



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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January 12, 2022

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 16 Nationwide Permits in the Final Rule.

Dear Colonel Bullock:

On January 11, 2022, Department of Ecology (Ecology) provided modifications to the programmatic Section 401 Water Quality Certification (WQC) decision for the 16 Nationwide Permits (NWP) finalized January 13, 2021. Based on the WQC decisions, Ecology has also modified our Coastal Zone Management (CZM) federal consistency decisions for these 16 NWPs.

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.

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,

Ecology NWP's Federal Consistency Decisions

January 12, 2022

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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 16 Nationwide Permits finalized January 13, 2021. 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**  
**16 Nationwide Permits in the January 13, 2021 Final Rule**  
*Modified January 12, 2022*

As the designated Coastal Zone Management agency in the state of Washington, the Department of Ecology (Ecology) issues the following modifications to Coastal Zone Management Program (CZMP) federal consistency decisions for the 16 Nationwide Permits (NWP) finalized January 13, 2021. 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 16 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.

NWP	Ecology Concurs CZM Federal Consistency
48	Commercial Shellfish Mariculture Activities

**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.

NWP	Ecology Concurs with Conditions CZM Federal Consistency
29	Residential Developments
39	Commercial and Institutional Developments
40	Agricultural Activities
42	Recreational Facilities
43	Stormwater Management Facilities
57	Electric Utility Line and Telecommunications Activities
58	Utility Line Activities for Water and Other Substances

### **29 - Residential Developments**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

### **39 – Commercial and Institutional Developments**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

### **40 – Agricultural Activities**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

### **42 – Recreational Facilities**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

### **43 – Stormwater Management Facilities**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

### **57 – Electric Utility Line and Telecommunications Activities**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.
2. A CZM Federal Consistency Decision is required for projects or activities under this NWP if they are pre-empting local or state permit requirements necessary to demonstrate compliance with the CZMP's enforceable policies.

**58 – Utility Line Activities for Water and Other Substances**

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

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 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.

NWP	Ecology Objects CZM Federal Consistency
12	Oil or Natural Gas Pipeline Activities.
21	Surface Coal Mining Activities
44	Mining Activities.
50	Underground Coal Mining Activities
51	Land-Based Renewable Energy Generation Facilities
52	Water-Based Renewable Energy Generation Pilot Projects
55	Seaweed Mariculture Activities
56	Finfish Mariculture Activities