

# KANSAS NATIONWIDE PERMIT REGIONAL CONDITIONS

## For All Nationwide Permits

**1. Stream Crossings.** In addition to requirements of General Condition (2) and General Condition (9) of the Nationwide Permits, the following guidelines for stream crossings apply for regulated activities in waters of the United States. The guidelines are available at: <http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2017/KSRC1Streams.pdf>

- Corps Districts may waive Regional Condition 1 when project site geomorphology (i.e. bedrock, gradient) or existing alterations (i.e. adjacent impoundment, as part of a dry detention basin) creates conflict with the guidelines. The applicant must provide preconstruction notification to the District Engineer for any waiver request.

**2. Invasive and Exotic Species.** Plant species listed at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2017/KSRC2InvasivePlants.pdf>

shall not be used for revegetation unless this requirement is waived by the District Engineer based on a case specific analysis of the revegetation plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Best management practices can be found at:

<http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters within Kansas can be found at <http://nas.er.usgs.gov/queries/zmbyst.asp>.

**3. Suitable Material.** In addition to the specific examples in General Condition 6 of the Nationwide Permits, the following materials are not suitable for fill activities in waters of the United States: vehicle bodies, construction or demolition debris, asphalt in any form, garbage, tires, treated lumber products that do not comply with the Registration Documents issued by the U.S. Environmental Protection Agency (USEPA) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and that are not in accordance with standards issued by American Wood Protection Association of the International Code Council, liquid concrete not poured into forms, grouted riprap, bagged cement and sewage or organic waste.

Broken concrete used as bank stabilization must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces to withstand expected high flows. Applicants must break all large slabs to conform to the well graded requirement. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume when using broken concrete as fill. All protruding reinforcement rods, trash, asphalt, and other extraneous materials must be removed from the broken concrete prior to placement in waters of the United States.

**4. Indian Country.** All Nationwide Permits requested by applicants other than the Tribal Authority for use within the reservation boundaries of Indian Country in Kansas require preconstruction notification to the District Engineer and coordination with the Tribal Authority. All other terms and conditions of the NWP's and regional conditions apply in Indian Country regardless of the applicant.

**5. Threatened & Endangered Species Waters.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity in waters listed at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2017/KSRC5TEList.pdf>

**6. Designated State Waters.** The applicant must provide preconstruction notification to the District Engineer for any regulated activity in Outstanding National Resource Waters (ONRW), Exceptional State Waters (ESW), or Special Aquatic Life Use Waters (SALUW) as listed in the Kansas Surface Water Register. OUTSTANDING NATIONAL RESOURCE WATERS INCLUDE: 1) all surface waters within the boundaries of the Cimarron National Grasslands (Morton and Stevens), 2) Flint hills National Wildlife Refuge (Coffey), 3) Quivira Big Salt Marsh and Quivira Little Salt Marsh (Stafford) and 4) Cheyenne Bottoms (Barton). The list of special status waters requiring notification is available on request from the Corps and a map is located at:

<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/nationwidepermits/2017/KSRC6DesignatedWaters.pdf>

**7. Soil Erosion and Sediment Controls.** In addition to the requirements of General Condition 12 of the Nationwide Permits, all temporary erosion control materials, including but not limited to silt fencing, turbidity screens, etc., must be removed once all exposed soil and other fills have been stabilized and all other state and local stormwater permit provisions are satisfied.

**8. Soil Savers.** A pre-construction notification (PCN) is required for all Nationwide Permits that involve the construction/installation of culverts with soil savers. The PCN must include documentation (ex. photos, design plans, survey data etc.) showing that:

- (1) the requirements of General Condition 9 (Management of Water Flows) and General Condition 12 (Erosion and Sediment Controls) are met;
- (2) the addition of a soil saver in the design of the crossing will provide a greater overall environmental benefit;
- (3) the soil saver will provide a benefit to downstream water quality by eliminating upstream stream channel incision and reduced downstream velocities when incorporated as part of a roadway culvert replacement; and
- (4) the soil saver's use is limited to waters such as an ephemeral and/or upper intermittent tributary that has been manipulated upstream, downstream or both and where impacts to aquatic passage would be no more than minimal (examples of such manipulation includes farmed channel, diverted to road ditches, grassed waterways, etc.)
- (5) the soil saver meets all other requirements of the permit (for example, in the case of NWP 14, the PCN must also establish that the addition of a soil saver is the minimum necessary to construct or protect the proposed project).

Note: As defined in the Kansas Department of Transportation Design Manual (3.12.9.9 Soil Saver), “a soil saver is a wall constructed across the stream bed at the end of the wings of the upstream entrance to the culvert. It provides a vertical drop in the stream bed. The soil saver functions as a grade control structure to aid in controlling erosion in the upstream drainage basin. In addition, the soil saver acts as a “Drop Inlet”. It allows a culvert that would otherwise be constructed on a steep slope, operating under inlet control with high exit velocities (> 15 ft./sec.); to be constructed on a flatter slope, operating under outlet control with reduced velocities”.

**For Specific Nationwide Permits:**

**9. NWP 12 – Utility Line Activities.** The applicant must provide preconstruction notification to the District Engineer prior to commencing the activity if the discharge is in a special aquatic site or when new utility line construction activities have multiple crossings of the same stream and/or parallel a stream. The preconstruction notification must include a revegetation plan for impacted wetlands and riparian areas in accordance with Regional Condition 2. Where preconstruction notification is required for utility line activities within streams, the submittal must include site-specific plans for the stabilization of disturbed channel bed and bank areas.

**10. NWP 23 – Approved Categorical Exclusions.** The applicant must provide preconstruction notification to the District Engineer for all regulated Nationwide Permit 23 activities in waters of the United States. In addition to information required by General Condition 32, the applicant must identify the approved categorical exclusion that applies and provide documentation that the project fits the categorical exclusion.

**11. NWP 27 – Stream and Wetland Restoration Activities.** The applicant must provide preconstruction notification to the District Engineer prior to commencing the activity if the discharge is associated with impacts to forested wetlands.

**12. Requirements for Waiver of 300 Linear Foot Limit Associated with NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51 and 52 and all Waiver Limits Associated with NWP 13.** Waiver considerations for NWP 13 include activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharge of dredged or fill material into special aquatic sites. The applicant must request the waiver in writing and provide documentation and environmentally based reasons to support the waiver request in accordance with the requirements of General Condition 32(d) for making waiver determinations.

**Note: Preconstruction Notification to the District Engineer must be in accordance with General Condition 32 of the Nationwide Permits.**