

PUBLIC NOTICE



**US Army Corps
of Engineers
Kansas City District**

Issue Date: May 2, 2002

SPECIAL PUBLIC NOTICE

IMPLEMENTATION OF REGIONAL SPECIAL CONDITIONS FOR NATIONWIDE PERMITS (NWP) IN MISSOURI AND KANSAS AND STATUS OF SECTION 401 WATER QUALITY CERTIFICATION FOR THE NWPS

On 15 January 2002, in Part II of the *Federal Register* (67FR 2020- 2095), the U.S. Army Corps of Engineers announced the reissuance of all existing Nationwide Permits (NWPs), General Conditions, and definitions with some modifications, and one new General Condition. [15 January 2002 NWPs](http://www.nwk.usace.army.mil/regulatory/nwp_information/nwps2002.pdf) (http://www.nwk.usace.army.mil/regulatory/nwp_information/nwps2002.pdf). Two subsequent corrections were issued: [NWP Correction No. 1](#) and [NWP Correction No. 2](#).

Concurrently with the public interest review conducted for the NWPs, the Kansas City District solicited public comment concerning the adequacy of regional conditions adopted in 2000. The regional conditions are intended to provide additional protection for the aquatic environment, by ensuring that the NWPs authorize only those activities with minimal adverse effects on the aquatic environment. Regional conditions help ensure protection of high value waters within the District. The District's decision documents for implementation of these regional conditions are available for public viewing at the Kansas City District Corps of Engineers, Regulatory Program Office Room 706, 601 East 12th Street, Kansas City, Missouri, 64106. Please contact Mr. Mark Frazier at 816-983-3664 or at mark.d.frazier@usace.army.mil to schedule viewing of these documents.

**EFFECTIVE IMMEDIATELY
COMPLIANCE WITH THE FOLLOWING REGIONAL CONDITIONS IS MANDATORY
FOR ALL NWP AUTHORIZED ACTIVITIES**

NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS – MISSOURI

All regional conditions presented herein, are in addition to, not in lieu of, the terms and conditions of the NWPs as published in the January 15, 2002, Federal Register, Issuance of Nationwide Permits; Notice (67 FR 2020-2095), and in the February 13, 2002 Federal Register, Issuance of Nationwide Permits; Notice; Correction (67 FR 6692-6695).

NOTE: These regional conditions do not pertain to paragraph a. of NWP 40.

1. NWP 3 – Maintenance. The permittee must notify the District Engineer when repairing, rehabilitating or replacing low water crossings if: discharges of fill or dredged material would raise or lower the lowest elevation of the crossing by a total of 12-inches or more, or when removing the structure. The permittee must propose and employ measures to mitigate the potential impact of impounding gravel above the low water crossing or of releasing impounded-gravel downstream of the structure. Such mitigation might include: removing impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.

2. NWP 12 - Utility Activities. Except for a minimal corridor that is essential for operation and maintenance of the utility line, the right-of-way must be allowed to re-vegetate naturally to native tree species when forested wetlands or riparian wooded areas are cleared in order to construct the utility line. This does not preclude the planting of native vegetation.

3. NWP 23 - Approved Categorical Exclusions. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a Federal agency's categorically excluded activities are in or affect waters of the United States. This notification must include a delineation of special aquatic sites, including wetlands. In addition to information required by NWP general condition 13 (b), the notification must identify the approved categorical exclusion that applies (i.e. list Federal Register citation) and include documentation that the project fits the categorical exclusion.

4. NWP 27 - Stream and Wetland Restoration Activities. NWP 27 will not be used to authorize discharges associated with relocation of forested wetlands.

5. NWP 29 - Notification Requirements. Prior to issuing a verification letter for this NWP, the District Engineer will coordinate all requests for NWP 29 with the U.S. Fish and Wildlife Service (USFWS) for its evaluation of impacts to Federally listed endangered species. Coordination with the USFWS will follow the procedures in general condition 13(e) for agency coordination in January 15, 2002, Federal Register, Issuance of Nationwide Permits; Notice (67 FR 2092).

