



US Army Corps
of Engineers
Seattle District

Special Public Notice

Regulatory Division

4725 E. Marginal Way S., Building 1202

Seattle, Washington 98134

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ATTN: NWP-SeattleTeam@usace.army.mil

Public Notice Date: March 10, 2026

ANNOUNCEMENT: Final 2026 Nationwide Permit Regional Conditions

BACKGROUND: On January 8, 2026 the U.S. Army Corps of Engineers (Corps) published a final action in the Federal Register (91 FR 768) announcing the reissuance of 56 existing nationwide permits (NWP) and one new NWP, as well as the reissuance of NWP general conditions and definitions with some modifications (Enclosure 1). These 57 NWP will go into effect on March 15, 2026, and will expire on March 15, 2031, unless the NWP are revised, rescinded, or revoked. One NWP was not reissued.

NWP 1 - Aids to Navigation

NWP 2 - Structures in Artificial Canals

NWP 3 - Maintenance

NWP 4 - Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities

NWP 5 - Scientific Measurement Devices

NWP 6 - Survey Activities

NWP 7 - Outfall Structures and Associated Intake Structures

NWP 8 - Oil and Gas Structures on the Outer Continental Shelf

NWP 9 - Structures in Fleeting and Anchorage Areas

NWP 10 - Mooring Buoys

NWP 11 - Temporary Recreational Structures

NWP 12 - Oil or Natural Gas Pipeline Activities

NWP 13 - Bank Stabilization

NWP 14 - Linear Transportation Projects

NWP 15 - U.S. Coast Guard Approved Bridges

NWP 16 - Return Water From Upland Contained Disposal Areas

NWP 17 - Hydropower Projects

NWP 18 - Minor Discharges

NWP 19 - Minor Dredging

NWP 20 - Response Operations for Oil or Hazardous Substances

NWP 21 - Surface Coal Mining Activities

NWP 22 - Removal of Vessels

NWP 23 - Approved Categorical Exclusions

NWP 24 - Indian Tribe or State Administered Section 404 Programs

- NWP 25 - Structural Discharges
- NWP 26 - [Reserved]
- NWP 27 - Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities
- NWP 28 - Modifications of Existing Marinas
- NWP 29 - Residential Developments
- NWP 30 - Moist Soil Management for Wildlife
- NWP 31 - Maintenance of Existing Flood Control Facilities
- NWP 32 - Completed Enforcement Actions
- NWP 33 - Temporary Construction, Access, and Dewatering
- NWP 34 - Cranberry Production Activities
- NWP 35 - Maintenance Dredging of Existing Basins
- NWP 36 - Boat Ramps
- NWP 37 - Emergency Watershed Protection and Rehabilitation
- NWP 38 - Cleanup of Hazardous and Toxic Waste
- NWP 39 - Commercial and Institutional Developments
- NWP 40 - Agricultural Activities
- NWP 41 - Reshaping Existing Drainage Ditches
- NWP 42 - Recreational Facilities
- NWP 43 - Stormwater Management Facilities
- NWP 44 - Mining Activities
- NWP 45 - Repair of Uplands Damaged by Discrete Events
- NWP 46 - Discharges in Ditches
- NWP 47 - [Reserved]
- NWP 48 - Commercial Shellfish Mariculture Activities [Except Washington State]
- NWP 49 - Coal Remining Activities
- NWP 50 - Underground Coal Mining Activities
- NWP 51 - Land-Based Renewable Energy Generation Facilities
- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects
- NWP 53 - Removal of Low-Head Dams
- NWP 54 - Living Shorelines
- NWP 55 - Seaweed Mariculture Activities
- NWP 56 - [Reserved]
- NWP 57 - Electric Utility Line and Telecommunications Activities
- NWP 58 - Utility Line Activities for Water and Other Substances
- NWP 59 - Water Reclamation and Reuse Facilities
- NWP 60 - Activities to Improve Passage of Fish and Other Aquatic Organisms

NOTES AND HIGHLIGHTED CHANGES

Note, in cases when a PCN is not required for activities authorized under NWP 27, the permittee must submit a report containing information on the proposed aquatic ecosystem restoration, enhancement, and establishment activity to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP. Refer to NWP 27 terms and conditions for the specific information that must be included in the report. This report should be submitted to NWS.Compliance@usace.army.mil.

The new NWP 60 authorizes structures and work in navigable waters of the United States and discharges of dredged or fill material into waters of the United States for activities that restore or enhance the passage of fish and other aquatic organisms through river and stream networks as well as other types of waters.

The Corps has also issued final decision documents for the new and reissued NWPs. These final decision documents are available at www.regulations.gov at docket number COE-2025-0002.

The 56 existing NWPs published in the January 8, 2026 final action replace the 2021 versions of these NWPs. The 2021 versions of these NWPs expire on March 14, 2026.

REGIONAL CONDITIONS

Based on the publication of the final action in the Federal Register, the Seattle District finalized the enclosed regional conditions applicable within the State of Washington for the new and reissued NWPs (Enclosure 2). These regional conditions help ensure that the adverse environmental effects of activities authorized by the NWPs are no more than minimal, both individually and cumulatively. There are 11 regional conditions (RC) that apply to all of the NWPs. There are additional regional conditions that apply to specific NWPs.

401 Water Quality Certification (WQC):

In Washington State, the Washington State Department of Ecology (Ecology) is the certifying authority under Section 401 of the Clean Water Act for activities which may result in any discharge from a point source on public and private lands of Washington State, and all federal lands not managed by the Environmental Protection Agency (EPA).

The EPA is the certifying authority in Indian Country on behalf of Tribes without “treatment in a similar manner as a state” (TAS) and on lands of exclusive Federal jurisdiction. To date, 13 Tribes in Washington State have obtained TAS to administer a WQC program. The applicable WQC conditions for each certifying authority are included in Enclosure 3.

Ecology granted WQC with conditions for 38 NWPs and denied for 17 NWPs. EPA granted WQC with conditions for all 47 NWPs where WQC was requested. Jamestown Tribe granted WQC for 7 NWPs and denied the rest. Puyallup Tribe granted WQC with conditions for 3 NWPs and denied the rest. The Corps declined to rely on Puyallup Tribes WQC for *NWP 8 - Oil and Gas Structures on the Outer Continental Shelf* as the NWP covers activities that would occur outside the jurisdiction of the CWA and WQC was not requested.

WQC conditions for these NWPs are effective on March 15, 2026, and will expire on March 15, 2031.

The following Tribes with WQC authority have denied WQC for these 57 NWP:

Lummi Tribe of the Lummi Reservation
Makah Indian Tribe of the Makah Indian Reservation
Quinault Indian Nation
Squaxin Island Tribe of the Squaxin Island Reservation
Swinomish Indian Tribal Community
Tulalip Tribes of Washington

The following Tribes with WQC authority have waived the requirement for WQC for these 57 NWP:

Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Indian Reservation
Kalispel Indian Community of the Kalispel Reservation
Port Gamble S’Klallam Tribe
Spokane Tribe of the Spokane Reservation

For NWP where WQC is denied, applicants must obtain an individual WQC. Applicants should contact the appropriate WQC certification agency directly for information on how to apply for individual WQC. The WQC decisions are listed in Enclosure 3.

