Section 107:

WFL Specification 06/15/22

In all projects, include one of the following Section 107 requirements.

Select the appropriate bookmark (Select *Insert* tab; then select *Bookmark* icon; select bookmark) and copy that content to the project SCR:

Bookmark [Case1\_107](#Case1_107): Section 107 for projects that do not require NPDES permits in all states;

Bookmark [Case2\_107](#Case2_107): Section 107 for projects in Alaska (excluding Denali NP and Metlakatla Indian Reservation) that have a State issued NPDES permit;

Bookmark [Case3\_107](#Case3_107): Section 107 for projects in Oregon that have a State issued NPDES permit;

Bookmark [Case4\_107](#Case4_107): Section 107 for projects in Washington, Denali NP, Metlakatla Indian Reservation, and Tribal Lands in Idaho that have an EPA issued NPDES permit;

Bookmark [Case5\_107](#Case5_107): Section 107 for projects in Montana that have a State issued NPDES permit;

Bookmark [Case6\_107](#Case6_107): Section 107 for projects in Wyoming that have a State issued NPDES permit; or,

Bookmark [Case7\_107](#Case7_107): Section 107 for projects in Idaho (excluding Tribal Lands in Idaho) that have a State issued NPDES permit.

Consult with Environment Team to determine appropriate permit requirements.

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

02/09/24(1)– FP-14

CASE 1:

WFL Specification 04/02/21 1071

1) Include the following Section 107 SCR’s as directed below in projects that do not require NPDES permits.

Consult with WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10710010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 04/02/21 10710015

Include the following on projects that DO NOT have Government-obtained permits or agreements in Section H; OR have permits held by the Partner Agency(s) that will not be in Section H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements required for performing the work included in this contract. Notify the CO immediately of any permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any permits or agreements. Furnish copies of all permits and agreements that are not in the contract.

WFL Specification 01/01/14 10710020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10710030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 03/12/14 10710040

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01A

Subsection not used.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10710050

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10710060

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 01/01/14 10710070

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 01/01/14 10710080

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor’s Accident Prevention Plan*.

WFL Specification 09/17/18 10710090

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10710100

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

WFL Specification 04/02/21 10710110

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERT FLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 04/02/21 10710120

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10710125

Include the following on all projects.

In areas with unique or sensitive resources that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO.; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO. or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10710130

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included in the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10710140

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10710150

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10710160

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10710170

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10710180

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10710190

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10710200

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(2)– FP-14

CASE 2:

WFL Specification 04/02/21 1072

2) Include the following Section 107 SCR’s as directed below on projects in Alaska (excluding Denali NP and Metlakatla Indian Reservation) with a State issued NPDES permit.

Consult with WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10720010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 01/01/14 10720020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10720030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10720040

Include the following on all projects in Alaska (excluding Denali NP and Metlakatla Indian Reservation) with a State issued NPDES permit.

### 107.01A Alaska Pollutant Discharge Elimination System (APDES) Authorization.

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor according to Subsection 157.03.

**(b) Preparation of the Storm Water Pollution Prevention Plan (SWPPP).** Prepare a SWPPP in accordance with the requirements of the APDES Construction General Permit (CGP) and contract requirements. The SWPPP may use information found in the Government’s preliminary SWPPP listed under FAR Clause 52.236-4. Work on the SWPPP may begin before the Notice to Proceed is given. Follow the FHWA format in the SWPPP provided by the CO, including the narrative, maps, erosion control details and layout sheets, forms, and documentation.

**(1)** Complete the SWPPP narrative provided in the physical data or prepare a new SWPPP narrative. Include in the SWPPP narrative a statement stating that the Contractor is responsible for performing all work required in the SWPPP, including establishing measures to prevent water pollution, performing inspections, and submitting required reports.

**(2)** Revise or prepare new site maps and erosion/sediment control details and layout sheets as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the CGP.

**(3)** Identify the Erosion Control Supervisor and their qualifications in the SWPPP.

**(4)** Submit one electronic copy of the SWPPP to the CO prior to the preconstruction conference. Allow 10 working days for CO approval of SWPPP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. Co-sign the approved SWPPP and maintain it as the SWPPP of record for the project. Make the SWPPP available for public and regulatory-agency inspection.

**(c) Notice of Intent (NOI).** After the SWPPP is signed, file a NOI with the Alaska Department of Environmental Conservation (ADEC).

File the NOI at the following website:

<http://dec.alaska.gov/water/wastewater/stormwater/apdesenoi.aspx>.

Provide a copy of the NOI and ADEC acknowledgement email to the CO.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until receipt of ADEC Letter of Authorization or as otherwise provided by ADEC.

**(d) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs according to Section 635. Post signs in a publicly accessible location. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** The APDES Permit tracking number.

**(2)** Contractor’s contact name and phone number for obtaining additional information.

**(3)** Include the following statement:

* ”For a copy of the Storm Water Pollution Prevention Plan for this site or if indicators of storm water pollutants in the discharge or in the receiving waterbody are observed, contact the Federal Highway Administration at [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).”