6. NWP 43 - Stormwater Management Facilities. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a regulated in-stream basin impacts an intermittent stream. The permittee's mitigation plan must specifically identify measures to prevent the export of contaminants directed into any in-stream basin by the upland collection system. The permittee must also include mitigation for any in-stream projects that would adversely impact normal aquatic life migration. This NWP does not authorize the retention of water, in excess of that required to meet stormwater management requirements, for other purposes such as recreational lakes, reflecting pools and irrigation.

7. Recording Mitigation (Applicable To All NWPs). NWPs with mitigation may require recording of the permit mitigation areas with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property and provide proof of recording to the Corps.

8. Notification Requirement for Activities Proposed in Fens, Seeps and Bogs (Applicable To All NWP's).

The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWP's (general condition 13) when any regulated activity impacts a fen, seep or bog of any size.

9. Notification for Confined Animal Feeding Operations (Applicable To All NWP's). The permittee must notify the District Engineer in accordance with the "Notification" general condition for agency coordination (general condition 13(e)) about any discharges of dredged or fill material associated with the construction of any portion of a confined animal feeding operation (CAFO).

10. Seasonal Restrictions for Activities Proposed in Spawning Areas (Applicable To All NWP's). In addition to the requirements of NWP general condition 20, for any regulated activity, the following specific seasonal restrictions apply. Between the closed dates listed in the Missouri Combined Stream Spawning List, the permittee must not excavate from or discharge into the listed waters. The list of waters with seasonal restrictions is available on request from the Corps or at [Missouri Seasonal Restrictions \(http://www.nwk.usace.army.mil/regulatory/gravel.txt\)](http://www.nwk.usace.army.mil/regulatory/gravel.txt).

11. District-Designated Waters.

St. Louis District: For any discharge or excavation activity requiring authorization, proposed under NWP's 39, 41, 42 and 43, in any ephemeral, intermittent, and perennial streams in the following Missouri watersheds, the permittee must notify the District Engineer in accordance with the "Notification" general condition 13 (Federal Register, 67 FR 2090-2092).

St. Louis County: Wildhorse Creek, Bonhomme Creek, Creve Coeur Creek, Fox Creek, and Deer Creek.

St. Charles County: Dardenne Creek and Perouque Creek.

Jefferson County: Saline/Sugar/Romaine Creeks, Rock Creek, Dulin/Bourne/Heads/Bear Creeks, La Barque Creek, Glaize Creek, and Joachim/Sandy Creeks.

Ste. Genevieve and Perry Counties: Saline Creek.

Cape Girardeau County: Indian Creek, Williams/Hubble/Randol/ Goose Creeks, Ramsey Branch, Ranney Creek, and Byrd Creek.

Memphis District: For any regulated activity proposed under NWP's 14, 39, 41, 42 and 43, in the following waters; the permittee must notify the District Engineer in accordance with the "Notification" general condition 13 (Federal Register, 67 FR 2090-2092).

St. Francis Floodway from 1 mile below Wappapello Lake to the Arkansas/Missouri state line below U.S. Highway 314, in Dunklin County.

Castor River from the Union Pacific Railroad bridge, in Stoddard County, to the headwater levee, in Bollinger County.

Ramsey Branch from St. Louis District line to Headwater Diversion Channel in Cape Girardeau and Scott Counties.

Ramsey Creek from the Headwater Diversion Channel to State Routes PP & N (East Branch), and Scott County Route 325 (West Branch) in Scott County.

NATIONWIDE PERMIT (NWP) REGIONAL CONDITIONS – KANSAS

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NOTE: These regional conditions do not pertain to paragraph a. of NWP 40.

1. NWP 3 – Maintenance. The permittee must notify the District Engineer when repairing, rehabilitating or replacing low water crossings if: discharges of fill or dredged material would raise or lower the lowest elevation of the crossing by a total of 12-inches or more, or when removing the structure. The permittee must propose and employ measures to mitigate the potential impact of impounding gravel above the low water crossing or of releasing impounded-gravel downstream of the structure. Such mitigation might include: removing impounded gravel in the unstable area upstream of the low water crossing to prevent it from being transported downstream and/or constructing a notched weir to slow the release of impounded gravel from upstream of the low water crossing.

