



US Army Corps
of Engineers®
Portland District

U.S. Army Corps of Engineers, Portland District Regional Conditions and Definitions for the 2026 Nationwide Permits

Effective Date: March 15, 2026

-
- A. Portland District Regional Conditions
 - B. Portland District Nationwide Permit-Specific Regional Conditions
 - C. Portland District Regional Conditions Definitions
-

An activity is authorized under a Nationwide Permit (NWP) only if the permittee satisfies all of the NWP's terms and conditions, which include the NWP regional conditions, any NWP-specific regional conditions, and any special conditions added by the district engineer. The U.S. Army Corps of Engineers (Corps), Portland District has added the following NWP regional conditions, NWP-specific regional conditions, and regional conditions definitions for activities authorized by NWP in Oregon.

A. Portland District Regional Conditions

1. *Notification*: For permittees that received written NWP verification, upon starting the authorized activities, you shall notify the Corps, Portland District, Regulatory Branch that the work has started. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include the Corps project number and the name of the county where the project is located.

2. *Aquatic Resources of Special Concern*: Pre-construction notification to the district engineer is required for all activities proposed in waters of the United States within, or directly affecting, an aquatic resource of special concern. Aquatic resources of special concern are resources that are difficult to replace, unique, and/or have high ecological function. For the purpose of this regional condition, aquatic resources of special concern are native eel grass (*Zostera marina*) beds, mature forested wetlands, bogs, fens, vernal pools, alkali wetlands, wetlands in dunal systems along the Oregon coast, estuarine wetlands, Willamette Valley wet prairie wetlands, kelp beds, and rocky substrate in tidal waters.

In addition to the content requirements of NWP General Condition 32, the pre-construction notification must include a statement explaining why the effects of the proposed activity are no more than minimal. Written approval from the district engineer must be obtained prior to commencing work.

3. *Cultural Resources and Human Burials-Inadvertent Discovery Plan*: Permittees that discover any previously unknown historic, cultural or archeological remains, artifacts, or burial sites while accomplishing the activity authorized by an NWP shall implement the procedures in the *Inadvertent Discovery Plan* available on the Portland District Regulatory website (<https://www.nwp.usace.army.mil/Missions/Regulatory/Apply/>).

Also see NWP General Condition 20. Notify the Portland district engineer as soon as possible following discovery but in no case later than 24 hours. Notification may be sent electronically (cenwp.notify@usace.army.mil) and shall identify the Corps project number and clearly specify the purpose is to report an inadvertent discovery. The permittee shall also notify the Corps representative (by email and telephone) identified in the NWP verification letter.

4. *Essential Fish Habitat*: Activities which may adversely affect essential fish habitat, as defined under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), are not authorized by NWP until essential fish habitat requirements have been met by the applicant and the Corps. Non-federal permittees must submit a pre-construction notification to the district engineer if essential fish habitat may be affected by, or is in the vicinity of, a proposed activity and shall not begin work until notified by the district engineer in writing that the requirements of the essential fish habitat provisions of the MSA have been satisfied and the activity is authorized. The notification must identify the type(s) of essential fish habitat (e.g., Pacific coast salmon, Pacific coast groundfish, and/or Coastal-pelagic species) managed by a Fishery Management Plan that may be affected. Information about essential fish habitat is available on NOAA Fisheries' website (<http://www.westcoast.fisheries.noaa.gov/>).

5. *Bank Stabilization*: Permittee shall include the use of nature-based solutions and natural materials in the project design to the maximum extent practicable and shall minimize the use of rock. Nature-based solutions for bank stabilization include those that increase the strength and structure of soils with a combination of biological and mechanical elements (e.g., vegetation, root wads and woody debris, rock structures). Riparian plantings shall be included in all project designs unless the permittee can demonstrate that such plantings are not practicable.

6. *Work Area Isolation and Dewatering*: Appropriate practices shall be implemented to prevent erosion and to prevent sediments from entering waters of the United States.

