



US Army Corps  
of Engineers  
Seattle District

# Special Public Notice

**Regulatory Branch**  
**Post Office Box 3755**  
**Seattle, Washington 98124-3755**  
**Telephone: (206) 764-3482**  
**ATTN: Karen Urelius**

**Public Notice Date: June 20, 2016**  
**Expiration Date: August 19, 2016**

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## **NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS**

On June 1, 2016, the U.S. Army Corps of Engineers (Corps) published in the Federal Register its proposal to reissue the 50 existing nationwide permits (NWP) and issue two new NWP.

Nationwide permits are general permits issued on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. Many of the proposed NWP require notification to the district engineer before commencing those activities, to ensure that the activities authorized by those NWP cause no more than minimal individual and cumulative adverse environmental effects.

### **National Issues Concerning the Proposed NWP**

The Federal Register notice is the public's opportunity to comment on the proposed NWP, general conditions, and definitions. An enclosure to this public notice (Enclosure A) contains an index of the proposed NWP and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>, at [www.regulations.gov](http://www.regulations.gov) in docket number COE-2015-0017, or at the Federal Register at <https://www.gpo.gov/fdsys/pkg/FR-2016-06-01/pdf/2016-12083.pdf>.

Instructions for submitting comments are provided in the June 1, 2016, Federal Register notice. Comments on national issues relating to these NWP should be submitted to docket number COE-2015-0017 at [www.regulations.gov](http://www.regulations.gov) or by email to [NWP2017@usace.army.mil](mailto:NWP2017@usace.army.mil) or by mail to:

Headquarters, U.S. Army Corps of Engineers  
Directorate of Civil Works, ATTN: CECW-CO-R  
441 G Street Northwest  
Washington, D.C. 20314-1000

Comments on the proposed NWP described in the Federal Register are due by August 1, 2016.

## **Regional Issues Concerning the Proposed NWP's, Including Regional Conditions**

Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are important mechanisms to ensure that the adverse environmental effects of activities authorized by the NWP's are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWP's in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWP's may be more than minimal. An enclosure for this public notice (Enclosure B) lists the proposed regional general conditions and specific regional conditions currently under consideration by the Northwestern Division for the Seattle District, covering Washington State. The Seattle District is seeking comments on the proposed regional conditions and seeking comments on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the NWP's will be no more than minimal, both individually and cumulatively. Comments on regional issues relating to the proposed NWP's and proposed regional conditions should be sent via email to [karen.m.urelius@usace.army.mil](mailto:karen.m.urelius@usace.army.mil) or by mail to:

U.S. Army Corps of Engineers  
Regulatory Branch, ATTN: Karen Urelius  
P.O. Box 3755  
Seattle, Washington 98124-3755

Comments relating to regional conditions are due by August 19, 2016.

After the NWP's are issued, the final regional conditions will be issued after approval by the Division Commander. After the NWP's are issued, the Washington State Department of Ecology, Environmental Protection Agency, and Tribes with 401 certification authority will make their Clean Water Act Section 401 (401) water quality certification decisions and States will make their Coastal Zone Management Act (CZMA) consistency determination decisions. The 401 and CZMA decisions must be made within 90 days of the Federal Register notice announcing the issuance of the NWP's. The final NWP's will go into effect on March 19, 2017.

Draft decision documents for each of the proposed NWP's, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP's with the requirements for issuance under the Corps general permit authority. These documents, as well as the proposed NWP's, are available for viewing at [www.regulations.gov](http://www.regulations.gov), docket number COE-2015-0017. Final decision documents will be prepared for the NWP's that are issued. In addition, the final national NWP decision documents will be supplemented by Division Commanders to address their decisions concerning regional conditions for the NWP's.