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(e) Inspections.** Perform SWPPP inspections as required in the CGP , Subsection 157.14, and the SWPPP. Document inspections using FHWA forms provided in the SWPPP of record and retain the records in the SWPPP binder. Submit each inspection to the CO for approval. Allow 2 working days for CO approval of inspections. Co-sign each approved inspection and file in the SWPPP binder. Complete all SWPPP inspections and forms as construction progresses until final acceptance.

**(f) Revisions to the SWPPP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the CGP. Revise the SWPPP as necessary during construction and as required by the CGP. Submit each revision to the CO for approval. Allow 2 working days for CO approval of a revision. Co-sign each approved SWPPP revision and file in the SWPPP binder. Implement approved revisions and corrective actions according to the timelines in the CGP.

**(g) Notice of Termination (NOT).** File the NOT when all conditions for terminating the permit have been met as described in CGP. Do not file the NOT without the CO’s approval. If the site has not reached final stabilization at final acceptance of the project, request transfer of permit responsibility to the CO. Provide a copy of the NOT and ADEC acknowledgement email to the CO.

Provide the CO with the complete SWPPP of record upon final acceptance of the project, including inspection forms, logs, and all other required documentation added during project construction.

**(h) Contractor selected sites.** Prepare separate SWPPP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These SWPPP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 01/01/14 10720050

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10720060

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10720070

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 01/01/14 10720080

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 01/01/04 10720090

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor’s Accident Prevention Plan*.

WFL Specification 09/17/18 10720100

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10720110

Include the following on all projects

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

WFL Specification 09/17/18 10720120

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERT FLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 07/30/21 10720125

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10720130

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO.; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO. or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10720140

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e)** **Other requirements.** **(**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/05/24 10720150

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10720160

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10720170

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10720180

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10720190

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10720200

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10720220

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(3)– FP-14

CASE 3:

WFL Specification 04/02/21 1073

3) Include the following Section 107 SCR’s as directed below on projects in Oregon with a State issued NPDES permit.

Consult WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10730010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 01/01/14 10730020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10730030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10730040

Include the following on all projects in Oregon with a State issued NPDES permit.

### 107.01A National Pollutant Discharge Elimination System Permit (NPDES).

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor and Visual Monitoring Inspector according to Subsection 157.03.

**(b) Preparation of the Erosion and Sediment Control Plan (ESCP).** The Government will make a preliminary ESCP available under FAR Clause 52.236-4 – Physical Data. Perform the following:

**(1)** Update the cover sheets in the preliminary ESCP as necessary.

**(2)** Update the preliminary site maps and erosion/sediment control details and layout sheets in the preliminary ESCP as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the 1200-CA.

**(3)** Prepare erosion/sediment control plans for each applicable phase of construction activity noted in the ESCP cover sheet. Follow guidelines as shown in the DEQ template at <https://www.oregon.gov/deq/wq/Documents/wqp1200caESCPtemp.pdf>.

**(4)** Identify the Erosion Control Supervisor and Visual Monitoring Inspector and their qualifications in the preliminary ESCP.

**(5)** Submit one electronic copy of the ESCP to the CO 14 calendar days prior to the preconstruction conference. Allow 20 working days for CO approval of the ESCP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. The approved ESCP becomes the ESCP of record for the project.

**(6)** Maintain and update the ESCP of record as needed throughout construction as required by the 1200-CA. Make the ESCP available for public and regulatory-agency inspection.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until the updated ESCP of record has been approved by the CO.

**(c) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs in accordance with Section 635. Post signs in a publicly accessible location. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** Contractor’s contact name and phone number for obtaining additional information.

**(2)** Include the following statement:

* “For a copy of the Erosion and Sediment Control Plan for this site or if indicators of storm water pollutants in the discharge or in the receiving waterbody are observed, contact the Federal Highway Administration at [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(d) Inspections.** Perform ESCP inspections as required in the 1200-CA, Subsection 157.14, and the ESCP. Document inspections using FHWA forms provided in the ESCP of record and retain the records in the ESCP binder. Submit each inspection to the CO for approval within 24 hours of completing an inspection. Allow 2 working days for CO approval of inspections. Co-sign each approved inspection and file in the ESCP binder. Complete all ESCP forms as construction progresses until final acceptance.

**(e) Revisions to the ESCP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the 1200-CA. Revisions to the ESCP are required for, but are not limited to, any of the following reasons:

**(1)** Part of a corrective action;

**(2)** Increase or decrease in project size;

**(3)** Change in the size or location of disturbed areas;

**(4)** Change to BMPs; or

**(5)** Change to the certified inspector and/or stormwater team member(s) working on the design, installation, and maintenance of erosion and sediment control measures.

If project size is increased and the total disturbed area on the project exceeds 5 acres, notify the CO and do not begin work in new project areas until approved by the CO. Allow 3 weeks for CO approval.

Revise the ESCP as necessary during construction and as required by the 1200-CA. Submit each revision to the CO for approval within 24 hours of the revision. Allow 2 working days for CO approval of a revision. Co-sign each approved ESCP revision and file in the ESCP binder in the ESCP amendment log. Implement approved revisions and corrective actions according to the timelines in the 1200-CA.