2. NWP 12 - Utility Activities. Except for a minimal corridor that is essential for operation and maintenance of the utility line, the right-of-way must be allowed to re-vegetate naturally to native tree species when forested wetlands or riparian wooded areas are cleared in order to construct the utility line. This does not preclude the planting of native vegetation.

3. NWP 23 - Approved Categorical Exclusions. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a Federal agency's categorically excluded activities are in or affect waters of the United States. This notification must include a delineation of special aquatic sites, including wetlands. In addition to information required by NWP general condition 13 (b), the notification must identify the approved categorical exclusion that applies (i.e. list Federal Register citation) and include documentation that the project fits the categorical exclusion.

4. NWP 27 - Stream and Wetland Restoration Activities. NWP 27 will not be used to authorize discharges associated with relocation of forested wetlands.

5. NWP 43 - Stormwater Management Facilities. The permittee must notify the District Engineer in accordance with the "Notification" general condition of the NWPs (general condition 13) when a regulated in-stream basin impacts an intermittent stream. The permittee must submit a mitigation plan specifically identifying measures to prevent the export of contaminants directed into the in-stream basin by the upland collection system. The permittee must also include mitigation for any in-stream projects that would adversely impact normal aquatic life migration. This NWP does not authorize the retention of water, in excess of that required to meet stormwater management requirements, for other purposes such as recreational lakes, reflecting pools and irrigation.

6. Recording Mitigation (Applicable To All NWPs). NWPs with mitigation may require recording of the permit mitigation areas with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property and provide proof of recording to the Corps.

7. Notification Requirements. For discharges of dredged or fill material in waters of the United States for the category of activities listed in items a through d below, the permittee must notify the District Engineer in accordance with "Notification" general condition 13.

a. Concrete Channel Lining and similar activities. For discharges of dredged or fill material associated with lining channels with concrete, placing streams in culverts (except culverts for road crossings), channel bed armoring, placing liquid concrete or bagged cement in waters of the United States and/or placement of grouted riprap across the bottom of the channel.

b. Fens and Bogs. For any regulated activity that impacts a fen or bog of any size.

c. Playa Wetlands. For discharges of dredged or fill material into jurisdictional playa wetlands of any size.

d. Forested Wetlands. For discharges of dredged or fill material into forested wetlands in the state of Kansas, which impact greater than 1/10 acre of these wetlands. Note: Forested wetlands are characterized by woody vegetation that is 20 feet tall or taller.

8. Exclusion. All NWP are prohibited from use in that reach of Big Soldier Creek located on or within the boundaries of the property owned by the Prairie Band of Potawatomi Nation in Kansas. This high quality water was identified by the Tribe as constituting an outstanding National resource of exceptional recreational, ecological, or culture significance.

9. Outstanding National Resource Waters (ONRW)/Exceptional State Waters (ESW)/Special Aquatic Life Uses (SALU). NWP General Condition 25 (Designated Critical Resource Waters) references ONRW. The designation of waters as ONRW, ESW and SALU is subject to change in accordance with Kansas state law. The current list of ONRW, ESW and SALU waters is attached as Appendix I.

Proposed discharges of dredged or fill material in waters designated by the state of Kansas as ONRWs, ESW, or SALU, will require all persons performing work under the NWP program to adhere to the following regional conditions.

a. NWP 44 – Mining Activities. Excluded from use in all ONRW, ESW and SALU waters.

b. Notification. Where notification under General Condition 13 is required for any NWP in an ONRW, ESW or SALU water, which also impacts adjacent riparian areas, the permittee must provide with each notification a “Woodland Habitat Assessment”, as developed by the Kansas Department of Wildlife and Parks (attached as Appendix II to this notice).

c. Impoundments. NWP are prohibited from use to authorize all discharges of dredged or fill material in all ONRW, ESW and SALU waters associated with the construction of dams resulting in creation of an impoundment and/or that does not allow the passage of aquatic species indigenous to the affected water body. *Note for impoundments:* Construction and maintenance of impoundments whose primary purpose is farm and/or stock related is generally not prohibited by or otherwise subject to regulation under Section 404. If you have questions concerning the construction of farm and/or stock ponds contact the Kansas City District.