Ecology:	ecyrefedpermits@ecy.wa.gov
EPA:	R10-401-Certs@epa.gov
Jamestown S’Klallam Tribe:	Alex Scagliotti at ascagliotti@jamestowntribe.org , and Robert Knapp at rknapp@jamestowntribe.org
Lummi Tribe:	Kristin Lowell at KristinL@lummi-nsn.gov , and Merle Jefferson Sr. at merlej@lummi.nsn.gov
Makah Indian Tribe:	Elizabeth Miller at Elizabeth.miller@makah.com , and Ryan Erhart at ryan.erhart@makah.com
Puyallup Tribe:	Char Naylor at char.naylor@puyalluptribe.nsn.gov
Quinault Indian Nation:	Kiley Smith at kiley.smith@quinault.org
Squaxin Island Tribe:	Andy Whitener at awhitener@squaxin.us , Erica Marbet at emarbet@squaxin.us , and Scott Steltzner at ssteltzner@squaxin.us
Swinomish Indian Tribal Community:	Shannon Stewart at ssewart@swinomish.nsn.us
Tulalip Tribes:	Kurt Nelson at knelson@tulaliptribes-nsn.gov

Coastal Zone Management Act (CZMA):

Ecology is the CZMA authority in Washington State. The Corps received the CZMA consistency decisions and conditions from Ecology on December 18, 2025. These decisions are listed in Enclosure 4.

Previous Authorizations under the 2021 NWP:

The Seattle District authorized many proposals under the 2021 NWPs. In verification letters for those proposals, we stated our verification of a 2021 NWP authorization was valid until March 14, 2026, with a year extension if work was commenced or under contract to commence before that date.

If the authorized work has not been completed by March 14, 2026 and you have commenced or are under contract to commence this activity before March 14, 2026, you will have until March 14, 2027, to fully complete the activity.

If it appears that you will need additional time to complete the work, contact your Corps project manager as soon as possible so we can determine the appropriate permitting options. This may include the submittal of application materials as required for authorization under the 2026 NWP regulations and conditions.

If you have questions about the final action to reissue or issue the 2026 NWPs, you may contact Corps Headquarters at:

U.S. Army Corps of Engineers,
Attn: CECW-CO-R
441 G Street NW
Washington, DC 20314-1000

or see further contact information in the January 8, 2026 Federal Register notice (91 FR 768).

If you have questions about the regional conditions for the 2026 NWPs or would like to request a paper copy of the enclosures listing the national, regional, and 401 Conditions via mail, please send an email to NWP-SeattleTeam@usace.army.mil or via regular mail to:

U.S. Army Corps of Engineers
Attn: Regulatory Division
4735 E. Marginal Way S, Bldg 1202
Seattle, Washington, 98134-2388

Public Outreach:

The Seattle District will be hosting a series of hybrid (online/in-person) outreach event summarizing the information described in this Special Public Notice. In addition, Seattle District will also be sharing information on how to request a permit through the Regulatory Request System. There will be an opportunity for the public to ask questions.

Date	Location
April 21, 2026	Bellingham
May 19, 2026	Lacey
June 16, 2026	Vancouver
July 28, 2026	Spokane
August 11, 2026	Seattle

If you are interested in attending, you must send an email to NWP-SeattleTeam@usace.army.mil no later than 1 week prior to the event, with:

- Subject line: **2026 NWP Public Outreach Events**
- Name and Company/Agency (if applicable)
- Email address of interested parties (if different from the sender)
- Preferred date and location
- Preferred method of participation: Online or In-person

We will do our best to answer questions during the outreach event. To facilitate this, you may submit questions about RRS or the reissued NWP's (effective March 15, 2026) in the same email. Please note that project-specific questions cannot be answered during these events, as those are best answered by the designated Corps Project Manager for that particular project.

Attendance in-person and online may be limited due to capacity constraints. We will email in-person event details, including the venue, and webinar access information to RSVP respondents prior to the event.

Enclosures:

1. 2026 Nationwide Permit – National Conditions
2. 2026 Seattle District Regional Conditions
3. 2026 Water Quality Certifications
4. 2026 Coastal Zone Management Act Conditions

ENCLOSURE 1

Index of 2026 Nationwide Permits, General Conditions, and Definitions that go into effect on March 15, 2026. The final decision documents are linked to their corresponding Nationwide Permit.

[2026 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. Oil or Natural Gas Pipeline Activities](#)
- [13. Bank Stabilization](#)
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- [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 Ecosystem 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 Mariculture 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](#)
- [53. Removal of Low-Head Dams](#)
- [54. Living Shorelines](#)
- [55. Seaweed Mariculture Activities](#)
- [56. \[Reserved\]](#)
- [57. Electric Utility Line and Telecommunications Activities](#)
- [58. Utility Line Activities for Water and Other Substances](#)
- [59. Water Reclamation and Reuse Facilities](#)
- [60. Activities to Improve Passage of Fish and Other Aquatic Organisms](#)

2026 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 Birds and Bald and Golden Eagles
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

Nationwide Permit Definitions

Best management practices (BMPs)
Compensatory mitigation
Currently serviceable
Direct effects
Discharge
Ecological reference
Enhancement
Establishment (creation)
High Tide Line
Historic property
Independent utility
Indirect effects
Loss of waters of the United States
Nature-based solutions
Navigable waters
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

Tribal lands

Tribal rights

Vegetated shallows

Waterbody

ENCLOSURE 2

Seattle District Regional Conditions for 2026 NWPs

The following conditions will apply to all NWPs for the Seattle District in Washington State.

RC 1, Project Drawings

Drawings must be submitted with a pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, show all aquatic resources (e.g. wetlands, stormwater ponds, ditches), and how these resources will be affected. Drawings must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

RC 2, Construction Boundaries

Permittees must clearly mark all construction area boundaries within waters of the U.S. 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 must avoid and minimize removal of native vegetation within waters of the U.S. (including submerged aquatic vegetation) to the maximum extent possible.

RC 3, PCNs for Activities in Areas Where There May Be Treaty-Reserved Tribal Rights

To ensure compliance with General Condition 17, Tribal Rights, non-federal permittees must submit a PCN for all NWPs associated with structures or fills in areas where Tribes have retained, via treaty, the right to fish in their usual and accustomed grounds and stations.

RC 4, Stream Loss

A PCN is required for all activities resulting in a loss of any linear feet of streams that are waters of the U.S.

RC 5, Crossings of Waters of the U.S.

A PCN is required for any activity resulting in the loss of waters of the U.S. associated with crossings, including installing, replacing, or modifying crossings, such as culverts or bridges (see NWP general condition 32).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present

or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the Water Crossing Design Guidelines (2013, or most current version), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the applicant must provide a rationale in the PCN sufficient to establish one of the following:

- a. The existence of extraordinary site conditions; or
- b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

RC 6, Effects to Forage Fish Spawning Beaches, Drift Cells, and Feeder Bluffs

No NWP activity can:

- a. cause more than minimal adverse effects to forage fish spawning areas or drift cells; or
- b. prevent the functioning of feeder bluffs, including more than minimal adverse effects to sediment recruitment, transport, or deposition.