**(f) Project close-out.** Provide the CO with the complete ESCP of record upon final acceptance of the project, including inspection forms, logs, and all other required documentation added during the project.

**(g) Contractor selected sites.** Prepare separate ESCP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These ESCP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 03/12/14 10730090

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10730100

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10730110

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 01/01/14 10730120

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 01/01/14 10730130

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor’s Accident Prevention Plan*.

WFL Specification 04/02/21 10730140

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 01/06/23 10730150

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within [INSERT distance] feet of wetlands or waters daily for fluid leaks.

If contaminated soils, contaminated groundwater or hazardous materials are encountered during construction, stop construction activities in the contaminated area and notify the CO immediately. Prevent stormwater discharges from the contaminated areas until approved by the CO. Prepare an Environmental Management Plan (EMP) according to Section 6 the 1200‑CA. Submit the EMP to the CO for approval prior to working in contaminated areas of the project.

WFL Specification 04/02/21 10730160

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERTFLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 04/02/21 10730165

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10730170

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO; or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10730180

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10730190

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10730200

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10730210

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10730220

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10730230

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Do not disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10730240

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10730250

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(4)– FP-14

CASE 4:

WFL Specification 08/01/14 1074

4) Include the following Section 107 SCR’s as directed below on projects in Washington, Denali NP, Metlakatla Indian Reservation, or Tribal Lands in Idaho that have an EPA NPDES permit.

Consult WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10740010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 01/01/14 10740020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10740030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10740040

Include the following on all projects that have an EPA NPDES permit.

### 107.01A National Pollutant Discharge Elimination System Permit (NPDES).

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor and erosion control team member(s) according to Subsection 157.03.

**(b) Preparation of the Storm Water Pollution Prevention Plan (SWPPP).** Prepare a SWPPP in accordance with the requirements of the NPDES Construction General Permit (CGP) and contract requirements. The SWPPP may use information found in the Government’s preliminary SWPPP listed under FAR Clause 52.236-4. Work on the SWPPP may begin before the Notice to Proceed is given. Follow the FHWA format in the SWPPP provided by the CO, including the narrative, maps, erosion control details and layout sheets, forms, and documentation.

**(1)** Complete the SWPPP narrative provided in the physical data or prepare a new SWPPP narrative. Include in the SWPPP narrative a statement stating that the Contractor is responsible for performing all work required in the SWPPP, including establishing measures to prevent water pollution, performing inspections, and submitting required reports.

**(2)** Revise or prepare new site maps and erosion/sediment control details and layout sheets as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the CGP.

**(3)** Identify the Erosion Control Supervisor and erosion control team member(s) by name and position. Include their individual responsibilities according to Section 6.1 of the CGP and their qualifications in the SWPPP.

**(4)** Submit one electronic copy of the SWPPP to the CO prior to the preconstruction conference. Allow 10 working days for CO approval of SWPPP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. Co-sign the approved SWPPP and maintain it as the SWPPP of record for the project. Make the SWPPP available for public and regulatory-agency inspection.

**(c) Notice of Intent (NOI).** After the SWPPP is signed, file a NOI with the EPA as a federal operator.

File the NOI at the following website:

<https://cdx.epa.gov/cdx>

Provide a copy of the NOI and EPA acknowledgement email to the CO.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until the conclusion of the 14-day waiting period as stated in the EPA acknowledgement letter or as otherwise provided by EPA.

**(d) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs according to Section 635. Post signs in a publicly accessible location. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** The NPDES Permit tracking number.

**(2)** Contractor’s contact name and phone number for obtaining additional information.

**(3)** Include the following statements:

* “For a copy of the NOI: <https://permitsearch.epa.gov/epermit-search/ui/search>.”
* “For a copy of the Storm Water Pollution Prevention Plan for this site, contact [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).”
* “If you observe indicators of storm water pollutants in the discharge or in the receiving water, contact the EPA at: <https://www.epa.gov/enforcement/report-environmental-violations>.”

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(e) Photographs.** Identify representative locations of the project for photograph points and provide a site plan showing the photograph locations for approval. Once approved by the CO, take either ground or aerial photographs from each identified location before ground disturbing activities begin. All photos must be clear and in focus and in the original format and resolution. Include the date each photograph was taken and a brief description of the area of the site captured by the photograph. Include copies of photographs in the SWPPP.

**(f) Inspections.** Perform SWPPP inspections as required in the CGP, Subsection 157.14, and the SWPPP. Document inspections using forms provided in the SWPPP of record and retain the records in the SWPPP binder. Submit each inspection to the CO for approval. Allow 2 working days for CO approval of inspections. Co-sign each approved inspection and file in the SWPPP binder. Complete all SWPPP forms as construction progresses until submittal of the Notice of Termination (NOT) or final acceptance.

**(g) Revisions to the SWPPP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the CGP. Revise the SWPPP as necessary during construction and as required by the CGP. Submit each revision to the CO for approval. Allow 2 working days for CO approval of a revision. Co-sign each approved SWPPP revision and file in the SWPPP binder. Implement approved revisions and corrective actions according to the timelines in the CGP.

