



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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October 14, 2021

Colonel Alexander Bullock  
District Engineer  
Seattle District, Corps of Engineers  
PO Box 3755  
Seattle, Washington 98124-3755

RE: Modified State of Washington Coastal Zone Management Program Federal Consistency  
Decisions for the 41 Nationwide Permits in the Final Draft Rule.

Dear Colonel Bullock:

On August 18, 2021, Department of Ecology (Ecology) received a letter from the U.S. Army Corps of Engineers (Corps) Seattle District providing states with the opportunity to conduct supplemental coordination under 15 CFR 930.46 for the 41 Nationwide Permits (NWP) that have not yet been finalized.

In response, Ecology has modified our Coastal Zone Management (CZM) federal consistency decisions provided to the Corps on December 28, 2020 for the 41 NWPs in the final draft rule. For the 16 NWPs finalized January 13, 2021, an individual CZM federal consistency decision will be required given that the Corps has declined to rely on Ecology's programmatic Water Quality Certification decision and an individual Water Quality Certification is required.

Please be advised that the consistency decisions for the NWPs do not apply to federal activities or development projects that are subject to 15 CFR 930 Subpart C – *Consistency for Federal Agency Activities*. For those federal activities or development projects, the federal agency is required to send Ecology a federal consistency determination pursuant to the requirements of Subpart C.

Ecology's federal consistency decisions neither replace nor supersede requirements set forth by other local, state, federal, and tribal laws, nor eliminate the need to obtain additional permits, approvals, consultations, or authorizations as required by law before proposed activities may commence.

Ecology NWP's Federal Consistency Decisions

October 14, 2021

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If you have any questions or would like additional information, please contact Loree' Randall (Loree.Randall@ecy.wa.gov) or Erin Hanlon Brown (Erin.HanlonBrown@ecy.wa.gov).

Sincerely,

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

Joenne McGerr

Program Manager

Shorelands and Environmental Assistance Program

Washington State Department of Ecology

Attachment – State of Washington Department of Ecology Coastal Zone Management Federal Consistency Decisions for the U.S. Army Corps of Engineers 41 Nationwide Permits in the Draft Final Rule. These federal consistency decisions apply to all NWP permits authorized in Washington by the Seattle District or Portland District Corps for projects or activities within the State's coastal zone.

**State of Washington Department of Ecology**  
**Coastal Zone Management Program Federal Consistency**  
**Decisions for the U.S. Army Corps of Engineers**  
**41 Nationwide Permits in the Draft Final Rule**  
*October 14, 2021*

As the designated Coastal Zone Management agency in the state of Washington, the Department of Ecology (Ecology) issues the following Coastal Zone Management Program (CZMP) federal consistency decisions for the remaining 41 Nationwide Permits (NWP). These Coastal Zone Management (CZM) federal consistency decisions apply to all projects and activities authorized by NWPs in the 15 coastal counties of the State of Washington: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom.

**NOTE:** Ecology’s federal consistency decisions for the NWPs do not apply to federal activities or federal development projects that are subject to 15 CFR 930 Subpart C – *Consistency for Federal Agency Activities*. For those federal activities or federal development projects, the federal agency is required to send Ecology a federal consistency determination per the requirements of Subpart C.

For the 41 NWPs identified below, Ecology has developed the following NWP-specific CZM federal consistency decisions and conditions.

**A. Nationwide Permits where Ecology Concurs CZM Federal Consistency**

Ecology **concurs** that the following NWPs comply with the applicable enforceable policies of Washington’s approved CZMP.

|    |  |
|----|--|
| 1  | Aids to Navigation   |
| 2  | Structures in Artificial Canals  |
| 4  | Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities |
| 5  | Scientific Measurement Devices   |
| 7  | Outfall Structures and Associated Intake Structures                              |
| 9  | Structures in Fleeting and Anchorage Areas                                       |
| 10 | Mooring Buoys  |
| 11 | Temporary Recreational Structures  |
| 16 | Return Water from Upland Contained Disposal Areas                                |
| 18 | Minor Discharges   |
| 20 | Response Operations for Oil and Hazardous Substances                             |
| 22 | Removal of Vessels   |
| 25 | Structural Discharges  |
| 30 | Moist Soil Management for Wildlife   |
| 31 | Maintenance of Existing Flood Control Facilities                                 |
| 33 | Temporary Construction, Access, and Dewatering                                   |

## **B. Nationwide Permits Where Ecology Concurs with Conditions CZM Federal Consistency**

Ecology **concurs with conditions** that the following NWPs comply with the applicable enforceable policies of Washington's approved CZMP.

|    |  |
|----|--|
| 3  | Maintenance  |
| 6  | Survey Activities  |
| 13 | Bank Stabilization   |
| 14 | Linear Transportation Projects   |
| 15 | U.S. Coast Guard Approved Bridges                                      |
| 19 | Minor Dredging   |
| 23 | Approved Categorical Exclusions  |
| 27 | Aquatic Habitat Restoration, Establishment, and Enhancement Activities |
| 28 | Modifications of Existing Marinas                                      |
| 34 | Cranberry Production Activities  |
| 35 | Maintenance Dredging of Existing Basins                                |
| 36 | Boat Ramps   |
| 38 | Cleanup of Hazardous and Toxic Waste                                   |
| 45 | Repair of Uplands Damaged by Discrete Events                           |
| 46 | Discharges in Ditches  |

### **NWP 3 - Maintenance**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **6 – Survey Activities**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **13 – Bank Stabilization**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **14 – Linear Transportation Projects**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.
2. An individual CZM federal consistency decision is required for projects or activities under this NWP if there is a pre-emption of local or state permit requirements necessary to demonstrate compliance with the CZMP enforceable policies.

### **15 – U.S. Coast Guard Approved Bridges**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.
2. An individual CZM federal consistency decision is required for projects or activities under this NWP if there is a pre-emption of local or state permit requirements necessary to demonstrate compliance with the CZMP enforceable policies.

### **19 – Minor Dredging**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **23 – Approved Categorical Exclusions**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **28 – Modifications to Existing Marinas**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **34 – Cranberry Production Activities**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **35 – Maintenance Dredging of Existing Basins**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **36 – Boat Ramps**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **38 – Cleanup of Hazardous and Toxic Waste**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **45 – Repair of Uplands Damaged by Discrete Events**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

### **46 – Discharge in Ditches**

**CZM Federal Consistency Response** – Concur with Conditions.

1. An individual CZM federal consistency decision is required for projects or activities under this NWP if an individual Water Quality Certification is required.

**D. Nationwide Permits where Ecology Objects CZM Federal Consistency**

Ecology **objects** for the NWPs identified in the table below. An individual CZM federal consistency decision is required for projects or activities authorized by these NWPs.

|    |   |
|----|---|
| 8  | Oil and Gas Structures on the Outer Continental Shelf   |
| 17 | Hydropower Projects                                     |
| 24 | Indian Tribe or State Administered Section 404 Programs |
| 32 | Completed Enforcement Actions                           |
| 37 | Emergency Watershed Protection and Rehabilitation       |
| 41 | Reshaping Existing Drainage and Irrigation Ditches      |
| 49 | Coal Remining Activities                                |
| 53 | Removal of Low-Head Dams                                |
| 54 | Living Shorelines                                       |
| 59 | Water Reclamation and Reuse Facilities                  |