**Enclosure A**  
**Index of Proposed Nationwide Permits, Conditions, and Definitions**

***Nationwide Permits***

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities

43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
- A. Removal of Low-Head Dams
- B. Living Shorelines

***Nationwide Permit General Conditions***

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Bird and Bald and Golden Eagle Permits
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification

## ***District Engineer's Decision***

### ***Further Information***

#### ***Definitions***

Best management practices (BMPs)  
Compensatory mitigation  
Currently serviceable  
Direct effects  
Discharge  
Enhancement  
Ephemeral stream  
Establishment (creation)  
High Tide Line  
Historic property  
Independent utility  
Indirect effects  
Intermittent stream  
Loss of waters of the United States  
Non-tidal wetland  
Open water  
Ordinary high water mark  
Perennial stream  
Practicable  
Pre-construction notification  
Preservation  
Re-establishment  
Rehabilitation  
Restoration  
Riffle and pool complex  
Riparian areas  
Shellfish seeding  
Single and complete linear project  
Single and complete non-linear project  
Stormwater management  
Stormwater management facilities  
Stream bed  
Stream channelization  
Structure  
Tidal wetland  
Vegetated shallows  
Waterbody

**Enclosure B**  
**2017 NATIONWIDE PERMITS**  
**SEATTLE DISTRICT**  
**PROPOSED REGIONAL GENERAL CONDITIONS**

REGIONAL GENERAL CONDITIONS. The following conditions apply to all Nationwide Permits (NWPs). Each applicable Regional General Condition (RGC) must be met.

**1. Pre-Construction Notification (PCN)**

When pre-construction notification (PCN) is required, the prospective permittee shall submit a printed copy of the following documents in addition to the national requirements in General Condition 32 (Pre-Construction Notification):

- a. Joint Aquatic Resources Permit Application (JARPA). The applicable portions of the JARPA shall be fully completed and signed.
- b. Documentation to meet NWP general or regional conditions (e.g., General Condition 18. Endangered Species or General Condition 20. Historic Properties).
- c. Drawings in accordance with the Seattle District Corps of Engineers' Drawing Checklist (including a drawing of existing conditions). The checklist is located at:  
<http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory/PermitGuidebook/PermitProcessing/SampleDrawings.aspx>
- d. Dated pre-project color photographs showing waters of the U.S. proposed to be impacted on the site and existing shoreline conditions as applicable.
- e. A mitigation plan for unavoidable impacts per RGC 8 and General Condition 23. At a minimum, a conceptual mitigation plan should be submitted with the PCN and must include the following information: proposed compensation type (bank or in-lieu-fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

The PCN will not be considered complete until all of the required information is received.

**2. Aquatic Resources Requiring Special Protection**

Activities resulting in a loss of waters of the United States in mature forested wetlands, bogs, bog-like wetlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, wetlands in coastal lagoons, and wetlands in dunal systems along the Washington coast cannot be authorized by a NWP, except by the following NWPs:

- NWP 3 – Maintenance
- NWP 20 – Response Operations for Oil and Hazardous Substances
- NWP 32 – Completed Enforcement Actions
- NWP 38 – Cleanup of Hazardous and Toxic Waste

In order to use one of the above-referenced NWPs in any of the aquatic resources requiring special protection, prospective permittees must submit a PCN to the Corps of Engineers in accordance with Regional General Condition 1 (Pre-Construction Notification) and obtain written authorization before commencing work.

### **3. New Bank Stabilization in Tidal Waters of the Salish Sea**

Activities involving new bank stabilization in tidal waters of the Salish Sea cannot be authorized by a NWP. For the purposes of this condition, replacement of existing, currently serviceable or recently damaged, previously authorized bank stabilization within the original footprint is not considered “new” bank stabilization. See Figure 1 for a graphic depiction of the RGC 3 Salish Sea boundaries.

### **4. Commencement Bay**

The following NWPs may not be used to authorize activities located in the Commencement Bay Study Area (see Figure 2):

- NWP 12 – Utility Line Activities (substations)
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 23 – Approved Categorical Exclusions
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater and Wastewater Management Facilities

### **5. Bank Stabilization**

All projects including new or maintenance bank stabilization activities require PCN to the Corps of Engineers in accordance with Regional General Condition 1 and Nationwide Permit General Condition 32.

For new bank stabilization projects the following must be submitted to the Corps of Engineers:

- a. Include the cause of the erosion and the threat posed to property, structures, infrastructure, and/or public safety. Specify the distance of existing structures from the area(s) being stabilized.
- b. Describe the type and length of existing bank stabilization within 300 feet of the project area.