This regional general condition applies to all NWP activities within the Salish Sea (see Figure 1). Information regarding the location of forage fish spawning beaches is available from the Washington Department of Fish and Wildlife's (WDFW) Forage Fish Spawning Map. Information about forage fish, spawning habitats, and spawning behavior are also available through WDFW. Additional information about the importance of these species as prey species for Endangered Species Act listed salmonids can be found through the National Marine Fisheries Service.

Information regarding the location and movement of drift cells, shoreline stability, and coastal landforms, to include feeder bluffs, is available at the Washington State Department of Ecology's Coastal Atlas Map. These maps are resources that can be used to help identify the location of forage fish spawning areas, drift cells, and feeder bluffs; they are not a substitute for site-specific data.

RC 7, Bank Stabilization

All projects including new or maintenance bank stabilization activities in waters of the U.S. where salmonid species are present or could be present, require PCN to the District Engineer (see NWP general condition 32). The PCN must include a statement

describing how the project incorporates design criteria to avoid and minimize adverse environmental effects.

For new bank stabilization projects only, the following must be submitted to the Corps:

- a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.
- b. The type and length of existing bank stabilization within 300 feet of the proposed project.
- c. A description of current conditions and expected post-project conditions in the waterbody.

In addition, the results from any relevant geotechnical investigations may be submitted with the PCN if they describe current or expected conditions in the waterbody.

Note: For the purpose of this RC, new bank stabilization includes any bank stabilization that is expanding either waterward, vertically, or linearly along the shoreline regardless of whether such expansion is occurring to existing bank stabilization.

RC 8, Bank Stabilization Design Considerations

Bank stabilization activities, including maintenance activities, shall utilize nature-based solutions (e.g. living shorelines, vegetative stabilization, bioengineering, including but not limited to large woody material with intact root wads), and other soft bank stabilization approaches. These methods should be employed to the maximum extent practicable before considering hard bank stabilization methods such as bulkheads and rock revetments.

RC 9, Limitations on New Bank Stabilization Within the Salish Sea

Activities involving more than 50 linear feet of new bank stabilization within waters of the U.S. in the Salish Sea (see Figure 1) cannot be authorized by any NWP. This condition includes new bank stabilization associated with maintenance activities that would expand previously authorized armoring length or the structure's footprint or dimensions either waterward, vertically, or linearly within the geographic jurisdiction of the U.S. Army Corps of Engineers.

Note: For the purpose of this RC, new bank stabilization includes any bank stabilization that is expanding either waterward, vertically, or linearly along the shoreline regardless of whether such expansion is occurring to existing bank stabilization.

RC 10, New Bank Stabilization in Tidal Waters of Puget Sound

Activities involving new bank stabilization in tidal waters in Water Resource Inventory

Areas (WRIAs) 8, 9, 10, 11, and 12 (within the areas identified on Figures 2a through 2e) cannot be authorized by an NWP.

Note: For the purpose of this RC, new bank stabilization includes any bank stabilization that is expanding either waterward, vertically, or linearly along the shoreline regardless of whether such expansion is occurring to existing bank stabilization.

RC 11, Commencement Bay

No permanent losses of wetlands or mudflats within the Commencement Bay Study Area may be authorized by any NWP (see Figure 3).

Seattle District Regional Conditions For Specific 2026 NWPs.

The following conditions would apply to the specific NWPs listed below for the Seattle District in Washington State. NWPs not listed do not have specific regional conditions but must still comply with all RGCs.

A PCN may be required by the Regional Conditions specific to the following NWPs: 4, 5, 10, 19, and 41. A PCN is always required by the terms of the following NWPs: 7, 8, 17, 21, 29, 31, 34, 38, 39, 40, 42, 44, 45, 46, 49, 50, 52, 53, 54, 55, 59.

NWP 3. Maintenance

Maintenance of existing bank stabilization structures that expand the existing structure's footprint or dimensions either waterward, vertically or linearly along the shoreline within the geographic jurisdiction of the U.S. Army Corps of Engineers are not eligible for NWP 3.

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

1. A PCN must be submitted to the district engineer (see NWP general condition 32) if the activity involves 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.

NWP 5. Scientific Measurement Devices

A PCN must be submitted to the district engineer (see NWP general condition 32) for the construction of weirs and flumes.

NWP 10. Mooring Buoys

1. A PCN must include a map, aerial photo, or project drawing identifying all existing mooring buoys within a 250-foot radius of the proposed buoy.
2. NWP 10 must not be used in marine waters if it would result in a concentration of more than one mooring structure per acre, unless waived by the district engineer.

Mooring structures include buoys, piers, floats, and boatlifts.

3. The buoy system must contain an embedded anchor and mid-line float where site conditions allow. 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.

4. Mooring buoys must be permanently marked with the Corps reference number in print large enough to be read from a distance of 20 feet.

NWP 17. Hydropower Projects

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

NWP 19. Minor Dredging

A PCN must be submitted to the district engineer (see NWP general condition 32) for dredging proposed to occur in special aquatic sites (i.e., wetlands, vegetated shallows, riffle and pool complexes, or mudflats).

NWP 27. Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities

1. A PCN must be submitted to the district engineer (see NWP general condition 32) 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, Washington State Department of Ecology compensatory mitigation site, or Washington State Model Toxics Control Act clean-up site.

2. The PCN must contain a description of pre-project site conditions including presence of wetlands and aquatic/ecological functions the site provides within the watershed.

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

NWP 29. Residential Developments

The PCN must identify if the project is an individual lot within a subdivision or part of a multiphase development.

NWP 38. Cleanup of Hazardous and Toxic Waste

Non-government project proponents must submit a copy of court ordered remedial plans or related settlements with the PCN.

NWP 39. Commercial and Institutional Developments

The PCN must identify if the project is an individual lot within a subdivision or part of

a multiphase development.

NWP 41. Reshaping Existing Drainage Ditches

A PCN must be submitted to the district engineer (see NWP general condition 32) if the activity involves permanent sidecasting of excavated material into waters of the U.S.

NWP 42. Recreational Facilities

The PCN must identify if the project is an individual lot within a subdivision or part of a multiphase development.

NWP 44. Mining Activities

Aggregate mining activities in streams authorized by this NWP must meet the following criteria:

