



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](http://www.regulations.gov)**, or by email to **[2026nationwidepermits@usace.army.mil](mailto: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 Corps of Engineers for the Omaha District in North Dakota. 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 North Dakota. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to the Omaha District Regulatory Office in North Dakota [CENWO-OD-RND@usace.army.mil](mailto:CENWO-OD-RND@usace.army.mil). 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 NWP is 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 NWP. States will make their Coastal Zone Management Act (CZMA) consistency determination decisions after reviewing the proposed NWP.

Draft Decision Documents:

Draft decision documents for each of the proposed NWP, 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 NWP with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP, are available for viewing at **[www.regulations.gov](http://www.regulations.gov)**, docket number COE-2025-0002. Final decision documents will be prepared for the NWP that are issued.

Enclosed is an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page at **<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>**, at **[www.regulations.gov](http://www.regulations.gov)** in docket number COE-2025-0002, or at the following Federal Register address: <https://www.federalregister.gov/d/2025-11190>.

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Waterbody



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Omaha District

**2026 Nationwide Permits  
Regional Conditions  
Omaha District  
State of North Dakota  
Proposed**

The following Nationwide Permit (NWP) regional conditions will be used in the State of North Dakota. 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:** Occurring in or under the Missouri River, including Lake Sakakawea and Lake Oahe. In addition, a PCN is required for any activity occurring in an offchannel area (e.g. marinas and bays) of any of these waterways.

**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>



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**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>

**2. Culvert Countersinking:**

For all NWPs 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:**

- a. Intake screens with a maximum mesh opening of 1/4-inch must be provided, inspected annually, and maintained. Wire, Johnson-like, screens must have a maximum distance between wires of 1/8-inch. Water velocity at the intake screen shall not exceed 1/2-foot per second.
- b. Pumping plant sound levels will not exceed 75 dB at 50 feet.
- c. Intakes located in Lake Sakakawea, above river mile 1519, and on the Yellowstone River, are subject to the following conditions:
  - i. The intakes shall be floating.
  - ii. At the beginning of the pumping season, the intake shall be placed over water with a minimum depth of 20 feet.
  - iii. If the 20-foot depth is not attainable, then the intake shall be located over the deepest water available.
  - iv. If the water depth falls below six feet, the intake shall be moved to deeper water or the maximum intake velocity shall be limited to 1/4-foot per second.





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- d. Intakes located in Lake Sakakawea, below river mile 1519, and the Missouri River below Garrison Dam are subject to the following conditions:
  - i. The intakes shall be submerged.
  - ii. At the beginning of the pumping season, the intake will be placed at least 20 vertical feet below the existing water level.
  - iii. The intake shall be elevated 2 to 4 feet off the bottom of the river or reservoir bed.
  - iv. If the 20-foot depth is not attainable, then the intake velocity shall be limited to 1/4-foot per second with intake placed at the maximum practicable attainable depth.
- e. Intakes and associated utility lines that are proposed to cross sandbars in areas designated as piping plover critical habitat are prohibited.
- f. Any temporary open trench associated with utility lines are to be closed within 30 days of excavation. This time limit may be extended by notifying the North Dakota Regulatory Office and receiving a written response that the extension is acceptable.

**4. Boat Docks:**

To ensure that the work or structure shall not cause unreasonable obstruction to the free navigation of the navigable waters, the following conditions are required:

- a. No boat dock shall be located on a sandbar or barren sand feature. The farthest point riverward of a dock shall not exceed a total length of 30 feet from the Ordinary High Water Mark. Information Note: Issuance of this permit does not supersede authorization required by the North Dakota State Engineer's Office.
- b. Any boat dock shall be anchored to the top of the high bank.
- c. Any boat dock located within an excavated bay or marina that is off the main river channel may be anchored to the bay or marina bottom with spuds.
- d. Section 10 Waters located in the State of North Dakota are:
  - i. Bois de Sioux River
  - ii. James River
  - iii. Missouri River
  - iv. Red River of the North
  - v. Upper Des Lacs Lake
  - vi. Yellowstone River