- c. Current and expected post-project sediment movement and deposition patterns in and near the project area. In tidal waters, describe the location and size of the nearest bluff sediment sources (feeder bluffs) to the project area and current and expected post-project nearshore drift patterns in the project area.
- d. Current and expected post-project habitat conditions, including the presence of fish, wildlife and plant species, submerged aquatic vegetation, spawning habitat, and special aquatic sites (e.g., wetlands, vegetated shallows, riffle and pool complexes, or mudflats) in the project area.
- e. In rivers and streams, an evaluation of the likely impact of the proposed work on upstream, downstream and cross-stream properties (at a minimum the area assessed should extend from the nearest upstream bend to the nearest downstream bend of the watercourse). Discuss the methodology used for determining effects. The Corps of Engineers reserves the right to request an increase in the reach assessment area to fully address the relevant ecological reach, associated habitat, and potential for damage to the property of others.
- f. Description of how the project design incorporates elements avoiding and minimizing adverse environmental effects to the nearshore environment and riparian vegetation. These elements include, but are not limited to, the use of bioengineering, root wads, large woody material, and native plantings.

In addition to a. through f., the results from any geotechnical investigations should be submitted with the PCN.

## **6. Crossings of Waters of the United States**

Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, a PCN must be submitted to the Corps of Engineers in accordance with Regional General Condition 1 and General Condition 32 (Pre-Construction Notification).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present the project shall apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the *Water Crossing Design Guidelines* (2013), or a design method which achieves equivalent stream simulation results. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the project proponent shall provide information in the PCN sufficient to establish one of the following:

1. An emergency involving an immediate threat to life, or property, or of environmental degradation for which application of the stream simulation design method cannot be implemented in time to forestall that threat. Culverts installed due to emergency conditions will require evaluation to meet the stream simulation design method after-the-fact.
2. The existence of extraordinary site conditions.
3. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.



As part of the PCN, project proponents must provide a monitoring plan that specifies how the proposed culvert will be effective in providing passage at all life stages at all flows where the salmonid species would naturally seek passage. Project proponents must also provide a maintenance plan that describes how the culvert will be maintained to prevent development of fish barriers.

### **7. Stream Loss**

No activity shall result in the loss of perennial stream beds or the loss of greater than 300 linear feet of intermittent and/or ephemeral stream beds. A stream may be rerouted if it is designed in a manner that maintains or restores hydrologic, ecologic, and geomorphic stream processes, provided there is not a reduction in the linear feet and area of stream bed. Streams include brooks, creeks, rivers, and historical waters of the U.S. that have been channelized into ditches. This condition does not apply to ditches constructed in uplands.

Stream loss restrictions may be waived on a case-by-case basis where the primary project purpose is the improvement of ecological function in accordance with the conditions of Nationwide Permit 27, *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*.

### **8. Mitigation**

Pre-construction notification, in accordance with Regional General Condition 1, is required for any project that will result in wetland loss of 1,000 square feet or more. In addition to the requirements of General Condition 23 (Mitigation), compensatory mitigation at a minimum one-to-one ratio will be required for all wetland losses that exceed 1,000 square feet. When a PCN is required for wetland losses less than 1,000 square feet, the Corps of Engineers may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment.

Compensatory mitigation for impacts to marine waters, lakes, and streams will be determined on a case-by-case basis. If temporary impacts to waters of the U.S. exceed six months, the Corps of Engineers may require compensatory mitigation for temporal effects.

### **9. Magnuson-Stevens Fishery Conservation and Management Act – Essential Fish Habitat**

Essential Fish Habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. If EFH may be adversely affected by, a proposed activity, the prospective permittee must provide a written EFH assessment with an analysis of the effects of the proposed action on EFH. The assessment must identify the type(s) of essential fish habitat (i.e., Pacific salmon, groundfish, and/or coastal-pelagic species) that may be affected. If the Corps of Engineers determines the project will adversely affect EFH, consultation with NOAA Fisheries will be required. EFH Conservation Recommendations may be provided by NOAA Fisheries as part of an EFH consultation.

### **10. Submerged Aquatic Vegetation and Forage Fish**

To the maximum extent possible, all activities and structures must avoid submerged aquatic vegetation (e.g., eelgrass, macroalgae attached to or rooted in substrate). A delineation using current protocols may be required. For activities in marine waters with the potential to impact eelgrass and/or macroalgae, the PCN must include a survey of any eelgrass and/or macroalgae.