**(h) Notice of Termination (NOT).** Provide post-construction photographs according to the requirements in subsection 107.01A(e). Take photographs from the same locations and include copies of photographs in the SWPPP. File the NOT, with required photographs, when all conditions for terminating the permit have been met as described in CGP. Do not file the NOT without the CO’s approval. Provide a copy of the NOT and EPA acknowledgement email to the CO.

Provide the CO with the complete SWPPP of record upon final acceptance of the project, including inspection forms, logs, photographs, and all other required documentation added during the project.

**(i) Contractor selected sites.** Prepare separate SWPPP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These SWPPP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 03/12/14 10740050

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10740060

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10740070

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 01/01/14 10740080

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 01/01/14 10740090

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor's Accident Prevention Plan*.

WFL Specification 09/17/18 10740100

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10740110

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

Store chemicals in water-tight containers that are kept closed, sealed, and secured when not being actively used. Store chemicals a minimum of 50 feet from waters and storm drain inlets. Use secondary containment to capture leaks or spills.

WFL Specification 04/02/21 10740120

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERT FLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 04/02/21 10740125

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10740130

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO.; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO. or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10740140

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10740150

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10740160

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10740170

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10740180

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10740190

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10740200

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10740220

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(5)– FP-14

CASE 5:

WFL Specification 04/02/21 1075

5) Include the following Section 107 SCR’s as directed below on projects in Montana with a State issued NPDES permit.

Consult WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10750010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 04/02/21 10750020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10750030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10750050

Include the following on all projects in Montana with a State issued NPDES permit.

### 107.01A Montana Pollutant Discharge Elimination System Permit (MPDES).

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor according to Subsection 157.03.

**(b) Preparation of the Storm Water Pollution Prevention Plan (SWPPP).** The Government will make a preliminary SWPPP available under FAR Clause 52.236-4 – Physical Data. Perform the following:

**(1)** Update and complete all information in the preliminary SWPPP narrative.

**(2)** Revise or prepare new site maps and erosion/sediment control details and layout sheets in the preliminary SWPPP as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the state NPDES storm water permit.

**(3)** Identify the Erosion Control Supervisor and their qualifications in the preliminary SWPPP**.**

**(4)** Submit one electronic copy of the SWPPP to the CO prior to the preconstruction conference. Allow 10 working days for CO approval of the SWPPP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. The approved SWPPP becomes the SWPPP of record for the project.

**(5)** Maintain and update the SWPPP of record as needed throughout construction as required by the state NPDES storm water permit. Make the SWPPP available for public and regulatory-agency inspection.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until the updated SWPPP of record has been approved by the CO.

**(c) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs according to Section 635. Post signs in a publicly accessible and visible location at the entrance of the most active portion of the project. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** The MPDES Permit authorization number.

**(2)** Contractor’s contact name and phone number for obtaining additional information.

**(3)** Include the following statements:

* “Request project information from Montana DEQ Water Protection Bureau at (406) 444‑3080.”
* “File a complaint at: “[http://deq.mt.gov/reporting](https://deq.mt.gov/about/reportpollution).”
* “For a copy of the Storm Water Pollution Prevention Plan for this site or if indicators of storm water pollutants in the discharge or in the receiving waterbody are observed, contact [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).”

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(d) Inspections.** Perform SWPPP inspections as required in the state NPDES storm water permit, Subsection 157.14, and the SWPPP. Document inspections using FHWA forms provided in the SWPPP of record and retain the records in the SWPPP binder. Submit each inspection to the CO for approval. Allow 2 working days for CO approval of inspections. Co‑sign each approved inspection and file in the SWPPP binder. Complete all SWPPP forms as construction progresses until final acceptance

**(e) Revisions to the SWPPP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the state NPDES permit. Revise the SWPPP as necessary during construction and as required by the state NPDES permit. Submit each revision to the CO for approval. Allow 2 working days for CO approval of a revision. Co-sign each approved SWPPP revision and file in the SWPPP binder. Implement approved revisions and corrective actions according to the timelines in the state NPDES permit.

**(f) Project close-out.** Provide the CO with the complete SWPPP of record upon final acceptance of the project, including inspection forms, logs, and all other required documentation added during the project.

**(g) Contractor selected sites.** Prepare separate SWPPP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These SWPPP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 04/02/21 10750090

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10750100

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10750110

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 04/02/21 10750120

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 04/02/21 10750130

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor's Accident Prevention Plan*.

WFL Specification 04/02/21 10750140

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10750150

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

WFL Specification 04/02/21 10750160

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERTFLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 04/02/21 10750165

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10750170

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO.; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO. or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10750180

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10750190

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10750200

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10750210

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10750220

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 04/02/21 10750230

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10750240

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10750250

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(6)– FP-14

CASE 6:

WFL Specification 04/02/21 1076

6) Include the following Section 107 SCR’s as directed below on projects in Wyoming with a State issued NPDES permit.

Consult WFL Environment before revising these SCR’s.

WFL Specification 11/08/21 10760010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 04/02/21 10760020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10760030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10760050

Include the following on projects in all projects in Wyoming with a State issued NPDES permit.

