02/25/2025

## Section 107. — LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

**107.01 Laws to be Observed.** Add the following:

Include (a) if a 401 or 404 permit is required. Coordinate with Environment on the permitting needs.

**(a) Section 401 and Section 404 of the Clean Water Act.** Comply with the terms and conditions of any permits that authorize the discharge of dredged or fill material in waters of the U.S., including Section 404 permits and Section 401 water quality certifications. See the Appendix for permits.

Include (b) if an NPDES permit is required. Coordinate with Environment on the permitting needs and for any project-specific requirements.

**(b) National Pollutant Discharge Elimination System (NPDES).** Comply with the requirements of the applicable Construction General Permit (CGP) as shown in Table 107-1. The applicable CGP is <<<fill in State / Agency from Table 107-1>>>.

Prepare a Stormwater Pollution Prevention Plan (SWPPP) according to Section 157. If the current CGP expires during the contract, amend the SWPPP when a new permit goes into effect to meet new permit conditions.

Obtain a separate NPDES permit associated with industrial activity for mobile asphalt and concrete plants that provide material for the project. Provide a copy of the permit and acknowledgement letter to the CO.

**(1) Notice of Intent (NOI).** After the SWPPP is approved, file the NOI according to the applicable CGP as shown in Table 107-1. Allow the regulatory review period, shown in Table 107-1, from submittal of NOI to receipt of authorization of coverage under the CGP. Provide a copy of the NOI and confirmation letter to the CO.

Post all project authorization numbers near the entrance to the site and on the bulletin board.

**(2) Payment of permit fees.** Submit the appropriate permit fees and renewal fees required for both the Contractor and Government to the regulatory agency.

**(3) Notice of Termination (NOT).** If applicable, file a NOT when the conditions listed in the CGP have been met or transfer the NOI to the maintaining agency after final acceptance.

Include the entire Table 107-1 – do not delete rows from the table.

For projects in Indian Country, revise the XX in the permit number to match the applicable state – see this EPA website for permit numbers <https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-b-areas-of-permit-cover.pdf>.

**Table 107-1**

**NPDES Permits**

| **State / Agency** | **Permit Number and Link** | **Effective Date** | **Expiration Date** | **Regulatory Review Period** |
| --- | --- | --- | --- | --- |
| Arizona | [AZG2020-001](https://static.azdeq.gov/permits/azpdes/cgp_permit.pdf) | 7/1/2020 | 6/30/2025 | 30 days |
| California(1) | [2022-0057-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo_2022-0057-dwq.pdf) | 9/1/2023 | 8/31/2028 | 7 days |
| Colorado (Federal) | [COR10F000](https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-permit.pdf) | 2/17/2022 | 2/16/2027 | 14 days |
| Colorado (Other) | [COR400000](https://oitco.hylandcloud.com/CDPHERMPublicAccess/api/Document/AQfwokluDriUFw9rLI8HeKnA3FOQD9oxLj2WtUV%C3%896urJ3JjLHBBWZPGaal9FHPt1L9vF9iX3AMKBHphEdDOVvyQ%3D/) | 4/1/2024 | 03/31/2029 | 10 days |
| Hawaii | [HAR 11-55, Appendix C](https://health.hawaii.gov/cwb/files/2024/01/January-29-2024-11-55-Appendices-C-A.pdf) | 1/29/2024 | 1/29/2029 | 10 days |
| Indian Country | [XXR10I000](https://www.epa.gov/npdes/2022-construction-general-permit-cgp#2022cgp) | 2/17/2022 | 2/16/2027 | 14 days |
| Kansas | [S-MCST-2208-1](http://www.deq.state.ne.us/Publica.nsf/pages/WAT012) | 12/1/2021 | 11/30/2026 | 60 days |
| Nebraska | [NER210000](http://www.deq.state.ne.us/Publica.nsf/pages/WAT012) | 12/1/2021 | 11/30/2026 | 7 days |
| Nevada | [NVR100000](https://ndep.nv.gov/uploads/documents/Construction_SW_GPermit_2015_.pdf) | 1/5/2015 | 1/4/2020(2) | 14 days |
| New Mexico | [NMR100000](https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-permit.pdf) | 2/17/2022 | 2/16/2027 | 14 days |
| North Dakota | [NDR11-0000](https://deq.nd.gov/publications/wq/2_NDPDES/Stormwater/Construction/NDR11per20200401F.pdf) | 4/1/2020 | 3/31/2025 | 7 days |
| Oklahoma | [OKR10](https://www.deq.ok.gov/wp-content/uploads/water-division/OKR10-2022-Final-permit-1.pdf) | 10/18/2022 | 10/17/2027 | 14 days(3) |
| South Dakota | [SDR100000](https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/docs/DANR_ConstructionGeneralPermit2023.pdf) | 11/1/2023 | 10/31/2028 | 15 days |
| Texas (Small)(4) | [TXR150000](https://www.tceq.texas.gov/downloads/permitting/stormwater/general/construction/2023-cgp-txr150000.pdf) | 3/5/2023 | 3/5/2028 | 2 days |
| Texas (Large) | [TXR150000](https://www.tceq.texas.gov/downloads/permitting/stormwater/general/construction/2023-cgp-txr150000.pdf) | 3/5/2023 | 3/5/2028 | 7 days |
| Utah | [UTRC00000](https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf) | 07/1/2024 | 06/30/2029 | None |
| Wyoming (Small)(5) | [WYR10-A000](https://drive.google.com/file/d/1GMfaOewy9KN3CbobjDrwFJvM8fLu--nA/view) | 9/11/2020 | 8/1/2025 | None |
| Wyoming (Large) | [WYR100000](https://drive.google.com/file/d/1FwVC3LegHgCtbZpeRFX2F5UBy_x1rTm4/view) | 9/11/2020 | 8/1/2025 | 10 days |