For projects in marine waters, the PCN must include the location and size of documented forage fish spawning areas within one mile of the project site (i.e., Pacific sand lance (*Ammodytes hexapterus*), Pacific herring (*Clupea pallasii*), and surf smelt (*Hypomesus pretiosus*)). Please specify the distance to each documented site; refer to the spawning location map on Washington Department of Fish and Wildlife's website located at:

[http://wdfw.wa.gov/conservation/research/projects/marine\\_beach\\_spawning/](http://wdfw.wa.gov/conservation/research/projects/marine_beach_spawning/)

This RGC does not apply to NWP 48, *Commercial Shellfish Aquaculture Activities*. Please see specific regional conditions for NWP 48.

#### **11. Notification of Permit Requirements**

The permittee must provide a copy of the nationwide permit authorization letter, conditions, and permit drawings to all contractors and any other parties performing the authorized work prior to the commencement of any work in waters of the U.S. The permittee shall ensure all appropriate contractors and any other parties performing the authorized work at the project site have read and understand relevant NWP conditions as well as plans, approvals, and documents referenced in the NWP letter.

#### **12. Cultural Resources and Human Burials**

Permittees must immediately stop work and notify the District Engineer within 24 hours if, during the course of conducting authorized work, there are inadvertent discoveries of human burials, cultural resources, or historic properties as identified by the National Historic Preservation Act and the Native American Graves and Repatriation Act. Failure to stop work in the area of discovery until the Corps of Engineers can comply with the provisions of 33 CFR 325 Appendix C, the National Historic Preservation Act, Native American Graves and Repatriation Act, and other pertinent laws and regulations could result in a violation of federal and state laws. Violators are subject to civil and criminal penalties.

#### **13. Construction Boundaries**

Permittees must clearly mark all construction area boundaries before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

#### **14. Temporary Impacts and Site Restoration**

- a. Temporary impacts to waters of the U.S. shall not exceed six months unless the prospective permittee requests and receives a waiver by the District Engineer. Temporary impacts to waters of the U.S. must be identified in the PCN.
- b. No more than 1/2 acre of waters of the U.S. may be temporarily filled unless the prospective permittee requests and receives a waiver from the District Engineer (temporary fills do not affect specified limits for loss of waters associated with specific nationwide permits).
- c. Native vegetation and soils removed from waters of the U.S. for project construction should be stockpiled and used for site restoration. If soil is not available from the project site for restoration, other

locally-obtained, suitable, native soil may be used. Other vegetation (including seed) or soils may be used only if identified in the PCN.

d. Restoration of temporarily disturbed areas shall include returning the area to pre-project ground surface contours. The permittee shall revegetate temporarily disturbed areas with native, noninvasive herbs, shrubs, and tree species sufficient in number, spacing, and diversity to restore affected functions. A maintenance and monitoring plan commensurate with the temporary impacts, may be required.

e. Revegetation of the site shall begin as soon as site conditions allow and in the same growing season as the disturbance unless the schedule is approved by the Corps of Engineers. Species to be used for seeding and planting shall follow this order of preference: 1) species native to the site; 2) species native to the area; 3) species native to the state. Revegetated areas eventually shall have enough cover to sufficiently control erosion without silt fences, hay bales, or other mechanical means.

f. If projects will result in temporary impacts of submerged aquatic vegetation (SAV) that are more than minimal, a monitoring plan must be included to evaluate whether the SAV has recovered. If recovery is not achieved after the monitoring period, contingencies must be implemented and additional monitoring will be required.

This RGC does not apply to NWP 48, *Commercial Shellfish Aquaculture Activities*. Please see specific regional conditions for NWP 48.

