US Army Corps of Engineers

2017 Nationwide Permits
Regional Conditions
Walla Walla Regulatory Division (State of Idaho)

March 19, 2017

The following Nationwide Permit (NWP) regional conditions will be used in the state of Idaho. 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. This document also includes regional additions to the NWP General Conditions, notification procedures pertaining to certain NWP's, and regional additions to the definitions.

REGIONAL CONDITIONS

A. Watersheds Requiring Pre-Construction Notification, Specific to Anadromous Fish.
This Regional Condition applies to NWPs 1, 3, 4, 7, 12, 13, 14, 17, 27, 28, 29, 31, 33, 35, 36, 39, 40, 43, 44, 46, 48, 51, 52, and 53.

- Pre-construction notification (PCN) will be required for the above listed nationwide permits in the geographic area as shown on Figure 1: *Watersheds Requiring Pre-Construction Notification*, dated March 19, 2017.

B. Vegetation Protection/ Restoration and Soil Stabilization.
This Regional Condition applies to NWPs 3, 4, 5, 6, 7, 12, 13, 14, 16, 17, 18, 19, 20, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, and 53.

- Permittee shall avoid and minimize the removal of native vegetation in riparian and wetland areas to the maximum extent practicable. Areas subject to temporary vegetation removal in riparian and wetland areas during construction shall be replanted with appropriate native species by the end of the first growing season following the disturbance except as waived by the District Engineer.

- Permittee shall use suitable material to stabilize engineered fills associated with the installation of culverts and other bridge structures. Refer to Nationwide Permit General Condition 6 (suitable material). Permittee shall use appropriate erosion and sediment control measures to ensure stability in and around instream structures.

C. Temporary Construction, Access and Dewatering.

1. De-watering:

Discharges for temporary cofferdams and de-watering structures under NWPs 3, 12, 13, 14, 29, 33, and 39 shall comply with the following conditions:

- Cofferdams shall be constructed of non-erosive material such as concrete jersey barriers, sand or gravel filled bags, water bladders, sheet pile, and other similar non-erosive devices. Cofferdams may not be constructed by using mechanized equipment to push streambed material through flowing water.

- Diversion channels constructed to bypass flow around the construction site shall be lined with plastic, large rock, or otherwise protected from erosion prior to releasing flows into or through the diversion channel.

- Water removed from within the coffered area shall be pumped to a sediment basin or otherwise treated to remove suspended sediments prior to its return to the waterway.

- Water pipe intakes shall be screened (openings <3/32 inch) to prevent entrainment of fish trapped in the coffered area.

- Fish trapped within the coffered areas shall be collected by electrofishing, seining or dip net and returned to the waterway upstream of the project area. If electrofishing is used, the National Marine Fisheries Service (NMFS) guidelines for electrofishing should be followed[1].

- Temporary stockpiles in waters of the United States shall be removed in their entirety so as not to form a berm or levee parallel to the stream that could confine flows or restrict overbank flow to the floodplain.

2. Re-watering:
For stream channels which have been dewatered during project construction:

- Stream channels will be re-watered slowly to minimize a sudden increase in turbidity.

D. Waiver Requirement.
This Regional Conditions applies to NWPs 13, 29, 36, 39, 40, 42, 43, 44, 51, and 52.

- The applicant must request the waiver in writing and provide documentation and environmentally based reasons to support the waiver request.

REGIONAL CONDITIONS FOR SPECIFIC NATIONWIDE PERMITS

NWP 6-Survey Activities

- Exploratory trenching activities require notification in accordance with Nationwide Permit General Condition 32 (Pre-Construction Notification).

- When exploratory trenching is performed in flowing water, the trenching shall be separated from the flowing water by cofferdams or similar devices and must allow upstream and downstream fish passage, unless the District Engineer waives this requirement in writing. See Regional Condition (C) De-watering for cofferdam construction.

- Materials from exploratory trenching may be temporarily side cast into the de-watered coffered area for up to 30 days but not within flowing waters. Material from exploratory trenching in wetlands may be temporarily side cast into emergent and scrub-shrub

[1] Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (June 2000) http://www.westcoast fisheries.noaa.gov/publications/reference_documents/esa_refs/section4d/electro2000.pdf

wetlands for up to 30 days. Material from exploratory trenching in forested wetlands may be temporarily side cast up to 30 days with written approval from the District Engineer.

- The area in which the exploratory trench is dug must be restored to its pre-construction elevation upon completion of the work and must not drain a water of the United States (See NWP 6 and Regional Condition B).