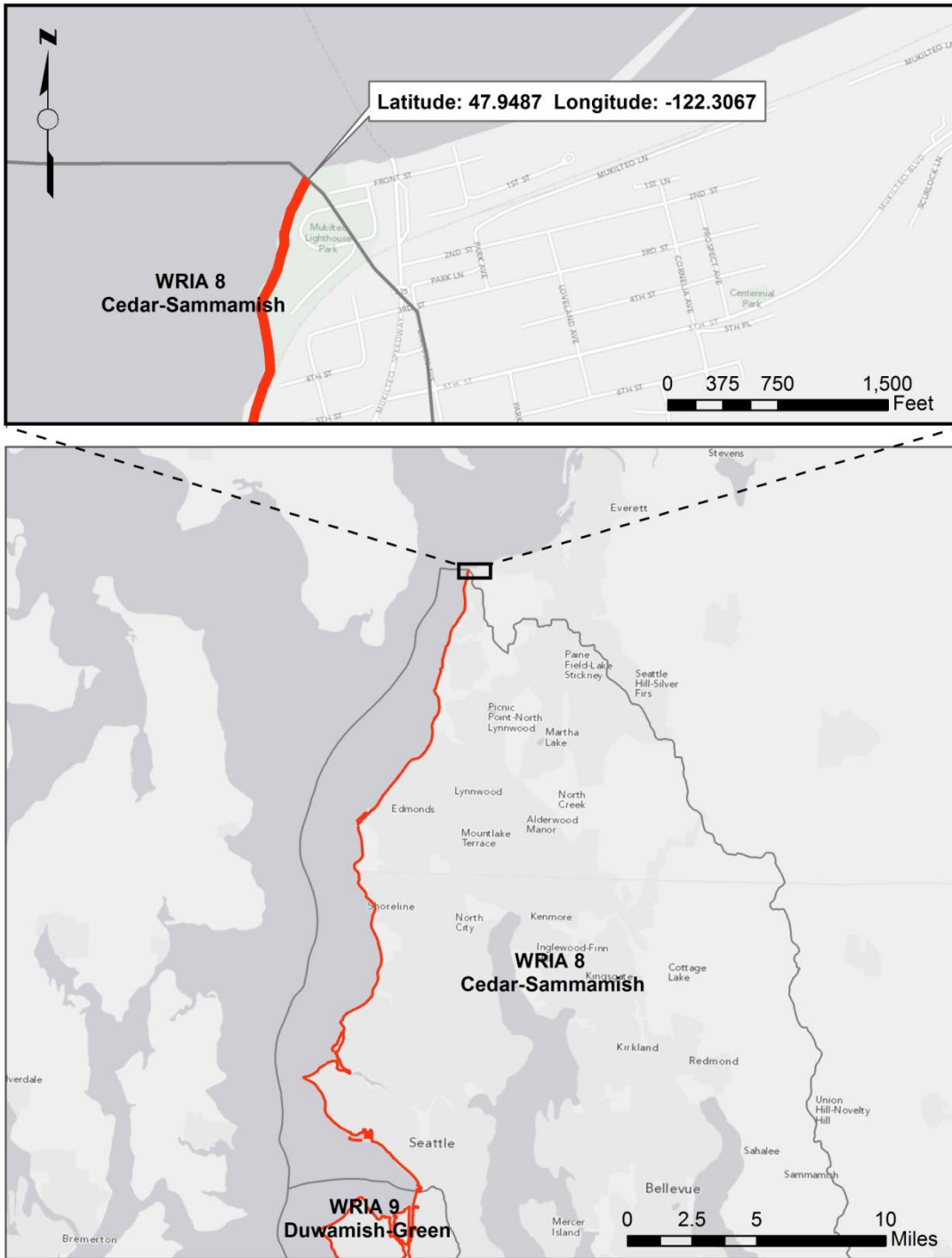
- a. Aggregate must not be excavated from a vegetated bar or flowing water or pushed across a wetted channel.
- b. Any excavation along a river must maintain an undisturbed 5-foot (horizontal) buffer from the edge of the aggregate bar.
- c. Aggregate material must not be stockpiled in wetlands or flowing water.
- d. Aggregate material must not be disposed in the channel or where it could re-enter a water of the U.S.

Seattle District Regional Conditions Figures for 2026 NWP

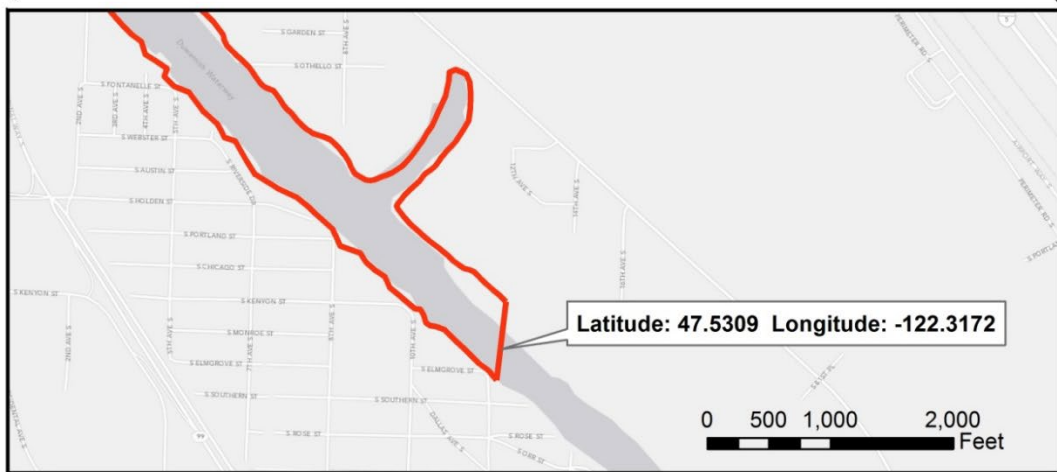
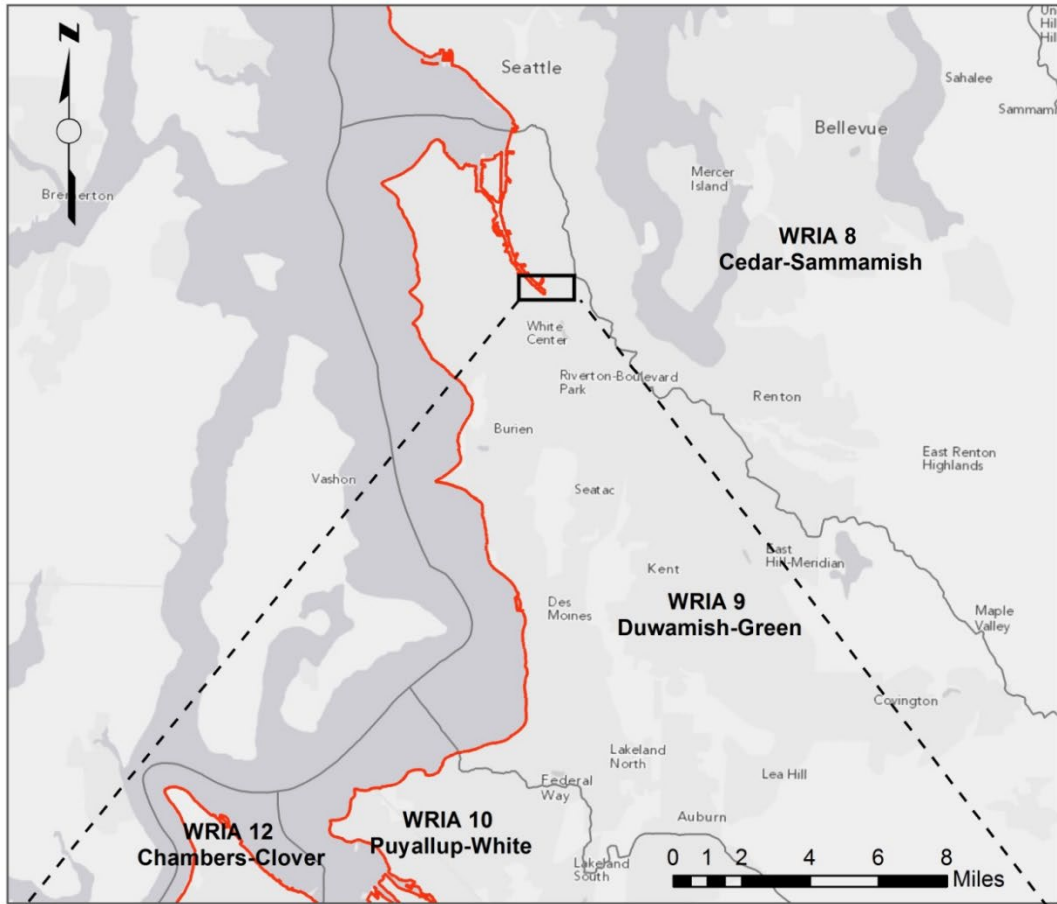
Figure 1. RCs 6 and 9 – Salish Sea