#### **15. Access**

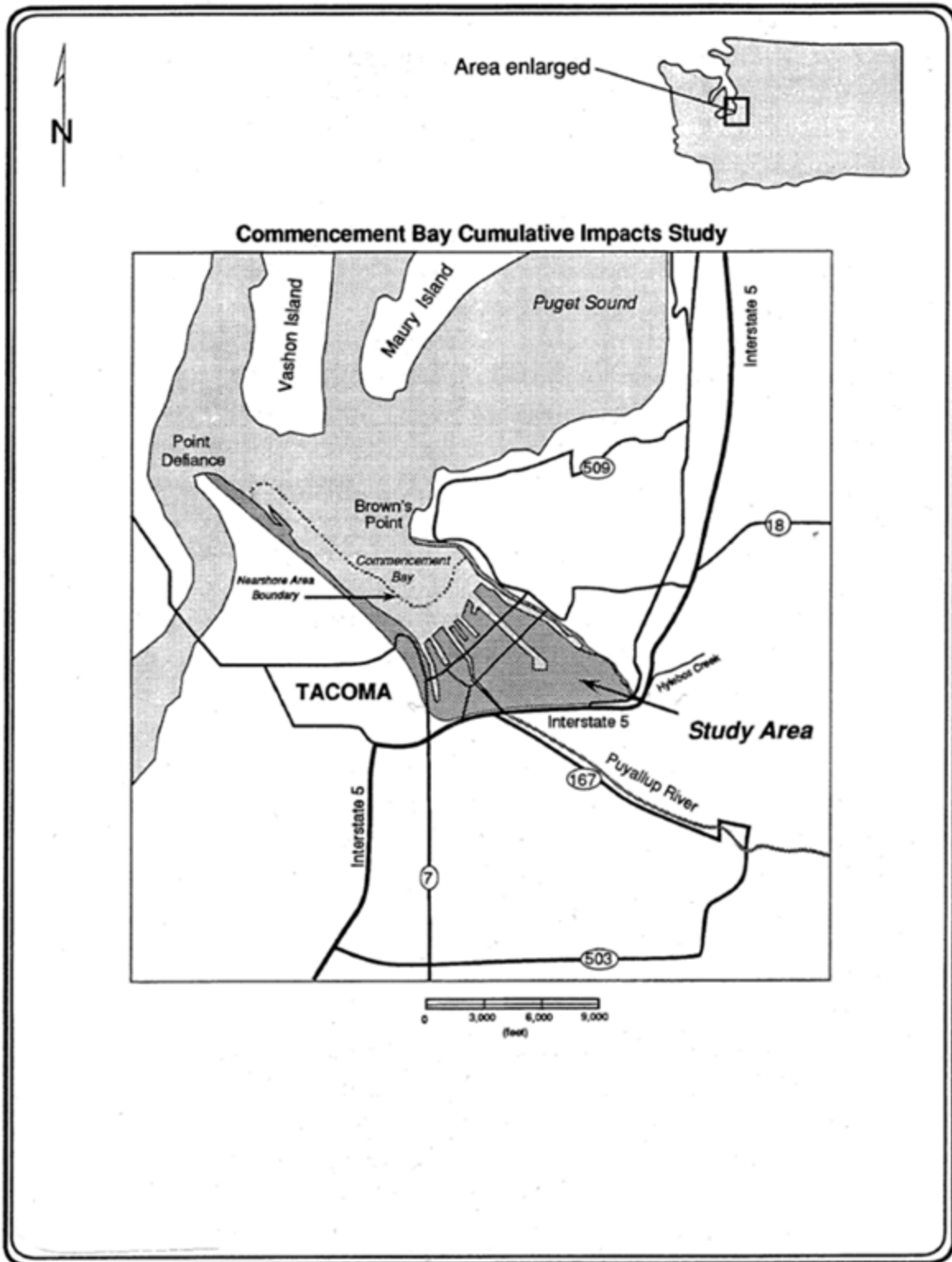
The permittee must allow representatives of the Corps of Engineers to inspect the authorized activity at any time deemed necessary to ensure the work and any required mitigation is being, or has been, accomplished in accordance with the terms and conditions of the NWP. Notification will normally be given in advance of the inspection to allow a property owner or representative to be on site.

**Figure 1. Regional General Condition 3 – Map of the Salish Sea**

*The Salish Sea includes the Strait of Juan de Fuca, the Strait of Georgia, Puget Sound, and all their connecting channels and adjoining waters, such as Haro Strait, Rosario Strait, Bellingham Bay, Hood Canal, and the waters around and between the San Juan Islands. The western boundary is the entrance to the Strait of Juan de Fuca, defined as a line between Cape Flattery and Carmanah Point. The southern boundary is the southern end of Puget Sound. For the purpose of this RGC, the northern boundary is the border between the U.S. and Canada. These boundaries were based on the 2002 "Georgia Basin–Puget Sound Ecosystem Indicators Report."*



**Figure 2. Regional General Condition 4 – Commencement Bay Study Area**



**2017 NATIONWIDE PERMITS**  
**SEATTLE DISTRICT**  
**PROPOSED SPECIFIC REGIONAL CONDITIONS**

SPECIFIC REGIONAL CONDITIONS. The Seattle District is proposing the following NWP specific regional conditions.