### 107.01A Wyoming Pollutant Discharge Elimination System Permit (WYPDES).

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor according to Subsection 157.03.

**(b) Preparation of the Storm Water Pollution Prevention Plan (SWPPP).** The Government will make a preliminary SWPPP available under FAR Clause 52.236-4 – Physical Data. Perform the following:

**(1)** Update and complete all information in the preliminary SWPPP narrative.

**(2)** Revise or prepare new site maps and erosion/sediment control details and layout sheets in the preliminary SWPPP as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the state NPDES storm water permit.

**(3)** Identify the Erosion Control Supervisor and their qualifications in the preliminary SWPPP**.**

**(4)** Submit one electronic copy of the SWPPP to the CO prior to the preconstruction conference. Allow 10 working days for CO approval of the SWPPP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. The approved SWPPP becomes the SWPPP of record for the project.

**(5)** Maintain and update the SWPPP of record as needed throughout construction as required by the state NPDES storm water permit. Make the SWPPP available for public and regulatory-agency inspection.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until the updated SWPPP of record has been approved by the CO.

**(c) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs according to Section 635. Post signs in a publicly accessible location. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** A laminated copy of the authorization letter.

**(2)** Contractor’s contact name and phone number for obtaining additional information.

**(3)** Include the following statement:

* “For a copy of the Storm Water Pollution Prevention Plan for this site or if indicators of storm water pollutants in the discharge or in the receiving waterbody are observed, contact the Federal Highway Administration at [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(d) Inspections.** Perform SWPPP inspections as required in the state NPDES storm water permit, Subsection 157.14, and the SWPPP. Document inspections using FHWA forms provided in the SWPPP of record and retain the records in the SWPPP binder. Submit each inspection to the CO for approval. Allow 2 working days for CO approval of inspections. Co‑sign each approved inspection and file in the SWPPP binder. Complete all SWPPP forms as construction progresses until final acceptance.

**(e) Revisions to the SWPPP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the state NPDES permit. Revise the SWPPP as necessary during construction and as required by the state NPDES permit. Submit each revision to the CO for approval. Allow 2 working days for CO approval of a revision. Co-sign each approved SWPPP revision and file in the SWPPP binder. Implement approved revisions and corrective actions according to the timelines in the state NPDES permit.

**(f) Project close-out.** Provide the CO with the complete SWPPP of record upon final acceptance of the project, including inspection forms, logs, and all other required documentation added during the project.

**(g) Contractor selected sites.** Prepare separate SWPPP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These SWPPP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 04/02/21 10760090

Include the following when work is performed on Tribal jurisdictional lands and TERO requirement applies. Edit as required.

Examples of Language to insert:

Tribal TERO fees may apply on this project.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for work performed within the Tribes jurisdictional boundaries.

A Tribal TERO fee of [INSERT PERCENTAGE] will be assessed by the Tribe for the total contract price and for any contract modifications.

### 107.01B TERO Requirements.

(Added Subsection).

[INSERT LANGUAGE AS REQUIRED]

The Government is not subject to TERO requirements and is not a party to any agreements between the Tribe and Contractor pursuant to the TERO.

For further information on the TERO requirements, contact the [INSERT TRIBE NAME] TERO at:

[INSERT TRIBE] Tribal Employment Rights Office

[INSERT CONTACT INFORMATION]

WFL Specification 04/02/21 10760100

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 04/02/21 10760110

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 04/02/21 10760120

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 04/02/21 10760130

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor’s Accident Prevention Plan*.

WFL Specification 04/02/21 10760140

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10760150

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

WFL Specification 04/02/21 10760160

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERTFLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 04/02/21 10760165

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 04/02/21 10760170

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO. or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10760180

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10760190

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 04/02/21 10760200

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10760210

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 04/02/21 10760220

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10760230

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10760240

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10760250

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]

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

02/09/24(7)– FP-14

CASE 7:

WFL Specification 06/15/22 1077

7) Include the following Section 107 SCR’s as directed below on projects in Idaho (excluding Tribal Lands in Idaho) with a State issued NPDES permit.

Consult WFL Environment before revising these SCR’s.

WFL Specification 06/15/22 10770010

Include the following on projects that have permits in Appendix H.

### 107.01 Laws to be Observed.

Delete the third paragraph and substitute the following:

Comply with the terms and conditions included in all permits and agreements obtained by the Government for performing the work included in this contract (See Section H). The Government will extend the permits and agreements in Section H as needed. Notify the CO immediately of any changes, including modifications to Government-obtained permits, or any additional permits or agreements that are required by the Contractor’s methods of operation. Allow adequate time in the construction schedule for any additional permits or changes to Government-obtained permits. Furnish copies of all acquired permits and agreements not in the contract.

WFL Specification 06/15/22 10770020

Note: Insert permit requirements and responsibility for removal of erosion control features. Coordinate with Subsection 157.15.

[INSERT REQUIREMENTS]

WFL Specification 06/15/22 10770030

Include the following on all projects.

Coordinate with the Partner Agency as applicable to determine specific plan for inclusion.

Comply with the requirements of the Fire Protection and Suppression Plan included in this contract (See Section I).