- a. All in-water work shall be isolated from the active channel or conducted during low seasonal stream flows to the maximum extent practicable;
- b. Cofferdams shall be constructed of non-erosive material, such as concrete blocks, sand and/or gravel bags, or water bladders. Constructing a cofferdam by pushing material from the streambed or sloughing material from the streambanks is not authorized;
- c. Cofferdams shall be lined with a plastic liner or geotextile fabric to reduce permeability and prevent sediments and/or construction materials from entering waters of the United States;
- d. Upstream and downstream flows shall be maintained by routing flows around the construction site;

- e. When dewatering is necessary for construction, a sediment basin, or other applicable method, shall be used to settle sediments prior to releasing the water back into the waterbody. Settled water shall be returned to the waterbody in such a manner as to avoid erosion. Sediment basins shall be placed in uplands; and
- f. Fish and other aquatic species must be salvaged (i.e., safely captured and relocated away from the project or development site) prior to dewatering. Contact the Oregon Department of Fish and Wildlife for additional information regarding fish salvage.

Note: See Regional Condition 10 regarding timeframes for temporary fills and temporary activities.

7. Sediment Suitability: For activities that involve dredging or excavating of sediment from waters of the United States and/or the discharge of dredged material into waters of the United States, the permittee shall ensure that any necessary sediment characterization regarding size, composition, and potential contaminants is completed prior to conducting the activity. Sediment characterization must be conducted per the *Sediment Evaluation Framework for the Pacific Northwest* available on the Portland District website (<https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/DMM/>).

Note: Dredged material means material that is excavated or dredged from waters of the United States. The return water from a contained disposal area is defined as a discharge of dredged material at 33 CFR § 323.2 and requires separate authorization from the district engineer (e.g., by NWP 16).

8. Mechanized Equipment: In addition to the requirements in NWP General Condition 11, permittee shall implement the following practices to prevent or minimize impacts to the aquatic environment from mechanized equipment:

- a. Operate equipment from above the ordinary high water mark or high tide line, unless specifically authorized by the district engineer; and
- b. Spill prevention and containment materials shall be maintained and be readily accessible at vehicle staging areas. The amount of spill response materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials, shovels, brooms, and containment bags) maintained on-site must be appropriate for the size of the authorized activity.

9. Erosion Control: During construction and until the site is stabilized, the permittee shall ensure all practicable measures are implemented and maintained to prevent erosion and runoff. Temporary stockpiles of excavated or dredged material shall be stabilized

to prevent erosion. Once soils or slopes have been stabilized, permittee shall completely remove all non-biodegradable components of installed control measures.

10. *Temporary Fills and Temporary Activities*: To ensure no more than minimal adverse environmental effects from temporary fills and temporary activities to waters of the United States:

- a. Temporary fills and/or activities in waters of the United States shall not exceed six months unless otherwise approved by the district engineer;
- b. Temporary fills or activities in waters of the United States shall not exceed ½-acre unless otherwise approved by the district engineer;
- c. Native soils and/or sediments removed from waters of the United States for project construction shall be stockpiled and used for site restoration to the maximum extent practicable; and
- d. Waters of the United States affected by temporary fills or temporary activities shall be restored to pre-construction contours and elevations after construction. The permittee shall appropriately revegetate temporarily filled or impacted areas with native, noninvasive herbs, shrubs, and/or tree species sufficient in number, spacing, and diversity to replace affected aquatic functions.

Note: The Corps will determine compensatory mitigation requirements for temporary fills and impacts on a case-by-case basis depending on the duration and nature of the temporary fill or impact and the type of aquatic resource affected.

11. *Water Quality*. For activities where the U.S. Environmental Protection Agency (EPA), Region 10 has previously certified compliance of the NWP with Section 401 of the Clean Water Act, the permittee must comply with the certification general conditions and any NWP-specific certification conditions. The list of NWPs where EPA Region 10 has provided Section 401 certification and the respective conditions are available on the Portland District Regulatory website (<https://www.nwp.usace.army.mil/Missions/Regulatory/Apply/>). See NWP General Condition 25 for additional information.