**1. Aids to Navigation**

NWP 1 Specific Regional Conditions: None

**2. Structures in Artificial Canals**

NWP 2 Specific Regional Conditions: None

**3. Maintenance**

NWP 3 Specific Regional Conditions: None

**4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities**

NWP 4 Specific Regional Conditions:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for grading, berm construction, placement of substrate, and other activities involving a discharge of dredged or fill material.

2. The harvest of clams by means of hydraulic escalator harvester equipment is not authorized by this NWP.

**5. Scientific Measurement Devices**

NWP 5 Specific Regional Conditions:

1. Devices and any structures or fills associated with the devices must be completely removed within 30 days upon completion of the use of the device to measure and record scientific data and the site restored.

2. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for the construction of weirs and flumes that do not meet the Washington Department of Fish and Wildlife Water Crossing Design Guidelines (2013).

3. The quantity of discharged material and the volume of area excavated must not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line.

**6. Survey Activities**

NWP 6 Specific Regional Conditions:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for exploratory trenching activities and any project involving oil or natural gas exploration.

2. The quantity of discharged material and the volume of area excavated must not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line.

**7. Outfall Structures and Associated Intake Structures**

NWP 7 Specific Regional Conditions: None

**8. Oil and Gas Structures on the Outer Continental Shelf**

NWP 8 Specific Regional Conditions: None

**9. Structures in Fleeting and Anchorage Areas**

NWP 9 Specific Regional Conditions: None

**10. Mooring Buoys**

NWP 10 Specific Regional Conditions:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all proposed actions.

2. The buoy system must contain an embedded anchor and mid-line float. If an embedded anchor cannot be used, the project proponent must provide a written statement with the PCN describing why site conditions prohibit use of an embedded anchor.

3. NWP 10 may not be used in any waterbody the Washington State Department of Health has designated as “closed” to shellfish harvesting (due to the number of boats moored in the waterbody).

4. NWP 10 may not be used in any waterbody the Washington State Department of Health has designated as “threatened” (due to the number of boats moored in the waterbody).

**11. Temporary Recreational Structures**

NWP 11 Specific Regional Conditions: None

**12. Utility Line Activities**

NWP 12 Specific Regional Conditions:

1. All PCNs must include drawings and/or a description of the measures that will be used to prevent permanent drainage of adjacent areas by the backfilled trench and/or along the buried utility line.

2. When backfilling trenches in wetlands, at least 90 percent of the soil used to backfill the top 12 inches must consist of wetland topsoil.

3. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for mechanized land clearing in a forested wetland for the construction of a substation and/or access roads.

4. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) if the utility line exceeds 300 linear feet in waters of the U.S. for each single and complete project.

**13. Bank Stabilization**

NWP 13 Specific Regional Condition:

1. This Nationwide Permit has been revoked for use in tidal waters of the Salish Sea in accordance with RGC 3.

**14. Linear Transportation Projects**

NWP 14 Specific Regional Conditions:

1. Linear transportation crossings placed in waters of the U.S. with footprints wider than 22 feet or longer than 200 feet are not authorized by this NWP. For this requirement, “footprint” refers to the bottom width of the roadway fill prism.

2. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for linear transportation project crossings in tidal waters.

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

NWP 15 Specific Regional Conditions: None

**16. Return Water from Upland Contained Disposal Areas**

NWP 16 Specific Regional Conditions: None

**17. Hydropower Projects**

NWP 17 Specific Regional Condition:

1. Project proponents must submit documentation of their FERC license or exemption as part of the PCN.

**18. Minor Discharges**

NWP 18 Specific Regional Conditions: None

**19. Minor Dredging**

NWP 19 Specific Regional Condition:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for dredging proposed to occur in special aquatic sites (i.e., wetlands, vegetated shallows, riffle and pool complexes, or mudflats).



**20. Response Operations for Oil and Hazardous Substances**

NWP 20 Specific Regional Condition:

1. For spill response training exercises in special aquatic sites, the discharge of dredged or fill material must not impact more than ½ of an acre of waters of the U.S.

**21. Surface Coal Mining Operations**

NWP 21 Specific Regional Conditions:

1. Reclamation to Office of Surface Mining Reclamation and Enforcement standards must be completed within 5 years of the completion of mining in individual mining pits.

