



US Army Corps  
of Engineers  
Omaha District

**2017 Nationwide Permits  
Regional Conditions  
Omaha District  
State of Montana**

1. **PCN Requirement.** For all NWP, permittees must notify the Corps in accordance with General Condition No. 32 (PCN) for regulated activities, located within or comprised of the following:
  - a. Wetlands Classified as Peatlands. Peatlands are seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches) or more thick. Any peatcovered areas, including fens, bogs, and muskegs, are all peatlands. i. PCN required for NWP 3, 5, 6, 20, 27, 32, and 38.
    - ii. All NWPs not listed above are revoked for use in peatlands.
  - b. Waters Adjacent to Natural Springs. Any projects located within 100 feet of the water source in natural spring areas. A spring is defined as any location where there is groundwater flow emanating from a distinct point. Springs do not include seeps or other groundwater discharge areas where there is no distinct point source.
  - c. Bank Stabilization Activities. Any project that involves bank stabilization greater than 300 linear feet or includes features that extend out from the existing bank line greater than 25% of the bankfull channel width.
  - d. Channel Straightening and Relocation Activities. Any project that involves straightening, relocating and/or shortening an existing perennial stream channel.
  - e. Tribal Reservations and Tribal Trust Lands. Any projects within the boundaries of any Tribal Reservation or Tribal trust lands.
  - f. Specific Waterways Requiring PCN. Any projects within the following waterways and their impoundments:

-Bitterroot River	-Flathead Lake
-Clark Fork River (tributary to the Columbia River)	-Milk River
-Flathead River	-Missouri River
	-Yellowstone River
2. **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; 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.

3. **Counter-Sinking Riprap Associated with Culvert Installation.** When riprap inlet and outlet protection is used below the OHWM (OHWM), it must be placed to match the adjacent culvert bottom elevations. Where culvert bottom elevations are lower than the stream bed elevation, the riprap must match the culvert elevation.
4. **Placement and Removal of Temporary Fills.** Temporary fills in wetlands must be placed on a horizontal marker layer, such as fabric or certified weed-free straw, to delineate the pre-project ground elevation and facilitate complete fill removal and site restoration.
5. **Erosion and Sediment Control Blanket.** All erosion control blanket or fabric used in or adjacent to waters of the U.S. must be comprised of degradable material to ensure decomposition. Do not use material that includes stabilized netting or stabilized open mesh, as these products take a long time to degrade and they can trap small animals, birds, amphibians and fish. This prohibition also applies to mesh materials used for wattles, rolled materials, and bank wraps. Erosion control blanket or fabrics that break down within 24 months are acceptable. Nondegradable blankets or fabric may be allowed on a case-specific basis if it will be buried beneath riprap or structures and it is not likely to be exposed. Non-degradable blanket or fabric that becomes exposed within waters of the U.S. must be removed.
6. **Suitable Material.** NWP General Condition No. 6 prohibits the use of unsuitable material. Specific criteria can be found in the Omaha District’s “Generic Prohibitions Regarding the Use of Certain Materials as Fill in Waters of the United States” and MT Department of Environmental Quality’s (DEQ) “Specifications for use of Concrete Riprap for Streambank Stabilization,” which apply to proposed work in jurisdictional waters.

#### **REGIONAL CONDITIONS APPLICABLE TO SPECIFIC NATIONWIDE PERMITS**

7. **NWP-3 – Maintenance and NWP-45 – Repair of Uplands Damaged by Discrete Events.** 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.
8. **NWP-7 – Outfall Structures and Associated Intake Structures and NWP-12 – Utility Line Activities.** Inlet screens for intakes in the Yellowstone River or the Missouri River in Blaine, Chouteau, Custer, Dawson, Fergus, Garfield, McCone, Petroleum, Phillips, Prairie, Richland, Roosevelt, Valley and Wibaux Counties must be installed on all pump intakes with a screen mesh opening size no larger than 0.25 inch. Water intake velocities must not exceed 0.5 foot per second through the mesh. Intakes must be located in the deepest water available and be elevated off the bottom of the river bed.