- If sampling is for determination of suitability of sediments for open water disposal or for use as fill, survey protocol must comply with the Sediment Evaluation Framework for the Pacific Northwest (SEF)[2].

NWP 12-Utility Line Activities

- Side casting of excavated trench material is not authorized into flowing waters. The temporary side casting of excavated trench material may be side cast into de-watered coffered areas, and emergent and shrub-scrub wetlands for up to 30 days. Excavated material from trenching in forested wetlands may be temporarily side cast for up to 30 days with written approval from the District Engineer.

- The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody (See NWP 12 and Regional Condition B).

NWP 13-Bank Stabilization

- In accordance with NWP 13(g) native plants appropriate for the current site conditions, including salinity, shall be used for bioengineering or vegetative bank stabilization projects unless the permittee demonstrates in writing the use of native plants is not practicable.

- PCN notification in accordance with General Condition 32 is required for all activities involving gabion baskets placed below the ordinary high water mark.

- Erosion control blanket or fabric used in or adjacent to waters of the United States shall be comprised of bio-degradable material to ensure decomposition. Non-bio-degradable fabric may be allowed on a case by case basis if it will be buried beneath riprap or structures and is not likely to be exposed.

- Non-biodegradable materials such as chicken or hog wire or plastic netting that may entrap wildlife or pose a safety concern is not authorized.

- Rock barbs, rock J-hooks or similar structures when used shall be site specifically designed by an experienced professional[3].

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[2] Northwest Regional Sediment Evaluation Team (RSET) 2016. Sediment Evaluation Framework for the Pacific Northwest. Prepared by the RSET Agencies, July 2016, 160 pp plus appendices. http://nwd.usace.army.mil/Missions/Civil-Works/Navigation/RSET/SEF

[3] For information on rock bank barb design can be obtained at: http://adminrules.idaho.gov/rukes/2011/37/0307.pdf.

NWP 14-Linear Transportation Projects

- Refer to General Condition 32(b) 1-10 for additional required information[4].
- Stream simulation techniques shall be employed on streams where ESA listed fish are present[5].
- The streambed shall be returned to pre-construction contours after construction unless the purpose of the activity is to eliminate a fish barrier and restore the natural substrate and contour.

NWP 23-Approved Categorical Exclusions

- PCN notification is required for all activities proposed for verification under NWP 23.
- Refer to General Condition 32 for additional information requirements. See footnote 4.
- Notification must identify the approved categorical exclusion that applies and document how the project complies with the categorical exclusion.

NWP 27-Aquatic Habitat Restoration, Establishment and Enhancement Activities

- For projects which involve construction of stream meanders, riffle and pool complexes or pool stream structures, provide written documentation that the project/structures have been designed by an appropriate professional with experience in hydrology or fluvial geomorphology.
- In addition to information required under General Condition 32 (See footnote 4), notification shall also include the following:
    - A planting plan that uses native riparian vegetation, root wads or other bio-engineering bank stabilization unless the permittee provides written documentation that this is not practicable.
    - A written statement of how the project is designed to avoid and minimize impacts to the aquatic environment.
- Rock barbs, rock J-hooks or similar structures when used shall be site specifically designed by an experienced professional. See footnote 3.

NWP 29-Residential Developments

- In addition to information required under General Condition 32 (b), the applicant shall include a copy of the current plat map and information about previous discharges of fill material into waters of the United States within the project area.
- Discharges of dredged or fill material into a lake or stream to meet local government set back requirements are not authorized under this NWP.

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[4] 2017 Nationwide Permit General Condition 32(b) Contents of Pre-Construction Notification (1 through 10) page 2003.

[5] Stream simulation design criteria is available at the U.S. Forest Service website at: http://www.stream.fs.fed.us/fishxing/aop_pdfs.html.

NWP 39-Commerical and Institutional Developments

- In addition to information required under General Condition 32 (b), the applicant shall include a copy of the current plat map and information about previous discharges of fill material into waters of the United States within the project area.

- Discharges of dredged or fill material into a lake or stream to meet local government set back requirements are not authorized under this NWP.

NWP 45-Repair of Uplands Damaged by Discrete Events

- For bank protection/stabilization, no material shall be placed in excess of the minimum needed for erosion protection.

- Armoring restored banks shall not exceed 500 linear feet, unless the District Engineer determines in writing that the discharge will not result in more than minimal adverse effects.