12. *Coastal Zone Management*. For activities in the coastal zone of Oregon where the Oregon Department of Land Conservation and Development (DLCDC) has previously provided state coastal zone management consistency concurrence for the NWP, the permittee must comply with DLCDC's coastal zone conditions and any NWP-specific coastal zone conditions. The list of NWPs where DLCDC has provided coastal zone management consistency concurrence and the respective conditions, including any exclusions, are available on the Portland District Regulatory website (<https://www.nwp.usace.army.mil/Missions/Regulatory/Apply/>). See NWP General Condition 26 for additional information.

13. *Contractor Notification of Permit Requirements*: The permittee shall provide a copy of the NWP verification letter (when written approval obtained), all conditions, and the permit drawings to all contractors and any other parties performing the authorized work, prior to the commencement of any work in waters of the United States.

14. *Inspection of the Project Site*: The permittee shall allow representatives of the district engineer to inspect the authorized activity to confirm compliance with nationwide permit terms and conditions. A request for access to the site will normally be made sufficiently in advance to allow a property owner or representative the option to be on site during the inspection.

B. Portland District Nationwide Permit-Specific Regional Conditions

NWP 5: Permittee shall remove all scientific measurement devices including all associated structures and fills including anchoring devices, buoys, and cables within 30 days after the device is no longer being used for its intended purpose.

NWP 13: Pre-construction notification, when required, must include photographs of the existing conditions at the proposed project site.

NWP 29: Pre-construction notification must identify if the project is for the construction or expansion of a single residence, a multiple unit/subdivision residential development, or a phased residential development. For proposed projects within or associated with multiple unit/subdivision residential development or a phased residential development, the pre-construction notification must identify any known previous Department of the Army authorizations received for the multiple unit/subdivision residential development or a phased residential development.

NWP 33: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity in waters of the United States and shall not begin the activity until notified by the district engineer in writing that the activity is authorized.

NWP 39: Pre-construction notification must identify if the project is for the construction or expansion of a single commercial or institutional development, a multiple unit commercial or institutional development, or a phased commercial or institutional development. For projects proposed within or associated with a multiple unit or phased commercial or institutional development, the pre-construction notification must identify any known previous Department of the Army authorizations received for the multiple unit or phased development.

NWP 42: Pre-construction notification must identify if the project is for the construction or expansion or a single recreational development, a multiple component recreational development, or a phased recreational development. For projects proposed within or associated with a multiple unit or phased development, the pre-construction notification

must identify any known previous Department of the Army authorizations received for the multiple unit or phased development.

NWP 43: This NWP does not authorize the retention of water in excess of that required to meet stormwater management requirements. Unauthorized purposes include recreational lakes, reflecting pools, irrigation, etc.

NWP 44:

- a. In-stream mining, including bar scalping, is not authorized by this NWP; and
- b. The use of explosives in waters of the United States is not authorized by this NWP unless specifically authorized by the district engineer.

NWP 48: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity and shall not begin the activity until notified by the district engineer in writing that the activity is authorized. In addition to the information required by paragraph (b) of general condition 32, the prospective permittee shall provide the following information: (1) a map showing the location and dimensions of the structures(s) and/or fill; (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; (3) general water depths in the project area(s) (a detailed survey is not required), and (4) a map showing areas of submerged aquatic vegetation in the project area. The information should describe all species and culture activities the operator expects to undertake during the effective period of this NWP.

C. Portland District Regional Conditions Definitions

a. *Alkali Wetlands*: Alkali wetlands are wetlands as defined in 33 CFR § 328.3(c)(1) that occur in arid regions east of the Cascade Range and have saline or alkaline conditions where evaporation tends to concentrate salts in soils and water. Vegetation consists of plants adapted to saline or alkaline conditions.

b. *Bogs*: Bogs are wetlands as defined in 33 CFR § 328.3(c)(1) with acidic organic soils (pH of <5.5) with no significant inflow or outflow of surface or ground water and generally receive water from direct precipitation. Bogs are characterized by vegetation able to grow in acidic conditions and are often covered by mosses, sedges, and evergreen shrubs and may also have an over story of evergreen trees.