WFL Specification 02/09/24 10770040

Include the following on all projects in Idaho with a State issued NPDES permit.

### 107.01A Idaho Pollutant Discharge Elimination System Permit (IPDES).

(Added Subsection).

**(a) Erosion Control Supervisor.** Provide a qualified Erosion Control Supervisor and erosion control team member(s) according to Subsection 157.03.

**(b) Preparation of the Storm Water Pollution Prevention Plan (SWPPP).** Prepare a SWPPP in accordance with the requirements of the IPDES Construction General Permit (CGP) and contract requirements. The SWPPP may use information found in the Government’s preliminary SWPPP listed under FAR Clause 52.236-4. Work on the SWPPP may begin before the Notice to Proceed is given. Follow the FHWA format in the SWPPP provided by the CO, including the narrative, maps, erosion control details and layout sheets, forms, and documentation.

**(1)** Complete the SWPPP narrative provided in the physical data or prepare a new SWPPP narrative. Include in the SWPPP narrative a statement stating that the Contractor is responsible for performing all work required in the SWPPP, including establishing measures to prevent water pollution, performing inspections, and submitting required reports.

**(2)** Revise or prepare new site maps and erosion/sediment control details and layout sheets as necessary to accommodate project site conditions and proposed construction operations. Include map locations and erosion and sediment control measures for all Government-provided:

*(a)* Staging areas;

*(b)* Equipment storage areas;

*(c)* Erodible stockpiles; and

*(d)* Other locations required by the CGP.

**(3)** Identify the Erosion Control Team members by name and position. Include their individual responsibilities according to Section 6.1 of the CGP and their qualifications in the SWPPP.

**(4)** Submit one electronic copy of the SWPPP to the CO prior to the preconstruction conference. Allow 10 working days for CO approval of SWPPP. Upon approval by the CO, print one paper copy and place in a binder following the FHWA tab format. Co-sign the approved SWPPP and maintain it as the SWPPP of record for the project. Make the SWPPP available for public and regulatory-agency inspection.

**(c) Notice of Intent (NOI).** After the SWPPP is signed, file a NOI with the Idaho Department of Environmental Quality as a federal operator.

File the NOI at the following website:

<https://www2.deq.idaho.gov/water/ipdes>

Provide a copy of the NOI and Idaho DEQ acknowledgement email to the CO.

Do not perform any ground disturbing activities including clearing, grubbing, or earthwork until the conclusion of the 14-day waiting period as stated in the Idaho DEQ acknowledgement letter or as otherwise provided by Idaho DEQ.

**(d) Public Notice.** Provide an aluminum sign panel to be installed in a location approved by the CO. Fabricate and mount signs according to Section 635. Post signs in a publicly accessible location. Furnish signs containing the following information using a large, readable font of at least 1-inch size letters:

**(1)** The IPDES Permit tracking number.

**(2)** Contractor’s contact name and phone number for obtaining additional information.

**(3)** Include the following statements:

* “For a copy of the Storm Water Pollution Prevention Plan for this site, contact the Federal Highway Administration at [WFLHDStormwater@dot.gov](mailto:WFLHDStormwater@dot.gov).
* If you observe indicators of storm water pollutants in the discharge or in the receiving water, contact DEQ through the following website: <https://www.deq.idaho.gov/about-us/contact-us/>.

Removal and disposal of the sign panel, posts, and any other information posted on the sign panel will be performed by others.

**(e) Inspections.** Perform SWPPP inspections as required in the CGP, Subsection 157.14, and the SWPPP. Document inspections using forms provided in the SWPPP of record and retain the records in the SWPPP binder. Submit each inspection to the CO for approval. Allow 2 working days for CO approval of inspections. Co-sign each approved inspection and file in the SWPPP binder. Complete all SWPPP forms as construction progresses until submittal of the Notice of Termination (NOT) or final acceptance.

**(f) Revisions to the SWPPP.** Ensure that all erosion and sediment control procedures, practices, and inspections are current as required by the CGP. Revise the SWPPP as necessary during construction and as required by the CGP. Submit each revision to the CO for approval. Allow 2 working days for CO approval of a revision. Co-sign each approved SWPPP revision and file in the SWPPP binder. Implement approved revisions and corrective actions according to the timelines in the CGP.

**(g) Notice of Termination (NOT).** File the NOT when all conditions for terminating the permit have been met as described in CGP. Do not file the NOT without the CO’s approval. Provide a copy of the NOT and DEQ acknowledgement email to the CO.

Provide the CO with the complete SWPPP of record upon final acceptance of the project, including inspection forms, logs, and all other required documentation added during the project.

**(h) Contractor selected sites.** Prepare separate SWPPP and file separate NOI for all Contractor-selected sources and all waste, borrow, and staging sites not included in the contract. These SWPPP(s) and NOI(s) are solely the responsibility of the Contractor. Do not submit to CO for approval or for signature.

WFL Specification 06/15/22 10770060

Include the following on all projects.

### 107.02 Protection and Restoration of Property and Landscape.

Amend as follows:

Delete the third paragraph and substitute the following:

Do not disturb any area outside the construction limits unless authorized according to Subsections 105.02(c) and 107.10(d). Replace trees, shrubs, or vegetated areas outside the construction limits damaged by construction operations as directed and at no cost to the Government. Only remove damaged limbs of existing trees when directed by an approved arborist.