(1) Upload the SWPPP to the California Water Boards Stormwater Multiple Application and Report Tracking System (SMARTS) and complete the NOI application previously started by the Government. Notify the CO once the NOI application is complete. Do not certify the NOI.

(2) Permit administratively extended.

(3) 45 days for projects over 40 acres or in a sensitive watershed.

(4) Prepare a Construction Site Notice rather than an NOI.

(5) Prepare a SWPPP rather than an NOI. Implement the SWPPP before ground disturbing activities.

**107.02**(**d) Utilities.** Add the following:

Use on all projects. The Quality Level Certification defines the level of effort locating and mapping the utilities for the project. Be specific with spot locations, as applicable.

The locations of the utilities shown in the plans have been certified to a Quality Level <<<select A, B, C, or D>>>, with spot locations certified to a Quality Level <<<select A, B, C, or D>>> according to the CFLHD *Utility Data Quality Certification* requirements available at <https://highways.dot.gov/federal-lands/rw-util/cfl>.

Include if NO utilities exist within project limits.

**107.02**(**d) Utilities.** Add the following:

There are no known utilities within the project right of way.

Include if utilities exist within the project limits.

The Status of Utilities Table may be copied from the Right of Way and Utility Certification. Add additional language, as required, for project specific conditions. Add or delete rows from the table as needed.

Do not include Table 107-2 if there are no utilities within the project limits.

If applicable, additional information may need to be added to other parts of the PS&E for project utility conflicts:

**Status 1**: If utilities are in conflict with the project and require relocation by others during construction, include directions for any required coordination or notifications in this Subsection. Include any schedules and limits to construction in Section 108.

**Status 2:** If utilities are in conflict with the project and require relocation by the Contractor during construction, include the appropriate plan sheets, SCRs (may include Sections 611, 612, and 636) and pay items. Include any schedules and limits to construction in Section 108.

**Status 3:** If utilities are in conflict with the project and require relocation before construction, include the estimated date relocations will be completed in this Subsection. Include any schedules and limits to construction in Section 108.

**Table 107-2**

**Status of Utilities**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Utility Type** | **Company** | **Contact Name** | **Phone Number / Email** | **Status(1)** |
| 1 | Utility type | Company | Name | xxx-xxx-xxxx / email@email.com | Select 1, 2, 3, or 4 |
| 2 | Utility type | Company | Name | xxx-xxx-xxxx / email@email.com | Select 1, 2, 3, or 4 |
| 3 | Utility type | Company | Name | xxx-xxx-xxxx / email@email.com | Select 1, 2, 3, or 4 |
| 4 | Utility type | Company | Name | xxx-xxx-xxxx / email@email.com | Select 1, 2, 3, or 4 |
| 5 | Utility type | Company | Name | xxx-xxx-xxxx / email@email.com | Select 1, 2, 3, or 4 |

(1) Status is defined as follows:

Status 1: The utilities are in conflict with the project and require relocation by others during construction.

Status 2: The utilities are in conflict with the project and require relocation by the Contractor during construction.

Status 3: The utilities are in conflict with the project and require relocation by others before construction.

Status 4: The utilities are located within the project right-of-way but require no relocation.

Use on all projects.

**107.05 Responsibility for Damage Claims.** Delete the first sentence of the third paragraph and substitute the following:

Before work starts, submit “*certificates of insurance*” certifying that the policies will not be changed or canceled until 30 days’ written notice has been given to the Government.

**107.08 Sanitation, Health, and Safety.** Delete the first paragraph and substitute the following:

Follow the requirements of FAR Clause 52.236-13 Accident Prevention, Alternate 1. Submit an accident prevention plan.

**107.10(a) Federal Water Pollution Control Act (Clean Water Act) 33 USC § 1251 et seq.** Add the following:

**(4)** Do not ford running streams with construction equipment. Obtain approval from the CO to use temporary bridges or other structures whenever crossings are necessary.

