General Condition No. 6 which prohibits use of unsuitable material. A list of materials prohibited or restricted as fill material in waters of the United States can be found at:

<http://www.nwo.usace.army.mil/Media/FactSheets/FactSheetArticleView/tabid/2034/Article/12320/prohibited-restricted-materials.aspx>



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2. Culvert Countersinking:

For all NWP in streams with relatively permanent flow and a stable stream bed, culvert stream crossings shall be installed with the culvert invert set below the natural stream channel flow line. This regional condition does not apply in instances where the lowering of the culvert invert would allow a headcut to migrate upstream of the project into an unaffected stream reach or result in lowering the elevation of the stream reach.

- a. The stream flow line shall be defined as the longitudinal average of the low flow stream channel.
- b. The slope of the culvert should be parallel to the slope of the stream flow line.
- c. Riprap inlet and outlet protection shall be placed to match the height of the culvert invert.

3. Intake Structures:

In USFWS identified Pallid Sturgeon waterways (<http://www.fws.gov/ipac>), any intake structure shall meet the following criteria to protect the pallid sturgeon:

- a. Intake screens with a mesh opening of ¼ inch or less shall be installed, inspected annually, and maintained.
- b. For Johnson intake screens, the maximum width between wires shall not exceed 1/8 inch.
- c. Water velocity at the intake screen shall not exceed ½ foot per second.
- d. Intakes must be located in the deepest water available and be elevated off the bottom of the riverbed or lakebed.

4. Bank and Shoreline Stabilization Activities:

The following additional requirements apply to all bank and shoreline stabilization:

- a. The revetment must conform to the existing bankline, unless such work is determined by the Corps to be biologically or geomorphically beneficial for the system; must not extend above the top of the bank (i.e., no new levees); and the slopes must be flatter than the angle of repose for the selected revetment material (i.e., rock riprap normally needs to be placed on a slope flatter than 1.5 Horizontal to 1 Vertical (1.5H:1V)).
- b. The revetment must not wholly or partially block flows from entering a side channel or an overflow channel.



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5. Soil Erosion and Sediment Control Measures:

- a. Temporary Measures: Temporary controls (e.g., silt fences, netting, mats) must be removed and disposed of once they have served their purpose.
- b. Permanent Measures: Permanent controls used in or near waters of the U.S. must be made of 100% biodegradable, non-plastic materials (such as jute, sisal, or coir). Plastic alternatives (including any degradable or oxo-degradable materials) are not authorized unless the district engineer gives prior approval.
- c. Variances: A variance from these requirements may be requested through a PCN. The district engineer may approve nondegradable materials for permanent use on a case-by-case basis if it is demonstrated that they will not harm fish, wildlife, or public safety.

**6. NWP-3 – Maintenance and NWP-45 – Repair of Uplands Damaged by Discrete Events
Definition of “Discrete Event”:**

The definition of “discrete event,” as used in these permits, includes, but is not limited to, unexpected natural and human-caused events such as fires, storms, landslides, avalanches, earthquakes, accidents, debris or ice jams, and floods. For the purpose of the NWPs, discrete event floods are stream flow events that overflow the OHWM.