2. Permittees must provide compensatory mitigation for permanent and temporary impacts of aquatic ecosystem functions in waters of the U.S. See NWP Regional General Condition 8 and General Condition 23 for mitigation requirements.

**22. Removal of Vessels**

NWP 22 Specific Regional Conditions: None

**23. Approved Categorical Exclusions**

NWP 23 Specific Regional Condition:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all proposed actions. The PCN must include a statement/form verifying the proposed work is categorically excluded. The statement/form must be signed by an official of the Federal agency that issued the categorical exclusion or an official of an agency with delegated authority from that Federal agency.

**24. Indian Tribe or State Administered Section 404 Programs**

*This NWP is not used in Washington State.*

**25. Structural Discharges**

NWP 25 Specific Regional Conditions: None

**26. [Reserved]**

**27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities**

NWP 27 Specific Regional Conditions:

1. For projects subject to PCN, if there is a loss of waters of the U.S., the project proponent must explain in the PCN why the loss is necessary and show how it would be fully offset by the beneficial elements of the project.

2. The PCN must contain a description of pre-project site conditions (including photographs), aquatic functions the site provides, and benefits anticipated from project construction.

3. The project proponent must include proposed maintenance and monitoring plans with the PCN.

4. The project proponent must submit a PCN to the Corps in accordance with Nationwide Permit General Condition 32 (Pre-Construction Notification) for any proposed project located in a Department of the Army permit compensatory mitigation site, Comprehensive Environmental Response, Compensation and Liability Act (Superfund) site, Resource Conservation and Recovery Act hazardous waste clean-up site, or Washington State Model Toxics Control Act clean-up site.

5. Restoration projects involving shellfish seeding must use shellfish native to the watershed.

**28. Modifications of Existing Marinas**

NWP 28 Specific Regional Condition:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all proposed actions.

**29. Residential Developments**

NWP 29 Specific Regional Condition:

1. For activities associated with multi-phase residential, commercial, institutional, or recreational development projects, including real estate subdivisions, the PCN must include a history of the entire property involved in the project, including information about subdivisions of the property and past work on the property in or affecting waters of the United States. Required documentation includes copies of the original plat and State Environmental Policy Act (SEPA) determination(s) for the property, including the SEPA checklist. The District Engineer may allow a variance to specific requirements of this condition on a case-by-case basis.

**30. Moist Soil Management for Wildlife**

NWP 30 Specific Regional Conditions: None

**31. Maintenance of Existing Flood Control Facilities**

NWP 31 Specific Regional Conditions: None

**32. Completed Enforcement Actions**

NWP 32 Specific Regional Conditions: None

**33. Temporary Construction, Access, and Dewatering**

NWP 33 Specific Regional Condition:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all proposed actions.

**34. Cranberry Production Activities**

NWP 34 Specific Regional Conditions: None

**35. Maintenance Dredging of Existing Basins**

NWP 35 Specific Regional Condition:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all proposed actions. The notification shall include the results of any required sediment testing and identify the location of upland disposal area(s).

**36. Boat Ramps**

NWP 36 Specific Regional Conditions:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for all activities required for the construction of boat ramps.
2. Discharge of fill material that results in a loss of forage fish or salmon spawning habitat is not authorized.
3. For contiguous properties under the same ownership, no more than one boat ramp per ownership may be authorized by this NWP, unless waived by the District Engineer.
4. The construction of poured-in-place concrete boat ramps is not authorized by this NWP.

**37. Emergency Watershed Protection and Rehabilitation**

NWP 37 Specific Regional Conditions: None

**38. Cleanup of Hazardous and Toxic Waste**

NWP 38 Specific Regional Condition:

1. Non-government agencies without established legal or regulatory authority must submit a copy of court ordered remedial plans or related settlements with your PCN.

**39. Commercial and Institutional Developments**

NWP 39 Specific Regional Condition:

1. For activities associated with multi-phase residential, commercial, institutional, or recreational development projects, including real estate subdivisions, the PCN must include a history of the entire property involved in the project, including information about subdivisions of the property and past work on the property in or affecting waters of the United States. Required documentation includes copies of the original plat and State Environmental Policy Act (SEPA) determination(s) for the property, including the SEPA checklist. The District Engineer may allow a variance to specific requirements of this condition on a case-by-case basis.