- Native riparian vegetation shall be planted along the restored bank, unless the District Engineer determines that planting native vegetation is not practicable.

GENERAL CONDITIONS (REGIONAL ADDITIONS)

General Condition 4. Migratory Bird Breeding Areas[6].

General Condition 9. Management of Water Flows[7].

General Condition 12. Soil Erosion and Sediment Controls[8].

General Condition 18. Endangered Species[9].

General Condition 20. Historic Properties[10].

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[6] For additional information contact the US Fish and Wildlife Service (Boise Office 208-387-5243); North Idaho field office (Spokane) at 509-891-6839 or the eastern Idaho field office (Chubbuck) at 208-237-6975. See Figure 2.

[7] To obtain information on State of Idaho definition of high water refer to Idaho Department of Water Resources (IDAPA 37.03.07. Rule 62.03.04.a). For culverts or bridges located in a community qualifying for the national flood insurance program, the minimum size culvert shall accommodate the 100-year flood design flow frequency (IDAPA 37.03.07. Rule 62.03.04.c).

[8] For additional information refer to the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices for Idaho Cities and Counties. Website: http://www.deq.idaho.gov/media/494058-entire.pdf.

[9] For additional information on ESA listed species in north Idaho contact the US Fish and Wildlife Service (USFWS) at 509-893-8009 (Spokane Office), for all other counties in Idaho contact the Boise Office USFWS at 208-378-5388.

[10] For additional information on the potential for cultural resources in proximity to the project site, contact the Idaho State Historic Preservation Office at 208-334-3847 located in Boise, Idaho.

NOTIFICATION PROCEDURES PERTAINING TO CERTAIN NATIONWIDE PERMITS

Waivers: For the following nationwide permits, District coordination with Idaho Department of Environmental Quality (IDEQ) and Environmental Protection Agency (tribal lands) will be conducted prior to the District Engineer making a waiver determination to ensure the proposed activity is in compliance with Section 401 Water Quality Standards (13, 29, 36, 39, 40, 42, 43, 44 , 51, and 52).

Select Waters and Wetlands: The Corps will coordinate with the Idaho Department of Fish and Game (IDFG) for activities in the following waters, watersheds and wetlands that require notification and are authorized by NWPs 3, 6, 7, 12, 13, 14, 17, 18, 22, 23, 27, 29, 31, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, and 53:

- Waters: Henry's Fork of the Snake River and its tributaries; South Fork Snake River and its tributaries; Big Lost River upstream of the US 93 crossing south of Leslie; East Fork Big Lost River; Boise River upstream of Arrow Rock Reservoir; Salmon River and its tributaries, St. Joe River; Priest River; Big Wood River.

- River Basins and Watersheds: Beaver-Camas Creeks and Mud Lake Basin; Medicine Lodge Creek and Crooked Creek; Kootenai River; Middle and South Fork Clearwater River.

- The following HUC 12 sub-watersheds:
    - Big Sand Creek-Palouse River (170601080102); Rock Creek-Palouse River (170601080110); Upper Lolo Creek (170603060201); Musselshell Creek (170603060202); Eldorado Creek (170603060203); Middle Lolo Creek (170603060204); Lower Lolo Creek (170603060205); East Fork Potlatch River (170603060801); West Fork Potlatch River-Potlatch River(170603060802); and Hog Meadow Creek-Potlatch River (17060306902).

- Wetlands identified in Idaho Department of Fish and Game, Wetland Conservation Strategy as Class I, Class II and Reference Habitat Sites[11].

- Wetlands identified in the Idaho Wetland Conservation Prioritization Plan-2012[12].

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[11] Idaho Department of Fish and Game (IDFG) Wetland Conservation Strategies have been developed for the Henrys Fork Basin, Northern Idaho, Big Wood River, Southeast Idaho, East-Central Idaho and Spokane River Basin, Middle and Western Snake River and tributaries, and the Upper Snake River–Portneuf Drainage, Weiser River Basin, and West Central Mountain Valleys and adjacent wetlands. Closed basins of Beaver-Camas Creeks, Medicine Lodge Creek, Palouse River and lower Clearwater River sub-basins, Middle Fork and South Fork Clearwater Basins and Camas Prairie in northern Idaho. Refer to the internet site at: http://fishandgame.idaho.gov/content/page/wetlands-publications-idaho-natural-heritage-program#reports

[12] Murphy, C., J. Miller and A. Schmidt. 2012. https://parksandrecreation.idaho.gov/sites/default/files/uploads/documents/SCORTP/Update/Apdx%20.%20Wetlands%Priority%Plan%20(Part %20I)%Compressed1.pdf

NWP 27-Aquatic Habitat Restoration, Establishment, and Enhancement Activities

Prior to verification, the Corps will coordinate the project with the Idaho Department of Fish and Game for activities in perennial, fish bearing streams.