10. Threatened & Endangered Species. For discharges of dredged or fill material into waters of the United States that are located within the following ranges of Federally listed threatened or endangered species, the permittee must notify the District Engineer in accordance with the “Notification” general condition. If the Corps preliminary affect determination concerning Threatened or Endangered Species is a possible adverse affect, the prospective permittee will be notified that the project must not proceed until the Corps of Engineers has fulfilled its responsibilities pursuant to Section 7 of the Endangered Species Act.

The following locations and waters are subject to the Notification requirements stated above:

- a. **Arkansas River** – That portion flowing through Barton, Cowley, Edwards, Finney, Ford, Gray, Hamilton, Kearny, Kiowa, Pawnee, Reno, Sedgwick and Sumner Counties, excluding that reach upstream of the Kansas Route 27 bridge in Hamilton County and a 12.4 mile reach within the City of Wichita metropolitan area, extending from the westbound land of Kansas Route 96 downstream to Interstate 35 (Arkansas River Shiner, *Notropis girardi*). Designated critical habitat for the Arkansas River Shiner extends 300 feet riverward from each side of the river at the bankfull width.
- b. **Cimarron River** - That portion flowing through Clark, Comanche, and Meade Counties (Interior Least Tern, *Sterna antillarum* and Arkansas River Shiner, *Notropis girardi*). Designated critical habitat for the Arkansas River Shiner extends 300 feet riverward from each side of the river at the bankfull width.
- c. **Cottonwood River** - From the point of discharge of Marion Dam to its confluence with the Neosho River in Lyon County (Neosho Madtom, *Noturus placidus*).
- d. **Neosho River** - From the point where it discharges from Council Grove Reservoir in Morris County to the point where it leaves Lyon County and from the point where it discharges from John Redmond Reservoir in Coffey County to the Kansas-Oklahoma border in Cherokee County (Neosho Madtom, *Noturus placidus*).
- e. **Spring River** - The entire mainstem portion within the state of Kansas in Cherokee County (Neosho Madtom, *Noturus placidus*).
- f. **Cow Creek and tributaries** - A 144 square mile area within Crawford County whose western boundary is highway K-7, whose southern boundary is the Crawford/Cherokee county line, whose eastern boundary is the Kansas/Missouri state line and whose northern boundary is highway K-57 east of the town of Girard extended to the state line. Also included in this area is all of Cow Creek in Cherokee County (Gray Bat, *Myotis grisescens*).
- g. **Kansas River** – From its origin in Geary County downstream to Lecompton in Shawnee County (Interior Least Tern, *Sterna Antillarum* and Piping Plover, *Charadrius melodus*).
- h. The following locations may contain the Topeka Shiner, *Notropis topeka*, which has been listed as endangered, and are subject to the notification requirement above:
 1. **Butler County** – Headwaters of the South Fork Cottonwood River (Sec. 4, 9, 16 & 21, T23S, R8E).
 2. **Chase County** – Bloody Creek, Collett Creek, Diamond Creek, Gannon Creek, Jack Creek, Little Cedar Creek, Mercer Creek, Mulvane Creek, Rock Creek, Schaeffer Creek, Shaw Creek, Unnamed tributary of Thurman Creek (Sec. 31 & 32, T22S, R9E), Unnamed tributary of Mercer Creek (Sec. 30 & 31, T22S, R 8E), Middle Creek, Unnamed tributary of Middle Creek (Sec. 4, 9 & 10, T19S, R6E), Unnamed tributary of Diamond Creek (Sec. 9, T19S, R7E), Unnamed tributary of Fox Creek (Sec. 31, T18S, R8E).
 3. **Dickinson County** – Cary Creek, Middle Branch Lyons Creek, Rock Springs Creek, West Brach Lyons Creek.
 4. **Geary County** – Rock Springs Creek, Davis Creek.