**(5)** Locate machinery servicing and refueling areas away from streambanks, wetlands, shorelines, lakes, and reservoirs to reduce the possibility and minimize the impacts of accidental spills or discharges.

**107.10(b) Oil and hazardous substances.** Delete the third and fourth paragraphs and substitute the following:

Do not use equipment with leaking fluids. Repair equipment leaks immediately. Keep absorbent material manufactured for containment and cleanup of hazardous material on the job site. Sand and soils are not approved absorbent materials.

Notify the CO of hazardous spills. Report the spill to the appropriate federal, state, and local authorities as required by the SPCC plan or hazardous spill plan.

Use on all projects.

**107.10(c) Dirt, plant, and foreign material.** Add the following:

All vehicles and equipment entering the project area must be clean of noxious weeds and free from oil leaks and are subject to inspection. Thoroughly wash construction equipment, including the undercarriage and any surface where soil containing exotic seeds may exist. Allow the CO to inspect each piece of equipment before entering the project. Provide the cleaning and inspection records to the CO.

Use on all projects.

**107.10(d) Clearances for Contractor-selected, noncommercial areas.** Add the following to the end of the first paragraph:

Use rock, sand, gravel, earth, subsoil, or other natural materials from a Contractor-selected non-commercial materials source that has been certified free of noxious weeds. Materials imported into the project limits which do not include a noxious weed free certification may be rejected and ordered to be removed from the project limits. The CO has the discretion of requesting inspection of certified materials by a third party and rejecting the use of the source if noxious weeds or seeds thereof are found to be present.

Add the following after Subsection (4):

**(5) Any required certifications.**

Add any project-specific environmental commitments due to legal requirements, such as additional permits not already mentioned, safety and health restrictions, tribal ordinances, monitors, and animal/bird surveys.

Do not duplicate the same information in multiple sections.

Examples for this section:

-Provide a qualified archeological monitor during excavation activities between Station 787+00 and 810+00. See Subsection 623.03 for qualification requirements.

-Do not remove, injure, or destroy trees or other plants until approved.

-Clear all trees from September 15 through March 1.

-Construct riprap revetment during low flow periods of 200 cfs as measured at gauge 12345. Current stream gauge data is available at [website link]

-Notify the CO at least 14 days before working in archeological sensitive areas. Do not remove material in these areas until approved.

Add the following:

**107.10(e) Project-specific commitments.**

Coordinate with Environment for project-specific commitments.

The template text in (1) below is for migratory bird surveys; revise as needed for project-specific conditions.

If there is NO pay item for the migratory bird biologist, include the biologist qualifications here in Section 107:

**(1)** Provide a qualified biologist, at no additional cost to the Government, to perform the following:

*(a)* Conduct pre-construction nest surveys within the clearing limits if vegetation clearing or work on suitable nesting structures will occur within the breeding season (from <<<Month Date>>> to <<<Month Date>>>). Survey vegetation and suitable nesting structures, including bridges and culverts, at least <<<XX>>> days before <<<describe work that triggers survey>>> at the site begins. If vegetation clearing or suitable nesting structure work occurs outside of the breeding season, no surveys are required.

*(1)* Conduct nest survey in phases if vegetation removal or suitable nesting structure construction will occur in phases along the project route, so that no more than <<<XX>>> days lapses between survey and potential nest disturbance at any one location.

*(2)* Notify the CO immediately if any active nest that may be adversely affected by construction activities is discovered; include information on nesting species, activities in the vicinity of the nest, topographic and other visual barriers, and recommended protection measures. Establish a no-disturbance buffer, in coordination with the CO, around the nests that is sufficient to ensure that breeding is not likely to be disrupted by construction. Maintain buffers until the qualified biologist has determined the young have fledged or nests are no longer active.

*(3)* Submit a report documenting the methodology and results of the surveys to the CO within 7 days after completion of surveys. Include recommendation for handling of any unoccupied nests observed and nesting prevention recommendations, if appropriate.

*(b)* Conduct a resurvey of vegetation and suitable nesting structures, as needed, after any lapse in construction of <<<XX>>> days or more within the breeding season.

If there is a pay item for the migratory bird biologist, include the biologist qualifications in Section 623 and include this sentence in Section 107:

**(1)** Provide a qualified biologist according to Subsection 623.03(b).

**(2)** <<<describe commitment>>>

**(3)** <<<describe commitment>>>

Include if the partner agency has a fire plan. Check with the partner agency for the requirements of a fire plan and have the agency (Forest Service, Park Service, or similar) provide the fire plan.

Do not include the following paragraph if a fire plan is not required.

**107.11 Protection of Forests, Parks, and Public Lands.** Add the following:

Comply with the fire prevention plan included in the Appendix. The CO will order the emergency suspension of operations when conditions are unsafe as determined by the CO and the land management agency.