



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

December 18, 2025

Colonel Kathryn P. Sanborn
United States Department of the Army
Corps of Engineers, Seattle District
PO Box 3755
Seattle, WA 98124-3755

Re: Coastal Zone Management Federal Consistency Decision for the 2026 Nationwide Permit Program, Washington's Coast Zone

Dear Colonel Kathryn P. Sanborn:

On June 18, 2025, the Army Corps of Engineers (Corps) published in the Federal Register (90 FR 26100) its proposal for the 2026 reissuance of the Nationwide Permit (NWP) Program. On the same date, the Corps submitted a Consistency Determination with the Washington State Department of Ecology's (Ecology) Coastal Zone Management Program (CZMP) for review regarding the proposal. As the State's designated Coastal Zone Management (CZM) agency, Ecology is authorized to review this federal action according to the requirements of 15 CFR Part 930.36(c). On July 22, 2025, Ecology and the Corps agreed to extend the CZM decision deadline to December 18, 2025, pursuant to 15 CFR Part 930.41(b), to allow additional time for Ecology to complete the simultaneous Clean Water Act Section 401 review of the proposed NWP. Ecology issued a 21-day public notice on July 25, 2025.

The State Water Pollution Control Act (WPCA) is one of the enforceable policies of the Washington CZMP. One of the ways in which consistency with the WPCA can be addressed is through obtaining a Section 401 Water Quality Certification. This is because Ecology's Section 401 review takes the enforceable policies within the WPCA into consideration. Therefore, Ecology's review of the proposed NWPs under Section 401 authority must be complete before a CZM decision could be issued.

The 2026 NWP Program

NWPs are issued by the Corps to authorize categories of activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 that have no more than minimal individual and cumulative adverse environmental effects. The Corps is proposing to reissue 56 existing NWPs and associated general conditions and definitions, with some modifications. Additionally, the Corps is proposing to issue one new NWP to authorize activities to improve the passage of fish and other aquatic organisms through aquatic ecosystems.

The NWP Program would apply throughout Washington's Coastal Zone which includes all lands and waters in the following fifteen coastal counties: Clallam, Jefferson, Grays Harbor, Pacific, San Juan, Island, Whatcom, Skagit, Snohomish, King, Kitsap, Mason, Pierce, Thurston, and Wahkiakum. The Corps determined that the proposed NWPs would be authorized in a manner consistent with the enforceable policies of the Washington CZMP.

Ecology's Federal Consistency Decision

This letter constitutes Ecology's programmatic CZM federal consistency decision for the 2026 reissuance of the NWPs. This decision applies to all NWPs authorized in Washington for projects or activities within the State's Coastal Zone.

Ecology's federal consistency decision neither replaces nor supersedes requirements set forth by other local, state, federal, and Tribal laws, nor eliminates the need to obtain additional permits, approvals, consultations, or authorizations as required by law before proposed activities may commence.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act (CZMA) of 1972 as amended, Ecology is issuing programmatic concurrences, conditional concurrences, and objections to the proposed NWPs in response to the Consistency Determination received from the Corps. Any conditions that Ecology developed for the 2026 NWP Program are in addition to, and not a replacement for, the national and regional conditions of the NWP Program or the State's Section 401 decision.

Ecology **concurs** with the Corps' Consistency Determination for the following NWPs:

- NWPs 1, 2, 4, 5, 6, 7, 9, 10, 11, 16, 20, 22, 23, 25, 27, 28, 30, 33, 35, 40 and 43.

Ecology **conditionally concurs** with the Corps' Consistency Determination for the following NWPs (specific conditions for each NWP are identified in the following section of this decision document):

- NWPs 3, 13, 14, 15, 18, 19, 29, 31, 34, 36, 42, 57, and 58.

Ecology **objects** to the Corps' Consistency Determination for the following NWPs:

- NWPs 8, 12, 17, 21, 32, 37, 38, 39, 41, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 59, and proposed NWP A.

Note: NWPs 26, 47, and 56 are currently reserved. NWP 24 is not applicable in Washington State. NWP 48 is not available for use in Washington as the Corps has proposed to modify NWP 48 to exclude its use in Washington due to federal court decisions.