5. **Greenwood County** – Thurman Creek, Unnamed tributaries of Thurman Creek (Sec. 6, T23S, R9E; Sec.1, T23S, R8E).
6. **Marion County** – Collett Creek, Middle Creek, Mud Creek.
7. **Marshall County** - North Elm Creek, Clear Fork Creek.
8. **Morris County** - Collett Creek, Middle Creek.
9. **Pottawatomie County** - Clear Fork Creek.
10. **Riley County** – Deep Creek, Seven-Mile Creek, Little Arkansas Creek, Walnut Creek, Wildcat Creek.
11. **Shawnee County** – Mission Creek.
12. **Wabaunsee County** – East Branch Mill Creek, Hendricks Creek, Illinois Creek, Kuenzli Creek, Loire Creek, Mission Creek, Mulberry Creek, Nehring Creek, Paw Paw Creek, Spring Creek (Paxico), Spring Creek (Tributary of West Branch Mill Creek), South Branch Mill Creek, West Branch Mill Creek.
13. **Wallace County** - Willow Creek.

i. The following waterways maintain critical habitat for the Whooping Crane, *Grus americana*, and are subject to the notification requirement above:

1. **Walnut Creek** – in Ness, Rush and Barton Counties which feeds Cheyenne Bottoms.
2. **Rattlesnake Creek** – in Edwards, Stafford and Pratt Counties which feeds Quivera National Wildlife Refuge.

11. NWP Standard Operating Procedures in Kansas. A separate document, “Nationwide Permit Standard Operating Procedures in Kansas,” has been created to provide further clarification of how the Kansas City District will implement certain aspects of the NWP program and to provide clarification on certain NWPs or General Conditions. This document, dated March 9, 2000, is available for viewing on the Kansas City District internet homepage:

[KS NSOP \(http://www.nwk.usace.army.mil/regulatory/nwp_information/ks_nwp_standard_operating_procedures.pdf\)](http://www.nwk.usace.army.mil/regulatory/nwp_information/ks_nwp_standard_operating_procedures.pdf)

STATUS OF SECTION 401 WATER QUALITY CERTIFICATION FOR NWPS

All NWP activities authorized under Section 404 of the Clean Water Act also require that the States or the U.S. Environmental Protection Agency (EPA) issue or waive Section 401 Water Quality Certification before the NWP authorization is valid. General Condition 9 (Water Quality) of the NWPs states:

(a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

(b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

MISSOURI: Section 401 Water Quality Certification has been denied for all Section 404 NWP activities in the state of Missouri. Accordingly, parties wishing to undertake activities under the NWP must first obtain individual certification from the **Missouri Department of Natural Resources**.

Requests for individual certification should be directed to:

Missouri Department of Natural Resources
Water Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176

Telephone: (573) 751-1404
Fax: (573) 526-5797
Email: wpsc401cert@mail.dnr.state.mo.us
<http://www.dnr.state.mo.us/deq/wpcp/homewpcp.htm>

KANSAS: The **Kansas Department of Health and Environment** has issued Section 401 Water Quality Certification for all Section 404 NWP activities in Kansas (excluding Indian Country). The provisions/conditions of this certification are posted at:

[KDHE 401 Cert \(http://www.nwk.usace.army.mil/regulatory/nwp_information/ks_nwp_401.pdf\)](http://www.nwk.usace.army.mil/regulatory/nwp_information/ks_nwp_401.pdf)

INDIAN COUNTRY (KANSAS):

1. **Denied Activities/Waterbodies:** Section 401 Water Quality Certification is denied for the following activities and /or waterbodies. Parties wishing to undertake work under any Section 404 NWP, where certification has been denied, must obtain an individual Section 401 Certification from the U.S. Environmental Protection Agency (EPA) prior to initiation of work in waters of the U.S.

U.S. Environmental Protection Agency
Region 7
Water Resources Protection Branch
901 North 5th Street
Kansas City, Kansas 66101

Telephone: (913) 551-7226
Fax: (913) 551-7863
Email: taylor.Thomas@epa.gov
<http://www.epa.gov/region07/programs/wwpd/wwp.html>