DEFINITIONS (REGIONAL ADDITIONS)

Alkaline Wetlands: wetlands on alkaline and or saline soils found where evaporation far exceeds precipitation; sites range from sloped seeps and springs (most common) to drainages or pond and playa margins; flooding and saturation varies, but high groundwater is typical and vegetation is salt tolerant.

REFERENCE*: Cowardin, L. M., Carter, F.C Golet, and E.T. LaRoe. 1979 Classification of wetlands and deepwater habitats of the United States. U.S. Fish and Wildlife Service. FWS/OBS-79/31. Washington, DC*

Forested Wetlands: Wetlands characterized by woody vegetation that is 6 meters tall or taller; They are located where moisture is relatively abundant, particularly along rivers and in the mountains and normally possess an overstory of trees and an understory of young trees or shrubs and an herbaceous layer.

REFERENCE: *Classification of Wetlands and Deepwater Habitats of the United States, Mr. Lewis M. Cowardin; Office of Biological Services; Fish & Wildlife Services; 1979*

Invasive Species: Species of plants not native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

REFERENCE: *Executive Order No. 13112; U.S. Department of Agriculture National Invasive Species Information Center*

Kettle: A steep sided, usually basin or bowl shaped hole or depression, commonly without surface drainage, in glacial drift deposits, often containing a lake or swamp.

REFERENCE: *Bates, Robert L. & Jackson, Julia A.; Glossary of Geology, American Geological Institute; Falls Church; 1980*

Native Species: Species that occurs naturally in a particular region, state, ecosystem and habitat without direct or indirect human actions.

REFERENCE: *Federal Native Plant Conservation Committee; 1994*

Peatland: Wetlands in cold and persistently saturated settings with at least 30 cm of peat accumulation: fen peatlands form on slopes with groundwater discharge and on floating anchored mats in kettle ponds, subalpine lakes or valley lakeshores; as peat accumulates, ridges or mounds may form; they often support specially adapted mosses and plants.

REFERENCE: Bursik, R.J. and Moseley, R.K.; Ecosystem Conservation Strategy for Idaho Panhandle Peatlands; Cooperative project between Idaho Panhandle National Forest and Idaho Department of Fish & Game; Conservation Data Center; Boise 28 pp plus Appendix; 1995

***Playas*:** Shallow, unpredictably, and temporarily flooded precipitation filled pools formed on hardpan soils with a clay or cemented layer, or on shallow soils over bedrock; vegetation is typically sparse and often salt tolerant, but playas may support endemic plants and invertebrates.

REFERENCE*: Tiner, R.W., H.C. Bergquist, G.P. DeAlessio, and M. J. Starr. 2002. Geographically Isolated Wetlands: A Preliminary Assessment of their Characteristics and Status in Select Areas of the United States. U.S. Department of the Interior, Fish and Wildlife Service, Northeast Region, Hadley, MA.*

Spring-fed Wetlands: Wetlands supported by surface discharge of groundwater, often occurring on gentle to steep slopes, but also including upwellings in flat basins.

REFERENCE: Sada, D.W., Williams, J.E., Silvey, J.C., Halford, A., Ramakka, J., Summers, P., Lewis, L. 2001 Riparian area management. A guide to managing, restoring, and conserving springs in the western United States. Technical Reference 1737-17. Denver, CO: Bureau of Land Management. BLM/ST/ST-01/001+1737.

Vernal Pools: Precipitation-filled seasonal wetlands inundated during periods when temperature is sufficient for plant growth, followed by a brief waterlogged-terrestrial stage and culminating in extreme desiccating soil conditions of extended duration.

REFERENCE: *Keely, J.E. & Zedler, P.H.; Characterization and Global Distribution of Vernal Pools; Pp 1-14 in* C.W. Witham, E.T. Bauder, D. Belk, W.R. Ferren Jr., and R. Ornduff (Editors); Ecology, Conservation, and Management of Vernal Pool Ecosystems (Proceedings from Conference, 1996); California Native Plant Society, Sacramento, CA; 1998.