WFL Specification 06/15/22 10770070

Include the following on all Federal Land Management Agency (FLMA) projects and on projects that cross through FLMA managed lands. Replace “FLMA” with the appropriate name of the Partner agency (e.g., National Park Service, US Forest Service, BLM, etc.).

Note: Include SCR 108.06 Suspension.

Add the following to the fourth paragraph:

Paleontological remains and archeological specimens found within the construction area are the property of the [INSERT FLMA] and will be removed only by the [INSERT FLMA] or designated representatives. Notify the CO within 1 hour of any discovery. Include a brief statement of the location and details of the finding.

WFL Specification 06/15/22 10770080

Include the following when required, and revise as needed per Partner requirements.

### 107.03A Public Notice.

(Added Subsection).

Publish notices of the road work in local newspapers and on local radio stations. Include a description of the work, expected delays, and periods when the road is open to traffic without delays. Issue the notice at least 5 days before beginning work on the project or beginning work after a winter suspension, and at least two times during the normal tourist season.

WFL Specification 06/15/22 10770090

Include the following on all projects.

### 107.08 Sanitation, Health, and Safety.

Add the following after the first paragraph:

Submit an accident prevention plan for implementing safety and health standards at the Preconstruction Conference. Use the Government furnished Form WFLHD-28, *Guide Outline of Contractor’s Accident Prevention Plan*.

WFL Specification 06/15/22 10770100

Include the following on all projects.

### 107.10 Environmental Protection.

Amend as follows:

WFL Specification 02/09/24 10770110

Include the following on all projects.

**(b) Oil and hazardous substances.**

Add the following:

Inspect all vehicles and equipment conducting operations in or within 200 feet of wetlands or water daily for fluid leaks.

Store chemicals in water-tight containers that are kept closed, sealed, and secured when not being actively used. Store chemicals a minimum of 50 feet from waters and storm drain inlets. Use secondary containment to capture leaks or spills.

WFL Specification 06/15/22 10770120

Include the following when required by the FLMA.

**(c) Dirt, plant, and foreign material.**

Delete the text of the first paragraph and substitute the following:

Remove dirt, plant, and foreign material from vehicles and equipment before entry into [INSERT FLMA location]. Prevent introduction of noxious weeds and non-native plant species into the work site. Follow applicable Federal land management agency requirements and state requirements. Maintain cleaning and inspection records. Clean hauling vehicles before their initial entry; subsequent entries will not require cleaning unless requested. Notify the CO a minimum of 48 hours before entry to allow for inspection.

WFL Specification 06/15/22 10770125

Include the following when working near or within wetlands and/or waters.

Add the following to paragraph (c):

Clean all vehicles and equipment to remove all visible traces of soil, plant material, debris, and petroleum from wheels, tires, tracks, drive mechanisms, undercarriages, etc. Only materials and equipment free of toxic pollutants may be placed within wetlands and waters.

WFL Specification 06/15/22 10770130

Include the following on all projects.

In areas with unique or sensitive resources present that may be impacted, (e.g. pristine viewsheds, sensitive human or wildlife low noise area) restrictions should be added to require Contractor-selected sites to produce no effect to these resources.

Example:

Do not select material source sites within the Columbia River Gorge National Scenic Area.

Do not select waste disposal site that may be viewed from the town of [INSERT TOWN].

**(d) Clearances for Contractor-selected, noncommercial areas.**

Delete this Subsection and substitute the following:

**(d) Sites outside construction limits.** Activities outside the construction limits include, but are not limited to the following; material sources, waste sites, haul roads, staging areas, and water sources. Provide the following documents to the CO and anticipate a minimum of 60 days for approvals. Do not use sites or sources until approved by CO.

The requirements (1) through (6) below do not apply to Government designated sites or sources or commercial sites or sources that are established, have provided material over the last two years, have appropriate Federal, State and local permits, and do not require expansion outside their currently established and permitted area.

**(1) Proposed activity description.** Submit a description, schedule, and location of the proposed activities for approval by the CO. Include maps of the area and other relevant information.

**(2) Cultural resources.** Submit written documentation satisfactory to the CO for a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) for historic properties on or eligible for listing to the National Register of Historic Places. Provide either:

*(a)* Documentation showing there are no cultural resources present, and a recommendation of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1). Documents must be prepared by an individual qualified under the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44738-44739 and 36 CFR Part 61.

Documentation must be satisfactory to the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) as appropriate, according to 36 CFR 800.3(c).

The CO will submit the documentation to the SHPO or THPO.; or

*(b)* Documentation showing a finding of either “no historic properties affected” or “no effect” according to 36 CFR 800.4(d)(1) has been previously obtained for the proposed activities from the State, Tribal Government or Federal Land Management Agency responsible for the land. Include attached copies of SHPO concurrence, or Memorandum of Agreement (MOA) where concurrence is not required.