- a. Dams: The use of dams to impound perennial and intermittent waters of the U.S.
- b. Channelization activities: Any activity that moves, straightens, shortens, cuts off, diverts, or fills to eliminate a stream channel, whether natural or previously altered. This includes modifications to channel cross section, such as widening or narrowing, if the activity is intended to alter the course or capacity of the channel, except for modifications through the opening of authorized bridges. This also includes lining channels with concrete and placing streams in culverts, except for culverts for road crossings. The “Channelization activities” definition does not include ditch or channel cleanout to original or normal cross section.
- c. Fens, Sedge Meadows, Seeps and Out-of-stream-springs: Any activities involving waters of the U.S. that may affect these resource areas, of any size.
- d. Forested wetlands: Any discharges of dredged or fill material impacting greater than 1/10 acre of forested wetlands.
- e. Big Soldier Creek: Any activity located in that reach of Big Soldier Creek on or within the boundaries of the property owned by the Prairie Band of Potawatomi Tribe in Kansas.
- f. Impaired waters: The discharge of dredged or fill material into wetlands adjacent to streams, rivers, or other waters of the U.S., including wetlands, listed under 303(d) of the Clean Water Act (See <http://www.epa.gov/OWOW/tmdl/index.html> for a map and list of impaired waters).
- g. Riparian forest clearing: The removal of riparian forest buffers in projects associated with the discharge of dredged or fill material along waters of the U.S. listed under 303(d) of the Clean Water Act (See <http://www.epa.gov/OWOW/tmdl/index.html> for a map and list of impaired waters).
- h. Unsuitable materials: Discharges of buses; railroad cars; broken concrete with excess fines, with contamination or with exposed rebar; tires of any kind; unprotected sand, gravel, or earth fill in contact with flowing water (e.g., stream bed material shall not be pushed against banks for erosion control or used for stream bank stabilization methods); or raw concrete (either in bags or in contact with water).
- i. NWP No. 3: Any activity pertaining to repairing, rehabilitating or replacing low water crossings where discharges of fill or dredged material would raise or lower the elevation of the crossing by a cumulative total of 12-inches or more, or if removing the structure.
- j. NWP No. 7: Activities which drain (e.g., via tile systems) or that involve any water withdrawal from waters of the U.S.
- k. NWP No. 12: Construction of substations and/or activities that involve any water withdrawal from waters of the U.S.
- l. NWP No. 27: Construction of levees and berms over 4 feet in height and/or projects that involve the relocation of forested wetlands.
- m. NWP No. 37: Denied for all activities.
- n. NWP No. 39: Impacts to any waters of the U.S. exceeding 300 linear feet.
- o. NWP No. 40: Impacts to any waters of the U.S. exceeding 300 linear feet.
- p. NWP No. 42: Impacts to any waters of the U.S. exceeding 300 linear feet, and/or the construction of facilities including nature centers, pit privies, sewage lagoons, and stables.
- q. NWP No. 43: Impacts to any waters of the U.S. exceeding 300 linear feet, and/or the construction of new storm water management facilities in intermittent or ephemeral streams.
- r. NWP No. 44: Denied for all activities.

2. Certified NWP Activities: All NWP activities not described above are certified subject to compliance with the following provisions and conditions. Questions concerning interpretation of these provisions and conditions should be directed to EPA.
- a. Where practicable, wetland losses authorized under any nationwide permit requiring mitigation will be completed prior to or concurrent with project impacts.
 - b. Discharges of dredged or fill material for fills that span the width of a stream (such as weirs and grade control structures) will be designed to allow for the passage of aquatic life (e.g. gentle slopes on structure faces rather than vertical surfaces and not greater than approximately 18 inches in height).
 - c. Vegetated buffers must be established around mitigation wetlands. The vegetated buffers shall consist of native species, and will normally be between 25 to 50 feet wide.
 - d. Any fuel spill associated with any activity authorized under the Clean Water Act, Section 404 nationwide permits shall be expeditiously responded to by the applicant or by local emergency personnel. The permittee shall immediately contact the National Response Center at 800-424-8802.
 - e. NWP No. 7: Controls shall be in place to stabilize all areas of the bed and bank around and adjacent to the outfall structure and associated intake structures that may be affected by outfall or stream flows, respectively.
 - f. NWP No. 12: Forested wetlands or riparian wooded areas that are cleared to construct the utility line must be allowed to revegetate naturally to native tree species except for a minimal corridor that is essential to inspection of the line.
 - g. NWP No. 14: Limit clearing of riparian stream corridors to the minimum necessary for project construction. Clearing limits must be specified in the construction contract.