**40. Agricultural Activities**

NWP 40 Specific Regional Conditions: None

**41. Reshaping Existing Drainage Ditches**

NWP 41 Specific Regional Conditions:

1. A PCN must be submitted to the Corps in accordance with NWP Regional General Condition 1 and General Condition 32 (Pre-Construction Notification) for activities that involve the permanent sidecasting of excavated material into waters of the U.S.
  
2. Upon completion of the work, all exposed slopes and channel banks shall either be hydro-seeded or planted with appropriate native herbaceous species.

**42. Recreational Facilities**

NWP 42 Specific Regional Condition:

1. For activities associated with multi-phase residential, commercial, institutional, or recreational development projects, including real estate subdivisions, the PCN must include a history of the entire property involved in the project, including information about subdivisions of the property and past work on the property in or affecting waters of the United States. Required documentation includes copies of the original plat and State Environmental Policy Act (SEPA) determination(s) for the property, including the SEPA checklist. The District Engineer may allow a variance to specific requirements of this condition on a case-by-case basis.

**43. Stormwater Management Facilities**

NWP 43 Specific Regional Condition:

1. The PCN for new facilities must include a maintenance plan if periodic maintenance dredging is proposed.

**44. Mining Activities**

NWP 44 Specific Regional Conditions:

1. Reclamation, when required by the Washington State Department of Natural Resources, must be achieved within 2 years of completion of mining in individual mining pits.
  
2. Permittees must provide compensatory mitigation for permanent and temporary impacts of aquatic ecosystem functions in waters of the U.S. See NWP Regional General Condition 8 and General Condition 23 for mitigation requirements.
  
3. This NWP may only be used for aggregate mining activities in perennial streams that meet the following criteria:
  - a. Aggregate may not be excavated from a vegetated bar or flowing water, or pushed across a wetted channel.
  
  - b. A 5-foot (horizontal) buffer must be left in an undisturbed state along the river edge of the aggregate bar during excavation. After aggregate material is removed, the area must be graded to restore a natural contour and not trap fish.

c. Aggregate material may be temporarily stockpiled within the channel above the plane of the water surface for up to 7 days. Aggregate material may not be stockpiled in wetlands or flowing water.

d. Aggregate material may not be disposed in the channel or where it could re-enter a water of the United States.

**45. Repair of Uplands Damaged by Discrete Events**

NWP 45 Specific Regional Conditions: None

**46. Discharges in Ditches**

NWP 46 Specific Regional Conditions: None

**47. [Reserved]**

**48. Commercial Shellfish Aquaculture Activities**

NWP 48 Specific Regional Conditions:

*The Corps of Engineers is still evaluating the need for regional conditions related to NWP 48. When the Corps of Engineers makes its final determination a separate special public notice will be issued stating whether any conditions are proposed, and will contain any draft proposed conditions.*

**49. Coal Remining Activities**

NWP 49 Specific Regional Conditions:

1. Reclamation to Office of Surface Mining Reclamation and Enforcement standards must be completed within 5 years of completion of mining in individual mining pits.

2. Permittees must provide compensatory mitigation for permanent and temporary impacts of aquatic ecosystem functions in waters of the U.S. See NWP Regional General Condition 8 and General Condition 23 for mitigation requirements.

**50. Underground Coal Mining Activities**

NWP 50 Specific Regional Conditions:

1. Reclamation to Office of Surface Mining Reclamation and Enforcement, Department of the Interior, or state agency standards must be completed within 5 years of completion of mining in individual mining pits.

2. Permittees must provide compensatory mitigation for permanent and temporary impacts of aquatic ecosystem functions in waters of the U.S. See NWP Regional General Condition 8 and General Condition 23 for mitigation requirements.

**51. Land-Based Renewable Energy Generation Facilities**

NWP 51 Specific Regional Conditions: None

**52. Water-Based Renewable Energy Generation Pilot Projects**

NWP 52 Specific Regional Conditions: None

**Proposed NWP A. Removal of Low-Head Dams**

Proposed NWP A Specific Regional Conditions: None

**Proposed NWP B. Living Shorelines**

Proposed NWP B Specific Regional Condition:

1. This Nationwide Permit has been revoked for use in tidal waters of the Salish Sea in accordance with RGC 3.