



**US Army Corps
of Engineers®**
Albuquerque District
Omaha District

Regional Conditions to the 2021 Nationwide Permits in the State of Colorado

Regional Conditions Applicable to All Nationwide Permits within the State of Colorado

1. Construction of Diversions and Intakes. The permittee must submit a pre-construction notification (PCN) to the District Engineer in accordance with general condition 32 prior to commencing any activity that involves the construction of new water diversions and intakes. This regional condition does not apply to maintenance activities covered by Nationwide Permit (NWP) 3.
2. Open Trenching in Perennial Streams. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any activity that involves open trenching in perennial streams.
3. Peatlands. All NWPs, with the exception of 3, 5, 6, 20, 27, 32, 37, and 38, are revoked for the discharge or dredged or fill material in peatlands. For NWPs 3, 5, 6, 20, 27, 32, 37, and 38, the permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing work in peatlands. The term peatland includes fens and bogs. For the purposes of this regional condition, a peatland is defined as a wetland with organic soil that is classified as a histosol in the Natural Resources Conservation Service (NRCS) guidance document entitled Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at [nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_053171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_053171.pdf).
4. Stream Stabilization. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any stream stabilization activity that utilizes non-native material. The permittee must also submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing any stream stabilization activity that exceeds the placement of ¼ cubic yard of material per linear foot on average below the plane of the ordinary high water mark for streams with an average width of less than 20 feet (measured at the plane of ordinary high water).

Non-native materials include clean brick, broken concrete, cinder block, slab material, wire mesh, such as gabion baskets, grout, and sheet piling. The use of

broken concrete with exposed rebar and tires (loose or formed into bales), and other materials listed under general condition 3 is prohibited in all waters of the United States. Rock rip rap, and woody debris are considered native material.

For all stream stabilization activities involving non-native material, permittees must demonstrate that alternative engineering methods utilizing native materials are not practicable (with respect to cost, existing technology, and logistics), before the use of non-native material is allowed as suitable fill.

5. Gold Medal Waters. The permittee must submit a PCN to the District Engineer in accordance with general condition 32 prior to commencing all activities located in waters identified as “Gold Medal” by the Colorado Wildlife Commission. Upon receipt of a complete PCN, the U.S. Army Corps of Engineers (Corps) will initiate Agency Coordination with Colorado Parks and Wildlife (CPW) as outlined in the procedures under general condition 32(d) of the NWP. Pre-application consultation with CPW is not required but highly recommended. If a pre-application consultation is conducted with CPW, providing written documentation of CPW’s response to the project may satisfy the coordination requirements resulting in quicker processing times. Please visit CPW’s website at cpw.state.co.us to determine the location of Gold Medal waters and the appropriate office for coordination.

6. Water Quality Certification. In accordance with [33 CFR 330.4\(c\)](http://33.CFR.330.4(c)), the conditions of Clean Water Act Section 401 water quality certifications are incorporated as conditions of the Section 404 NWP. The requirements for water quality certifications in the State of Colorado can be found at spa.usace.army.mil/reg/wqc.

Regional Conditions Applicable to Specific Nationwide Permits within the State of Colorado

7. Nationwide Permit No. 27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities.
 - a. Net increase in aquatic resource functions and services. For projects requiring a PCN, the PCN must contain a description/assessment of the existing aquatic habitat conditions (i.e., baseline information), to be compared to proposed/post-construction conditions, and an explanation for why the project is needed (i.e., project purpose), including a description of how the project will improve aquatic habitat.
 - b. Ecological reference. This permit authorizes activities that are planned, designed, and implemented for the purpose of restoring, establishing, and enhancing aquatic habitat to resemble an ecological reference. To demonstrate compliance with this permit requirement, the PCN must identify the ecological reference or conceptual model used for project design. This permit does not

authorize projects that involve other goals, such as waterborne recreation (e.g., kayak courses) and flood control.

c. Fisheries enhancement. Agency Coordination with CPW is required for projects involving fisheries enhancement in perennial streams. Upon receipt of a complete PCN, the Corps will decide whether the project involves fisheries enhancement activities, regardless of whether the PCN explicitly identifies “fisheries enhancement” as the project purpose, and initiate Agency Coordination with CPW in accordance with the procedures set forth under general condition 32(d). Pre-application consultation with CPW, preferably on-site, is highly recommended for projects involving fisheries enhancement, and providing documentation of pre-application consultation with CPW and their response may satisfy the coordination requirements of this permit resulting in quicker processing times. Please visit CPW’s website to determine the appropriate office for coordination: cpw.state.co.us.

To assist in Agency Coordination with CPW for projects involving fisheries enhancement, drawings must also include the following:

(1) Plan view of all work clearly identifying types and locations of structures/impacts, along with dimensions, and approximate extents of aquatic resources within the project area, including wetlands and riffle-pool complexes. To aid in visual understanding, this plan can be overlaid on a recent aerial image of the project site. The plan should also include information such as the existing and proposed bank slopes, width-to-depth ratio of the channel, and sinuosity.

(2) Cross-sectional and longitudinal profile views to scale of the existing stream channel and the proposed channel modifications, including dimensions (length, width and height of the structures or work).

Failure to include the information required for Agency Coordination with CPW, when applicable, may result in delays and/or withdrawal of the PCN due to incompleteness.

d. As-built drawings. For projects requiring a PCN with a design-build or fisheries enhancement component, the permittee shall submit a complete set of as-built drawings to the Corps within 90 days following the completion of work.

e. Use of concrete and grout. The use of concrete/grouting is not allowed in perennial streams unless the Corps determines on a case-by-case basis that the impacts will result in minimal adverse effects to the aquatic resource.