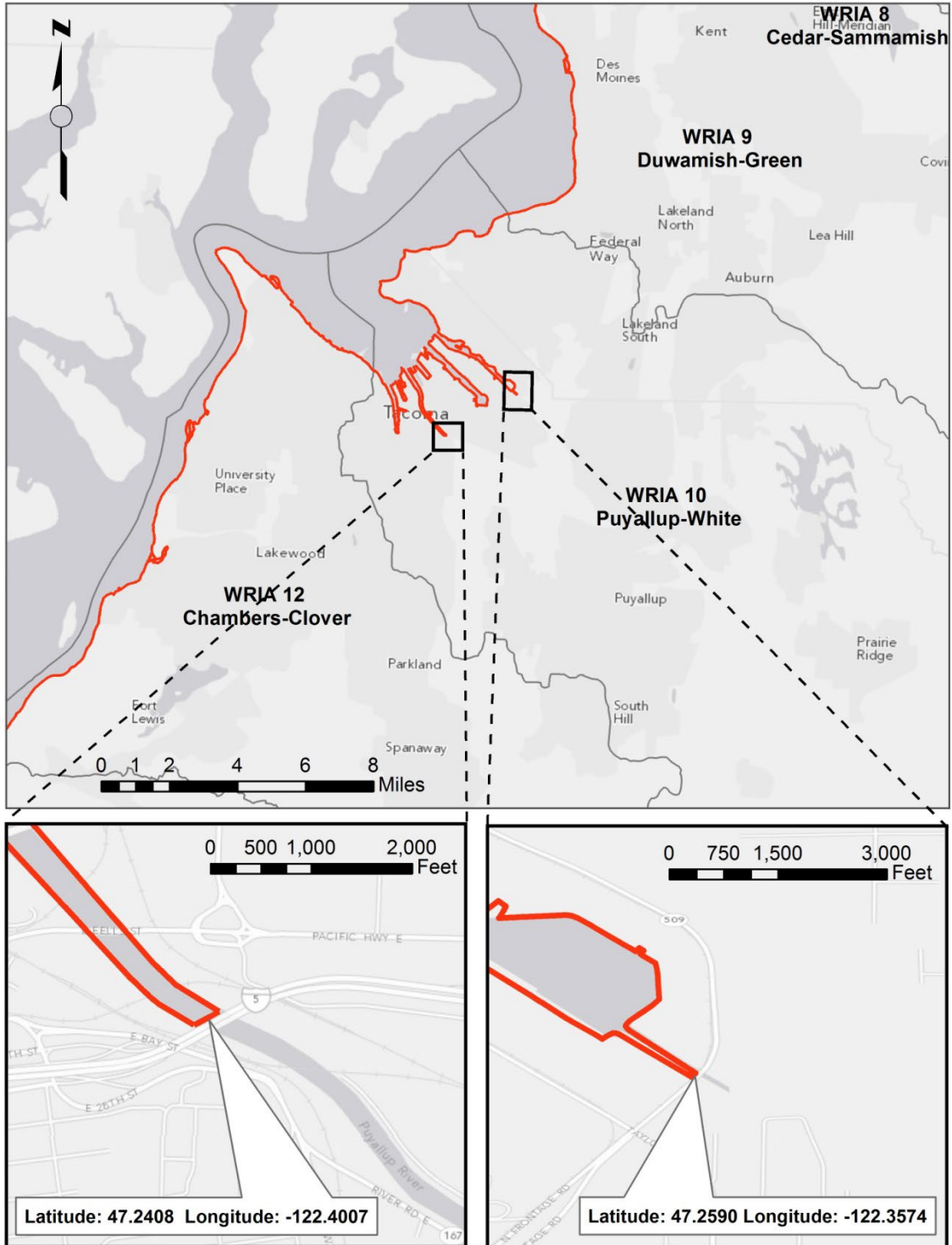
Figure 2: RC 10 - WRIAs 8, 9, 10, 11, and 12
a. WRIA 8