#### **REGIONAL CONDITIONS APPLICABLE ONLY TO THE SPECIAL RIVER MANAGEMENT ZONE OF THE UPPER YELLOWSTONE RIVER**

**Special River Management Zone (SRMZ) of the Upper Yellowstone River** 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.

In addition to Regional Conditions 1 through 8, the following Regional Conditions 9 through 24 apply within the SRMZ described above:

9. **SRMZ – Notification – All NWPs.** Permittees must notify the Corps in accordance with General Condition No. 32 (PCN) for any regulated activity in waters of the U.S. within the SRMZ. This includes all activities within the Yellowstone River, the portions of tributaries within the SRMZ, and wetlands within the SRMZ.
  10. **SRMZ – Emergency Work.** Activities requiring a Department of the Army (DA) Permit that is necessary to prevent imminent loss of life or property is allowed within the SRMZ. Contact the Corps as soon as reasonably possible by telephone at 406-441-1375 and/or by Fax at 406-4411380. Contact may also be made in person or by sending an e-mail to: CENWO.ODRMT@usace.army.mil. All such work will be fully reviewed under the SAMP provisions.
  11. **SRMZ - NWPs Revoked for Use.** The following NWP
- activities within the 48-mile SRMZ:
- NWP 17 - Hydropower Projects
  - NWP 21 - Surface Coal Mining Activities
  - NWP 29 - Residential Developments
  - NWP 39 - Commercial and Institutional Developments
  - NWP 42 - Recreational Facilities
  - NWP 43 - Stormwater Management Facilities
  - NWP 44 - Mining Activities
  - NWP 45 - Repair of Uplands Damaged by Discrete Events
  - NWP 49 - Coal Remining Activities
  - NWP 50 - Underground Coal Mining Activities
12. **SRMZ – Activities Requiring Individual Permit Review.** The following project activities are not authorized under a NWP in the SRMZ. These projects typically have more than minimal adverse impacts and must be reviewed under standard (individual) permit procedures.
    - a. New dams, new diversions, and/or new impoundments for any purpose;
    - b. Construction of ponds and new artificial stream channels, unless they are necessary and appropriate elements of a stream or wetland restoration project;
    - c. Hydraulic dredging and mining and mechanical excavation to obtain aggregate, fill material, or minerals, including gold. Processing of material for the purpose of obtaining select minerals or a specific gradation of material, where only a portion of the sediment or alluvium is removed and the remainder returned to the SRMZ, is not allowed under a NWP in the SRMZ.

13. **SRMZ - Bank Stabilization Activities - All NWP**s. For bank stabilization activities associated with any NWP, including maintenance of bank stabilization, the following Regional Conditions apply:

For bank revetments such as riprap, root wads, bioengineered revetments, or combination revetments, a. through e. apply:

- a. Revetments must conform to the existing eroded or eroding bankline, unless such work is determined by the Corps to be biologically or geomorphically beneficial for the upper Yellowstone River.
- b. Revetment slopes must be flatter than the angle of repose for the selected revetment material. For example, rock riprap normally needs to be placed on a slope flatter than 1.5H:1V.
- c. Revetments are only permissible under NWPs if they are parallel to and near the lateral boundaries of the SRMZ.
- d. Revetments must not extend above the elevation of the adjacent natural bank height (i.e., no new levees).
- e. Revetments must not wholly or partially block flows from entering a side channel, secondary channel, or an overflow channel, unless such work is determined by the Corps to be necessary for maintaining or restoring the geomorphic integrity of the upper Yellowstone River.