**(3) Species protected under the Endangered Species Act of 1973.** Submit written documentation satisfactory to the CO that the proposed action will have no effect to any threatened or endangered species or their critical habitat. Provide either:

*(a)* A current list of all threatened or endangered species in the site of proposed activities from the U.S. Fish and Wildlife Service and National Marine Fisheries Service; and a recommendation of a “no effect” determination according to Section 7 of the Endangered Species Act prepared by a biological specialist with a minimum of 3 years of experience in Endangered Species Act compliance or other qualifications acceptable to the CO; or

*(b)* Documentation showing the proposed activities have previously been determined to comply with the Endangered Species Act and this determination remains valid. This documentation must be from the State, Tribal Government or Federal Land Management Agency responsible for the land. Attach evidence of compliance, including correspondence with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

**(4) Wetlands and Waters.** Submit written documentation satisfactory to the CO, that the proposed action will comply with Sections 404 and 401 of the Clean Water Act, Executive Order 11990, and will not affect any wetlands or waters under Federal, State, or local jurisdiction. Documentation must be prepared by a wetland specialist with a minimum of 3 years of experience in wetland and ordinary high water mark delineation.

**(5) Federal lands.** Before use of sites on Federal lands, submit a copy of the Letter of Approval or Special Use Permit from the applicable Federal agency allowing use of the site for intended purposes.

**(6) Tribal, state and local approvals.** Comply with applicable laws regarding the proposed activities. Submit copies of required clearances, including hazardous waste compliance, tribal, State and local permits and approvals.

WFL Specification 02/09/24 10770140

Include the following when additional environmental commitments are required.

 — — — — — — — — — — — — — — — — — — — — — — —

Note: Include special project commitments contained in permits or other environmental documents, as identified in the Environmental Commitment Summary (ECS).

When requirements in this section may take extended timelines or present unusual problems, the Environmental Specialist will provide these to the Designer to ensure language is included to the Notice to Bidders to ensure bidders are aware of these issues.

Note: Include SCR 108.06 Suspension as needed.

**(e) Other requirements. (**

Added Subsection)

Comply with the following requirements:

WFL Specification 02/09/24 10770150

Include the following when there are in-water work timing restrictions and equipment requirements (Coordinate with FLMA and/or resource agencies if Environmentally Acceptable Lubricants (EALs) are an acceptable alternative to vegetable-based oil).

Revise as needed and include other commitments as required by permits.

**(1)** Perform in-water work from [INSERT Month/Date to Month/Date] (dates inclusive) of any given year unless otherwise approved by the CO.

**(2)** Use biodegradable vegetable-based oil in any equipment that operates over or reaches into wetlands or waters.

WFL Specification 06/15/22 10770160

Include the following when there are timing restrictions for species. Revise as needed.

**(3)** Conduct construction activities between [INSERT Month/Date and Month/Date] (dates inclusive), unless otherwise approved by the CO, to avoid disturbing [INSERT applicable species].

**(4)** Conduct construction activities between 2 hours after sunrise and 2 hours before sunset for all work between [INSERT Month/Date and Month/Date] (dates inclusive).

WFL Specification 02/09/24 10770170

Include the following when there are timing restrictions for nesting birds protected under the Migratory Bird Treaty Act. Revise as needed.

Note: Include reference in SCR 108.06 Suspension.

**(5)** Do not conduct clearing operations between [INSERT Month/Date and Month/Date] (dates inclusive) to avoid impacting nesting birds.

**(6)** If active bird nests are identified during clearing operations; immediately suspend operations within 500 feet of the nest, and notify the CO within 1 hour. Obtain approval from the CO before restarting operations.

WFL Specification 06/15/22 10770180

Include the following when required by the Endangered Species Act or other environmental compliance/permit commitments. Revise as needed.

**(7)** Notify CO within 24 hours of locating a dead, injured, or sick endangered or threatened species. Listed fish species include [INSERT potential listed species]. Listed wildlife species include [INSERT potential listed species]. Provide CO date, time, precise location of the injured animal or carcass, and any other pertinent information. Do not disturb any evidence associated with the specimen.

WFL Specification 01/06/23 10770190

Include the following for all projects.

**(8)** Store all food, toiletries, and other potential attractants (e.g., petroleum products, antifreeze, personal hygiene items) in wildlife-proof containers or enclosed construction equipment, except during actual use.

**(9)** Remove all trash from the project site daily and dispose of trash as appropriate and according to Subsection 203.05.

**(10)** Donot disturb, feed, and/or approach any wildlife species (e.g., reptiles, birds, raptors, or bats) found nesting, hibernating, or otherwise living in, or immediately nearby, worksites.

**(11)** Do not allow equipment to idle longer than 10 minutes.

WFL Specification 02/09/24 10770200

Include the following when work will occur near wetlands or other surface waters.

**(12)** Conduct machinery maintenance and refueling at a distance of 200 feet or greater from any wetlands or waters. Refueling of equipment may occur within 200 feet of waterbodies if approved by the CO and spill prevention measures are in place.

WFL Specification 02/09/24 10770220

Include additional environmental requirements and commitments as needed.

**(13)** [INSERT OTHER ENVIRONMENTAL REQUIREMENTS AS APPROPRIATE]