



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

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, publication of the Federal Register (90 FR 26100); the final action was published in the Federal Register (91 FR 768) on January 8, 2026. 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 functions. 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	vi. Kootenai River
ii. Clark Fork River	vii. Milk River
iii. East Rosebud Creek	viii. Missouri River
iv. Flathead Lake	ix. Yellowstone River
v. Flathead 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 SMRZ 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) of streambed 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 within the Omaha District can be found at: <http://www.nwo.usace.army.mil/Media/FactSheets/FactSheetArticleView/tabid/2034/Article/12320/prohibited-restricted-materials.aspx>



2. Revegetation of Disturbed Areas:

All jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial, native grasses and forbs and maintained in this condition. Seed mixes shall not include invasive or noxious species. The following link provides information and resources on invasive species: <https://www.invasivespeciesinfo.gov/us>

3. Culvert Countersinking:

For all NWP in streams with relatively permanent flow and a stable stream bed, culvert stream crossings shall be installed with the bottom of the culvert set below the natural stream channel flow line. This regional condition does not apply in instances where the lowering of the bottom of the culvert 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's flow line (or the main path of the water) will be determined by calculating the average elevation along the streambed during periods when the stream is at its lowest flow levels.
- 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 bottom of the culvert.

4. 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.

5. Bank Stabilization Activities:

The following additional requirements apply to all bank stabilization activities:

- a. The revetment must conform to the existing bank, 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.



6. Soil Erosion and Sediment Control Measures:

A PCN is required for any regulated activity seeking a waiver of the conditions pertaining to soil erosion and sediment control measures identified in item “c” below.

- 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. Waivers: A waiver 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.

7. 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.