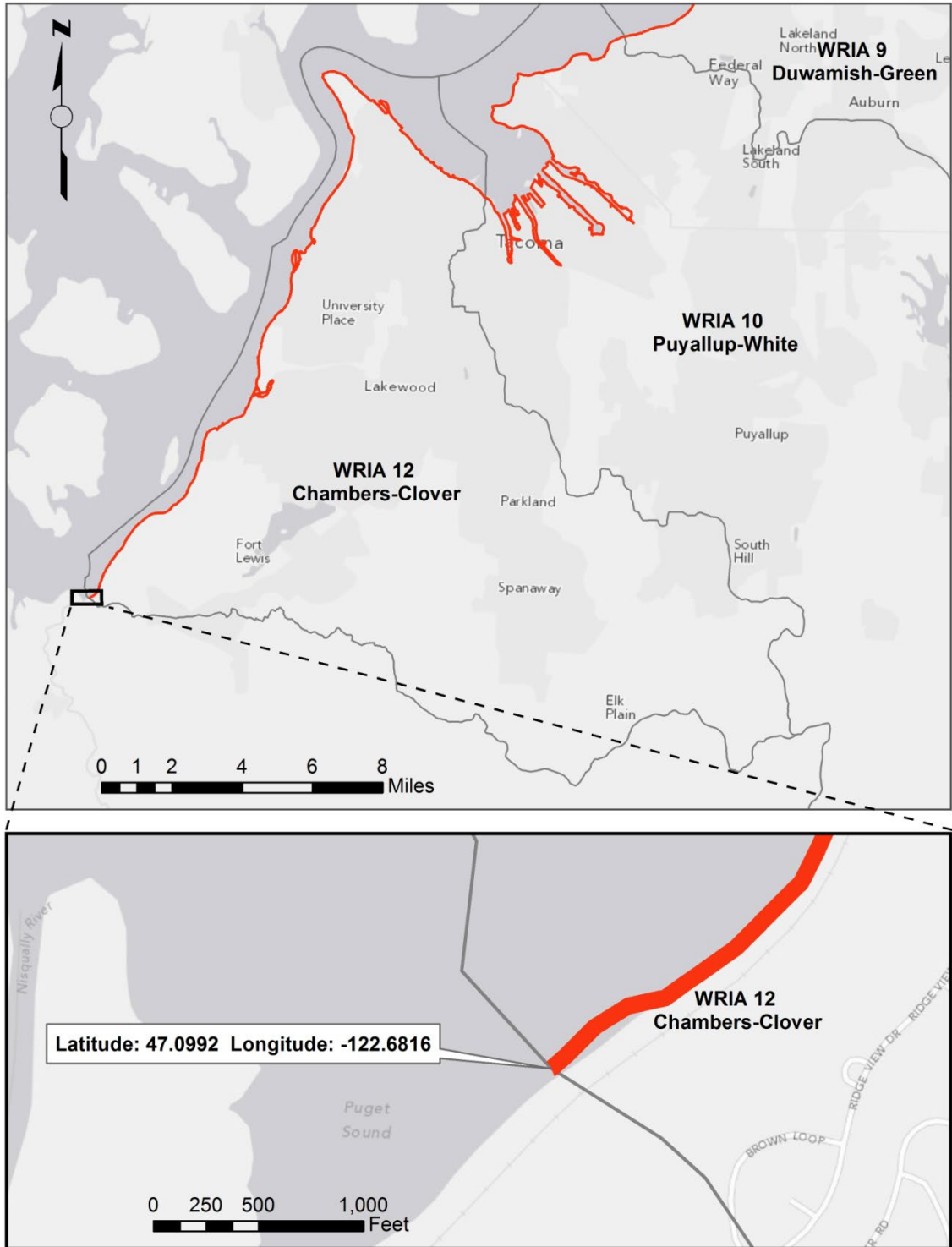
b. WRIA 9



c. WRIA 10



d. WRIA 12



e. WRIA 11

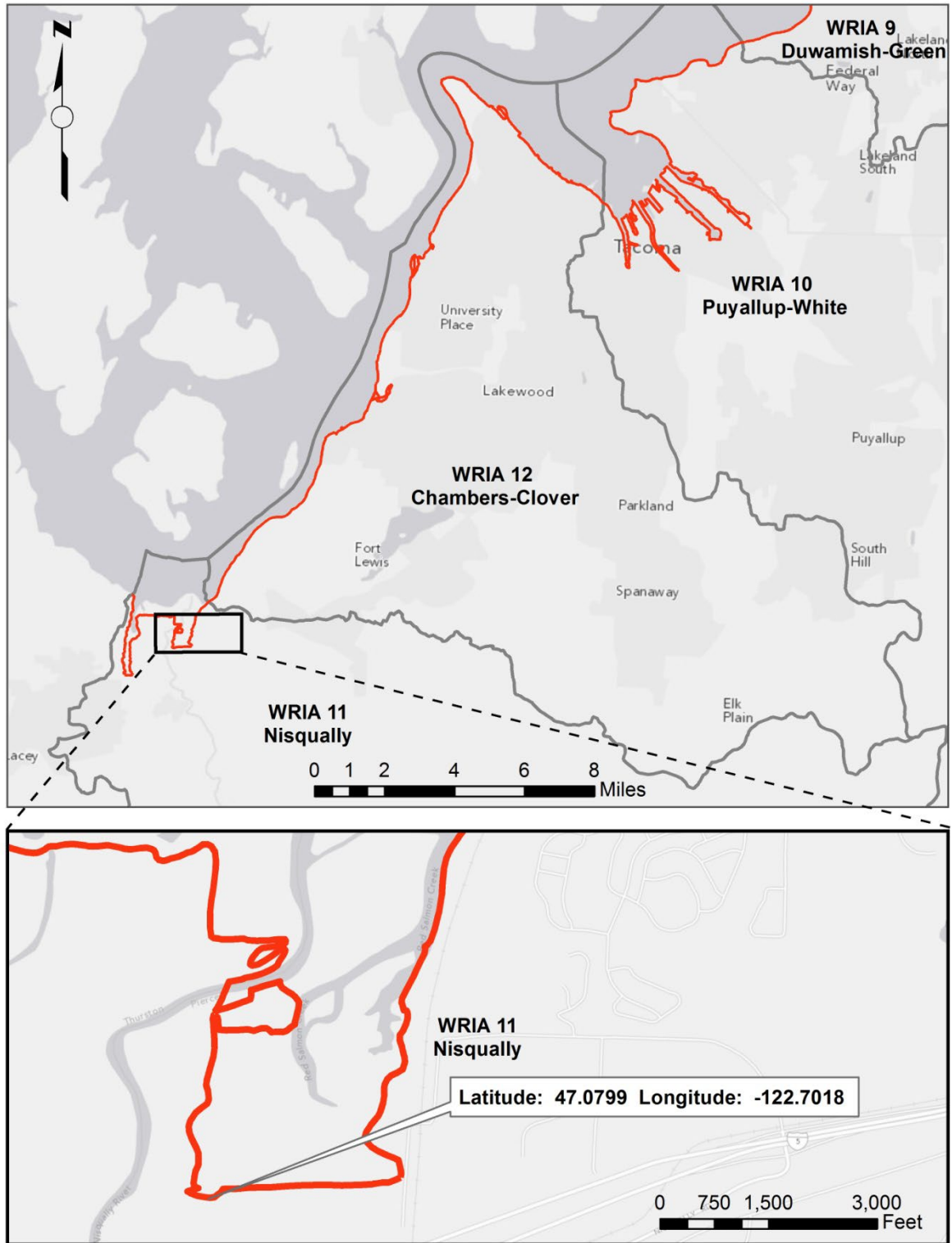
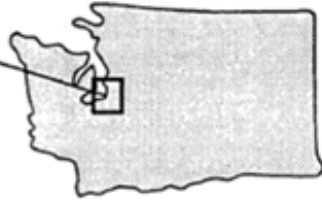


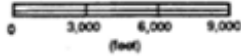
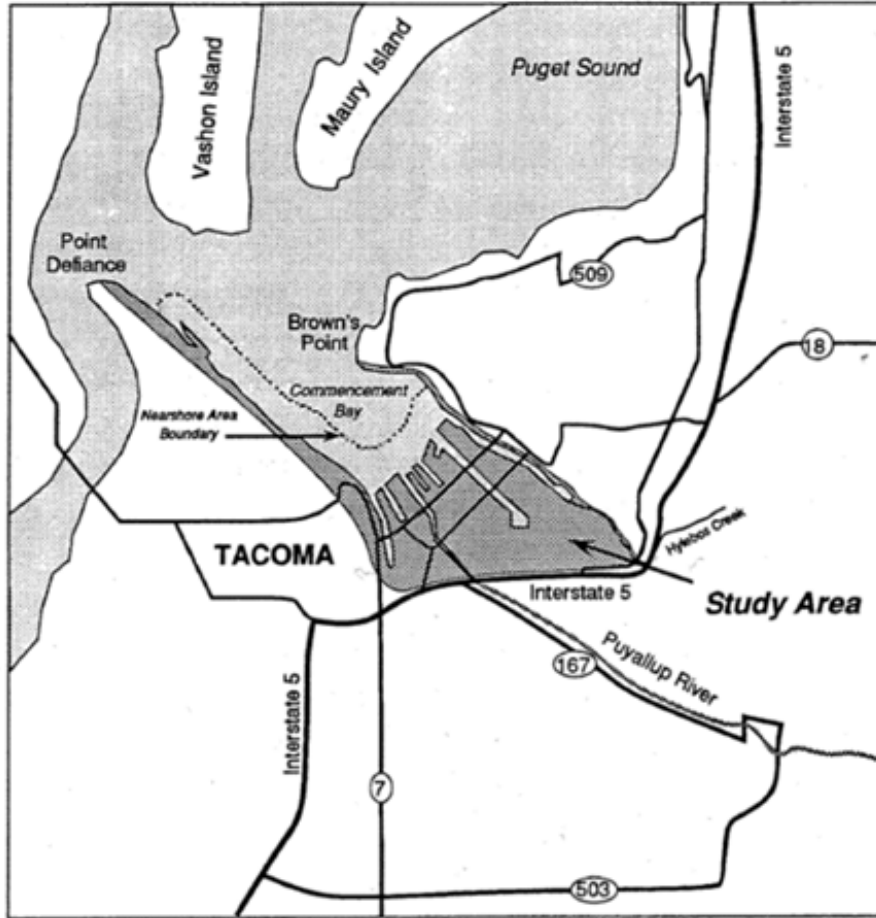
Figure 3. RC 11 - Commencement Bay Study Area



Area enlarged



Commencement Bay Cumulative Impacts Study



WQC Summary Table

Certifying Authorities Who Granted (w/o Conditions) WQC by NWP:

Note 1: WQC conditions become regional conditions to the Nationwide Permits.