Ecology's federal consistency decision specific to each NWP is as follows:

1. Aids to Navigation
Concur.
2. Structures in Artificial Canals
Concur.
3. Maintenance
Concur except where:
 1. The project or activity involves new, expansion, or complete replacement of a bank or shoreline stabilization in waters of the state.
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
Concur.
5. Scientific Measurement Devices
Concur.
6. Survey Activities
Concur.
7. Outfall Structures and Associated Intake Structures
Concur.
8. Oil and Gas Structures on the Outer Continental Shelf
Object. Individual federal consistency review is required for all activities authorized under this NWP.
9. Structures in Fleeting and Anchorage Areas
Concur.

10. Mooring Buoys

Concur.

11. Temporary Recreational Structures

Concur.

12. Oil or Natural Gas Pipeline Activities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

13. Bank Stabilization

Concur except where:

1. The project or activity includes new, expanded, or complete replacement of a bank or shoreline stabilization that uses hard stabilization techniques.

14. Linear Transportation Projects

Concur except where:

1. The project or activity is in a known cleanup site; or
2. The project or activity impacts more than 1/3 acre of waters; or
3. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed 1/3 acre; or
4. There is a preemption of local or state permit requirements necessary to demonstrate compliance with the CZMP enforceable policies.

Note: Ecology's definition of impacts includes direct, indirect, permanent and temporary impacts.

15. U.S. Coast Guard Approved Bridges

Concur except where:

1. The project or activity triggers an individual U.S. Coast Guard bridge permit; or
2. There is a preemption of local or state permit requirements necessary to demonstrate compliance with the CZMP enforceable policies.

Note: An Advance Approval from the U.S. Coast Guard is not considered a bridge permit and would not require an individual federal consistency review from Ecology.

16. Return Water from Upland Contained Disposal Areas

Concur.

17. Hydropower Projects

Object. Individual federal consistency review is required for all activities authorized under this NWP.

18. Minor Discharges

Concur except where:

1. The project or activity includes fill waterward of the Ordinary High Water Mark (or High Tide Line); and
2. The project or activity is proposed for a purpose other than ecological restoration, which is defined as the re-establishment or upgrading of impaired ecological processes or functions through rehabilitation. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials.

19. Minor Dredging

Concur except where:

1. There is proposed dredging waterward of the Ordinary High Water Mark (or High Tide Line) for the primary purpose of obtaining fill material. This exception does not apply when the material is necessary for the restoration of ecological functions.

20. Response Operations for Oil or Hazardous Substances

Concur.

21. Surface Coal Mining Activities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

22. Removal of Vessels

Concur.

23. Approved Categorical Exclusions

Concur.

24. Indian Tribe of State Administered Section 404 Programs

N/A in Washington State.

25. Structural Discharges

Concur.

26. [Reserved]

N/A

27. Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities

Concur.

28. Modification of Existing Marinas

Concur.

29. Residential Developments

Concur except where:

1. The project or activity constitutes new residential development to be constructed over waters or breakwaters waterward of the Ordinary High Water Mark (or High Tide Line).

30. Moist Soil Management for Wildlife

Concur.

31. Maintenance of Existing Flood Control Facilities

Concur except where:

1. The project or activity is new or an expansion of facilities.

32. Completed Enforcement Actions

Object. Individual federal consistency review is required for all activities authorized under this NWP.

33. Temporary Construction, Access, and Dewatering

Concur.

34. Cranberry Production Activities

Concur except where:

1. The project or activity is new or an expansion of existing cranberry operations.

35. Maintenance Dredge of Existing Basins

Concur.

36. Boat Ramps

Concur except where:

1. The project or activity constitutes a new use; and
2. The project or activity is for individual private use.

37. Emergency Watershed Protection and Rehabilitation

Object. Individual federal consistency review is required for all activities authorized under this NWP.

38. Cleanup of Hazardous and Toxic Waste

Object. Individual federal consistency review is required for all activities authorized under this NWP.

39. Commercial and Institutional Developments

Object. Individual federal consistency review is required for all activities authorized under this NWP.

40. Agricultural Activities

Concur.

41. Reshaping Existing Drainage and Irrigation Ditches

Object. Individual federal consistency review is required for all activities authorized under this NWP.

42. Recreational Facilities

Concur except where:

1. The project or activity constitutes new development to be constructed over waters or breakwaters waterward of the Ordinary High Water Mark (or High Tide Line).