c. *Estuarine Wetlands*: Estuaries are areas where rivers or streams meet the ocean and freshwater and saltwater mix. Estuarine wetlands are wetlands as defined in 33 CFR § 328.3(c)(1) where ocean derived salts measure greater than 0.5 parts per thousand during the period of average annual flow.

d. *Fens*: Fens are wetlands as defined in 33 CFR § 328.3(c)(1) that have organic soils that generally receive drainage from surrounding mineral soils and may include a surface water inlet and outlet. Soils in fens are generally less acidic (pH of >5.5) than bogs and receive waters rich in dissolved minerals. Vegetation in fens typically consists

of grasses, sedges evergreen shrubs and may have an over story of evergreen trees.

e. *Kelp Beds*: Kelp beds form on rocky substrate located in shallow subtidal areas, typically in waters between 5 and 25 meters. Kelp stalks are anchored to rocks by a holdfast, which is connected by a flexible stem-like feature to the blades. Gas-filled bladders keep the blades close to the surface where the blades fan out forming a canopy cover. Kelp beds occur when the kelp covers 30% or more of the substrate.

f. *Mature Forested Wetlands*: Mature forested wetlands are wetlands as defined in 33 CFR § 328.3(c)(1) that consist of trees with an aerial cover of 30% or more of the wetland where the average age of trees is 80 years or older or have an average diameter of 18 inches or greater diameter at breast height.

g. *Native Eelgrass (Zostera marina) Beds*: *Zostera marina* is a species of submerged aquatic vegetation that grows on substrates in intertidal and shallow subtidal marine waters. *Z. marina* is a rhizomatous, perennial flowering plant and exhibits both vegetative growth and reproduction by seed germination. *Z. marina* may form beds that are continuous, semi-continuous to patchy. A *Z. marina* eelgrass bed is defined as a minimum of 3 shoots per 0.25 square meter (1/4 square meter) within 1 meter of any adjacent shoots. To identify the bed boundary, proceed in a linear direction and find the last shoot that is within 1 meter of an adjacent shoot along that transect. The bed boundary (edge) is defined as the point 0.5 meters past that last shoot, in recognition of the average length of the roots and rhizomes extending from an individual shoot¹.

h. *Rocky substrate in tidal waters*: Areas of rocky substrates consist of stones, boulders or bedrock that cover 75% or greater of an area where vegetation and/or macro algae cover less than 30% of the area. Rocky substrates may occur in both intertidal and subtidal marine waters.

i. *Vernal Pools*: Vernal pools are seasonally inundated depressions underlain by an impermeable claypan or hardpan layer. A vernal pool is usually a closed depression without a naturally-occurring inlet or outlet that ponds water in the cool, low evaporation periods of winter and spring in regions with cool moist winters, and dries out during the hot dry summers.

j. *Wetlands in dunal systems along the Oregon coast*: Dunes are ridges and hills of sand formed by the influence of wind and water. Dunal systems along the Oregon coast consist of a complex assembly of beaches, foredunes, hummocks, deflation plains, and transvers, oblique and parabolic dunes located between the Pacific Ocean and the foothills of the Coast Range. Wetlands in the dunal system along the Oregon coast are wetlands as defined in 33 CFR § 328.3(c)(1) that may occur in the deflation

¹ Washington Department of Natural Resources. 2012. Technical Memorandum: Operational Definition for Determining Edge of Eelgrass (*Zostera marina*) Presence. A Summary of Workgroup Discussion and Related Analysis. November 2012.

https://www.dnr.wa.gov/Publications/aqr_hcp_2014_app_j_defn_eelgrass_beds.pdf

plains, depressions, swales or low areas.

k. *Willamette Valley wet prairie wetlands*: Wet prairie wetlands are wetlands as defined in 33 CFR § 328.3(c)(1) that are a type of wetland located in the Willamette Valley characterized by a seasonally high water table or perched water table on clay-rich soils. Wet prairie wetlands are dominated primarily by graminoids, including tufted hairgrass (*Deschampsia caespitosa*), camas (*Camassia quamash*), dense sedge (*Carex densa*), and lateral sedge (*Carex unilateralis*).