Note 2: The Corps did not request WQC for NWP 1, 2, 8, 9, 10, 11, 24, 28, 35, and 55 because these only authorize structures and work in navigable waters (not a discharge of dredged or fill material).

Note 3: The Corps declined to rely on the WQC for NWP 8 - Oil and Gas Structures on the Outer Continental Shelf from the Puyallup Tribe of the Puyallup Reservation because they attempted to grant with conditions a WQC for activities outside the area that they have authority over and outside the limits of the Clean Water Act. This will be treated as a denial.

The '+' indicates additional NWP-specific WQC conditions.

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 1 – Aids to Navigation	Grant w/ conditions	Not requested	Denied	Denied	Waived	Denied
NWP 2 – Structures in Artificial Canals	Grant w/ conditions	Not requested	Denied	Denied	Waived	Denied
NWP 3 – Maintenance	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	Grant w/ conditions	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 5 – Scientific Measurement Devices	Grant w/ conditions	Grant w/ conditions	Granted	Denied	Waived	Denied

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 6 – Survey Activities	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 7 – Outfall Structures and Associated Intake Structures	Grant w/ conditions	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf	Not requested	Not requested	Not requested	Treat as Denial	Waived	Denied
NWP 9 – Structures in Fleeting and Anchorage Areas	Grant w/ conditions	Not requested	Denied	Denied	Waived	Denied
NWP 10 – Mooring Buoys	Grant w/ conditions	Not requested	Denied	Denied	Waived	Denied
NWP 11 – Temporary Recreational Structures	Grant w/ conditions	Not requested	Denied	Denied	Waived	Denied
NWP 12 – Oil or Natural Gas Pipeline Activities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 13 – Bank Stabilization	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 14 – Linear Transportation Projects	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 15 – U.S. Coast Guard Approved Bridges	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 16 – Return Water From Upland Contained Disposal Areas	Grant w/ conditions	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 17 – Hydropower Projects	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 18 – Minor Discharges	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 19 – Minor Dredging	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 20 – Response Operations for Oil or Hazardous Substances	Grant w/ conditions	Grant w/ conditions	Granted	Denied	Waived	Denied
NWP 21 – Surface Coal Mining Activities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 22 – Removal of Vessels	Grant w/ conditions	Grant w/ conditions	Granted	Denied	Waived	Denied
NWP 23 – Approved Categorical Exclusions	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 24 – Indian Tribe or State Administered Section 404 Program	Not requested	Not requested	Denied	Grant w/ conditions	Waived	Denied
NWP 25 – Structural Discharges	Grant w/ conditions	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 27 – Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities	Grant w/ conditions+	Grant w/ conditions	Granted	Denied	Waived	Denied
NWP 28 – Modifications of Existing Marinas	Grant w/ conditions+	Not requested	Denied	Denied	Waived	Denied
NWP 29 – Residential Developments	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 30 – Moist Soil Management for Wildlife	Grant w/ conditions	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 31 – Maintenance of Existing Flood Control Facilities	Grant w/ conditions	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 32 – Completed Enforcement Actions	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 33 – Temporary Construction, Access, and Dewatering	Grant w/ conditions	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 34 – Cranberry Production Activities	Grant w/ conditions+	Grant w/ conditions	Denied	Grant w/ conditions	Waived	Denied
NWP 35 – Maintenance Dredging of Existing Basins	Grant w/ conditions+	Not requested	Denied	Denied	Waived	Denied
NWP 36 – Boat Ramps	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 37 – Emergency Watershed Protection and Rehabilitation	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 38 – Cleanup of Hazardous and Toxic Waste	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 39 – Commercial and Institutional Developments	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 40 – Agricultural Activities	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 41 – Reshaping Existing Drainage and Irrigation Ditches	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 42 – Recreational Facilities	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 43 – Stormwater Management Facilities	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 44 – Mining Activities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 45 – Repair of Uplands Damaged by Discrete Events	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 46 – Discharges in Ditches	Grant w/ conditions+	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 48 – Commercial Shellfish Mariculture Activities	Denied	Grant w/ conditions	Omitted	Denied	Waived	Denied
NWP 49 – Coal Remining Activities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 50 – Underground Coal Mining Activities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied

Nationwide Permit Number and Name	Ecology	EPA	Jamestown S'Klallam	Puyallup	Chehalis, Colville, Kalispel, Port Gamble S'Klallam Tribe, Spokane	Lummi, Makah, Quinault, Squaxin, Swinomish, Tulalip
NWP 51 – Land-Based Renewable Energy Generation Facilities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 52 – Water-Based Renewable Energy Generation Pilot Projects	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 53 – Removal of Low-Head Dams	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 54 – Living Shorelines	Denied	Grant w/ conditions	Granted	Denied	Waived	Denied
NWP 55 – Seaweed Mariculture Activities	Denied	Not requested	Granted	Denied	Waived	Denied
NWP 57 – Electric Utility Line and Telecommunications Activities	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 58 – Utility Line Activities for Water and Other Substances	Grant w/ conditions+	Grant w/ conditions+	Denied	Denied	Waived	Denied
NWP 59 – Water Reclamation and Reuse Facilities	Denied	Grant w/ conditions	Denied	Denied	Waived	Denied
NWP 60 (new) – Activities to Improve the Passage of Fish and Other Aquatic Organisms	Denied	Grant w/ conditions+	Granted	Denied	Waived	Denied



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 18, 2025

Colonel Kathryn P Sanborn
District Commander
Seattle District, Corps of Engineers
PO Box 3755
Seattle, Washington 98124-3755

RE: State of Washington Clean Water Act Section 401 Water Quality Certification Decisions
for the 2026 Nationwide Permits.

Dear Colonel Sanborn:

The Department of Ecology (Ecology) has completed its review of the United States Department of the Army, Corps of Engineers (the Corps) proposed Nationwide Permit (NWP) program as published in the Federal Register (90 FR 26100) on June 18, 2025. The Corps proposes to reissue 56 existing NWPs, general conditions, and definitions, with some modifications; and issue one new NWP. The Corps is requesting certification prior to finalizing the NWP program and Ecology's review has been limited to the proposed NWPs as published in the federal register and the Corps Seattle District's draft regional conditions as proposed in the Special Public Notice.

Ecology received a request for Section 401 Water Quality Certification (WQC) and Special Public Notice from the Corps Seattle District on June 18, 2025 for the proposed 2026 NWPs and draft regional conditions. The Seattle District did not propose changes to the draft regional conditions in the Special Public Notice. The Seattle District is requesting certification prior to finalizing the regional conditions and it is likely that there will be changes in the final regional conditions that were not included in the June 18, 2025 Special Public Notice.