43. Stormwater Management Facilities

Concur.

44. Mining Activities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

45. Repair of Uplands Damaged by Discrete Events

Object. Individual federal consistency review is required for all activities authorized under this NWP.

46. Discharges in Ditches

Object. Individual federal consistency review is required for all activities authorized under this NWP.

47. [Reserved]

N/A

48. Commercial Shellfish Mariculture Activities

Not available for use in Washington.

49. Coal Remining Activities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

50. Underground Coal Mining Activities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

51. Land-Based Renewable Energy Generation Facilities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

52. Water-Based Renewable Energy Generation Pilot Projects

Object. Individual federal consistency review is required for all activities authorized under this NWP.

53. Removal of Low-Head Dams

Object. Individual federal consistency review is required for all activities authorized under this NWP.

54. Living Shorelines

Object. Individual federal consistency review is required for all activities authorized under this NWP.

55. Seaweed Mariculture

Object. Individual federal consistency review is required for all activities authorized under this NWP.

56. [Reserved]

N/A

57. Electric Utility Line and Telecommunications Activities

Concur except where:

1. The project or activity occurs within waters of the Pacific Ocean, seaward from Cape Flattery south to Cape Disappointment, from Mean High Tide seaward two hundred miles and including the Willapa Bay and Grays Harbor estuaries; or
2. There is a preemption of local or state permit requirements necessary to demonstrate compliance with the CZMP enforceable policies.

58. Utility Line Activities for Water and Other Substances

Concur except where:

1. The project or activity occurs within waters of the Pacific Ocean, seaward from Cape Flattery south to Cape Disappointment, from Mean High Tide seaward two hundred miles and including the Willapa Bay and Grays Harbor estuaries.

59. Water Reclamation and Reuse Facilities

Object. Individual federal consistency review is required for all activities authorized under this NWP.

A. Activities to Improve Passage of Fish and Other Aquatic Organisms

Object. Individual federal consistency review is required for all activities authorized under this NWP.

Continued Review & Coordination

Once the 2026 NWP Program is finalized, any NWP activities authorized by the Corps within Washington's Coastal Zone that do not meet Ecology's applicable conditions, or any authorized activities under a NWP in which Ecology has objected to, must obtain an individual CZM federal consistency decision from Ecology per 15 CFR Part 930 Subpart D. To initiate this review, the proponent of the activity must submit a Consistency Certification to Ecology to demonstrate consistency with Washington's CZMP. The Consistency Certification needs to include a description of the proposed project or activity and evidence of compliance with the applicable enforceable policies, along with supporting information. Within six months from the receipt of the necessary information, Ecology will provide a federal consistency decision for the proposed activity. If Ecology fails to issue a decision within the six-month period, and has not negotiated a stay with the applicant, concurrence is presumed. For those NWPs that Ecology has outright concurred with, individual federal consistency review is not required.

Ecology appreciates the Corps' continued communication in preparing for the NWP renewals. This partnership is critical to ensuring a thorough federal consistency review of the NWP Program, creating efficiencies for both agencies. Ecology encourages the Corps to continue to implement early coordination to ensure meaningful state-federal coordination for the next iteration of the NWP re-authorization process, as directed by the CZMA, and to allow sufficient time for federal consistency review which also considers Ecology's Section 401 review.

If you have any questions regarding Ecology's decision, please contact Teresa Pucylowski at teressa.pucylowski@ecy.wa.gov.

CZM Federal Consistency Decision for the Proposed 2026 NWP
Aquatics ID No. 139899
December 18, 2025
Page 10 of 10

Sincerely,

A handwritten signature in blue ink, appearing to read "Joenne McGerr". The signature is fluid and cursive, with the first name "Joenne" being larger and more prominent than the last name "McGerr".

Joenne McGerr
Program Manager
Shorelands and Environmental Assistance Program

Sent via e-mail: Kathryn.P.Sanborn@usace.army.mil

E-cc: Lia Protopapadakis, U.S. Army Corps of Engineers
Dan Krenz, U.S. Army Corps of Engineers
Loree' Randall, Ecology
Teresa Pucylowski, Ecology
Erin Hanlon Brown, Ecology
ecyreczmfedconsistency@ecy.wa.gov