For bank stabilization structures that project into the stream, such as weirs, barbs, vanes, or hard points, f. through k. apply:

- f. Bank stabilization structures must not wholly or partially block flows from entering a side channel, secondary channel, or an overflow channel, unless such work is determined by the Corps to be necessary for maintaining or restoring the geomorphic integrity of the upper Yellowstone River.
- g. Bank stabilization structures are only permissible under NWPs if they result in an effective bankline that is approximately parallel to and near the lateral boundaries of the CMZ.
- h. Bank stabilization structures must be keyed into the bank far enough to prevent flanking.
- i. Bank stabilization structures cannot occupy more than 10% of the bankfull channel area. Bankfull channel area pertains to the specific primary or secondary channel in question, and is not the aggregate channel area of all primary and secondary channels in multi-channel reaches.
- j. Bank stabilization structures must not present hazardous obstructions to boating, floating, or other river uses.
- k. Bank stabilization structures that are low in elevation, project only a short distance out from the bank, and angle upstream are more likely to qualify for NWPs because they typically result in less adverse impact on aquatic resources than structures that are tall, long, and point downstream.

14. **SRMZ – Temporary Bank Stabilization – All NWPs**. Temporary bank stabilization is prohibited during seasonal high flows.

15. **SRMZ – Sediment Management – All NWPs**. Sediment removal is allowable only to maintain function of existing facilities and structures, or as necessary to maintain or restore the geomorphic integrity of the upper Yellowstone River. Diversion or removal of sediment or alluvium from the river channel and adjacent wetlands for other purposes is not allowed in the SRMZ under any NWP.

16. **SRMZ – Temporary Vegetation Impacts – All NWPs.** Limit clearing of riparian or wetland vegetation to the absolute minimum necessary. Where temporary riparian or wetland vegetation impacts are unavoidable, mow or cut off the vegetation above the ground, leaving the topsoil and root mass intact. Restore temporarily disturbed areas to original contours and use seeding and planting as necessary to re-establish desirable vegetative cover, utilizing native species in areas where native species were impacted.
17. **SRMZ – NWP-11 – Temporary Recreational Structures.** Temporary recreational structures can be installed no earlier than seven (7) calendar days in advance of an event and must be removed no later than seven (7) calendar days after the event concludes.
18. **SRMZ – NWP-12 – Utility Line Activities.** Trench excavation and backfill for utility lines is prohibited within the OHWM of main and secondary flow channels and in adjacent wetlands.
19. **SRMZ – NWP-13 – Bank Stabilization.** Construction of temporary or permanent levees is prohibited. Only bank stabilization that is parallel to and adjacent to the valley wall and/or SRMZ boundary is allowed. All other bank stabilization must be reviewed under standard (individual) permit procedures. Bank stabilization along existing roads, ditches, fills, and structures already located along the valley wall is allowed under this Permit.
20. **SRMZ – NWP-14 – Linear Transportation Projects.** The construction of new transportation facilities in waters of the U.S. is prohibited under this NWP and must be reviewed under standard (individual) permit procedures. The expansion, modification, improvement, replacement, reconstruction, and upgrading of existing transportation facilities are allowed under this NWP within the SRMZ.
21. **SRMZ – NWP- 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities.** The construction of water control structures, dikes, berms, current deflectors, bank stabilization, and ponds is prohibited within the CMZ of the upper Yellowstone River unless it is demonstrated the proposed features contribute to the restoration or rehabilitation of previously lost or impaired functions of the upper Yellowstone River and adjacent aquatic areas.
22. **SRMZ – NWP-30 – Moist Soil Management for Wildlife.** Fire breaks within the CMZ of the upper Yellowstone River must be reclaimed and restored within six (6) months after the fire event ends.
23. **SRMZ – NWP-33 – Temporary Construction, Access, and Dewatering.** Construction of temporary levees and other structures or fills in waters of the U.S. that prevent or reduce overbank flow is prohibited.
24. **SRMZ – NWP 40 – Agricultural Activities.** Only those activities associated with the reduction of existing adverse impacts on the upper Yellowstone River may be authorized by this NWP. Examples of potentially allowable projects include work associated with livestock management; moving livestock watering areas off the river or out of the CMZ; removal of irrigation systems from the CMZ; and the removal or conversion of irrigation systems from flood irrigation to sprinkler irrigation.