The attached programmatic Section 401 Water Quality Certification decision applies to the NWP program published in the federal register on June 18, 2025, and the regional conditions proposed by the Corps Seattle District by Public Notice on June 18, 2025.

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 black 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
Washington State Department of Ecology

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

ecc: Lia Protopapadakis, U.S. Army Corps of Engineers
Dan Krenz, U.S. Army Corps of Engineers
Loree' Randall, Ecology
Erin Hanlon Brown, Ecology
ecyrefedpermits@ecy.wa.gov

Enclosure – State of Washington Programmatic Section 401 Water Quality Certification Decisions and State Conditions for the U.S Army Corps of Engineers Nationwide Permits. This document fully outlines Ecology’s Section 401 Certification decisions for activities which may result in a discharge and are carried out under a NWP for either Corps Section 404 and/or Section 10 permits.

Table 1 – Summary of State of Washington Section 401 Programmatic Water Quality Certification Decisions for the U.S. Army Corps of Engineers Proposed 2026 Nationwide Permit Program.

NWP	Activity	401 Decision	Applicable Conditions
1	Aids to Navigation	Grant with Conditions	State General Conditions
2	Structures in Artificial Canals	Grant with Conditions	State General Conditions
3	Maintenance	Grant with Conditions	State General and Specific Conditions
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	Grant with Conditions	State General Conditions
5	Scientific Measurement Devices	Grant with Conditions	State General Conditions
6	Survey Activities	Grant with Conditions	State General and Specific Conditions
7	Outfall Structures and Associated Intake Structures	Grant with Conditions	State General Conditions
8	Oil and Gas Structures on the Outer Continental Shelf	NA – outside of state jurisdiction	NA
9	Structures in Fleeting and Anchorage Areas	Grant with Conditions	State General Conditions
10	Mooring Buoys	Grant with Conditions	State General Conditions
11	Temporary Recreational Structures	Grant with Conditions	State General Conditions
12	Oil or Natural Gas Pipeline Activities	Denied - Individual 401 WQC required	NA
13	Bank Stabilization	Grant with	State General and Specific Conditions

NWP	Activity	401 Decision	Applicable Conditions
		Conditions	
14	Linear Transportation Projects	Grant with Conditions	State General and Specific Conditions
15	U.S. Coast Guard Approved Bridges	Grant with Conditions	State General and Specific Conditions
16	Return Water from Upland Contained Disposal Areas	Grant with Conditions	State General Conditions
17	Hydropower Projects	Denied - Individual 401 WQC required	NA
18	Minor Discharges	Grant with Conditions	State General and Specific Conditions
19	Minor Dredging	Grant with Conditions	State General and Specific Conditions
20	Response Operations for Oil and Hazardous Substances	Grant with Conditions	State General Conditions
21	Surface Coal Mining Activities	Denied - Individual 401 WQC required	NA
22	Removal of Vessels	Grant with Conditions	State General Conditions
23	Approved Categorical Exclusions	Grant with Conditions	State General and Specific Conditions
25	Structural Discharges	Grant with Conditions	State General Conditions
27	Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities	Grant with Conditions	State General and Specific Conditions
28	Modifications of Existing Marinas	Grant with Conditions	State General and Specific Conditions
29	Residential Developments	Grant with Conditions	State General and Specific Conditions
30	Moist Soil Management for Wildlife	Grant with Conditions	State General Conditions
31	Maintenance of Existing Flood Control Facilities	Grant with Conditions	State General Conditions
32	Completed Enforcement Actions	Denied - Individual 401 WQC required	NA

NWP	Activity	401 Decision	Applicable Conditions
33	Temporary Construction, Access, and Dewatering	Grant with Conditions	State General Conditions
34	Cranberry Production Activities	Grant with Conditions	State General and Specific Conditions
35	Maintenance Dredging of Existing Basins	Grant with Conditions	State General and Specific Conditions
36	Boat Ramps	Grant with Conditions	State General and Specific Conditions
37	Emergency Watershed Protection and Rehabilitation	Denied - Individual 401 WQC required	NA
38	Cleanup of Hazardous and Toxic Waste	Grant with Conditions	State General and Specific Conditions
39	Commercial and Institutional Developments	Grant with Conditions	State General and Specific Conditions
40	Agricultural Activities	Grant with Conditions	State General and Specific Conditions
41	Reshaping Existing Drainage and Irrigation Ditches	Denied - Individual 401 WQC required	NA
42	Recreational Facilities	Grant with Conditions	State General and Specific Conditions
43	Stormwater Management Facilities	Grant with Conditions	State General and Specific Conditions
44	Mining Activities	Denied - Individual 401 WQC required	NA
45	Repair of Uplands Damaged by Discrete Events	Grant with Conditions	State General and Specific Conditions
46	Discharges in Ditches	Grant with Conditions	State General and Specific Conditions
48	Commercial Shellfish Mariculture Activities	Denied - Not proposed for use in Washington	NA
49	Coal Remining Activities	Denied - Individual 401 WQC required	NA
50	Underground Coal Mining Activities	Denied - Individual 401 WQC required	NA
51	Land-Based Renewable Energy Generation Facilities	Denied - Individual	NA

NWP	Activity	401 Decision	Applicable Conditions
		401 WQC required	
52	Water-Based Renewable Energy Generation Pilot Projects	Denied - Individual 401 WQC required	NA
53	Removal of Low-Head Dams	Denied - Individual 401 WQC required	NA
54	Living Shorelines	Denied - Individual 401 WQC required	NA
55	Seaweed Mariculture Activities	Denied - Individual 401 WQC required	NA
57	Electric Utility Line and Telecommunications Activities	Grant with Conditions	State General and Specific Conditions
58	Utility Line Activities for Water and Other Substances	Grant with Conditions	State General and Specific Conditions
59	Water Reclamation and Reuse Facilities	Denied - Individual 401 WQC required	NA
A	Activities to Improve Passage of Fish and Other Aquatic Organisms	Denied - Individual 401 WQC required	NA

State of Washington Department of Ecology
Programmatic Section 401 Water Quality Certification
Decisions and Conditions for the U.S. Army Corps of Engineers
Proposed 2026 Nationwide Permit Program

Pursuant to Section 401 of the Clean Water Act (CWA), as the state water pollution control agency with jurisdictional authority of Washington's surface waters, the Department of Ecology (Ecology) is tasked with issuance of Section 401 Water Quality Certification (Water Quality Certification) of the Nationwide Permits (NWP) in Washington, with the exception of those lands where the U.S. Environmental Protection Agency (EPA) or a Tribe has authority to give such Water Quality Certification.

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) published in the Federal Register its proposal to reissue the Nationwide Permits (NWP). NWP 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. The Corps is proposing to reissue 56 existing NWP with 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.

Due to federal court decisions in *The Coalition to Protect Puget Sound v. U.S. Army Corps of Engineers* (U.S. District Court, Western District Court of Washington at Seattle and U.S. Court of Appeals for the Ninth Circuit), which vacated NWP 48 in waters within Washington State, the Corps is proposing to modify NWP 48 to exclude its use in waters within Washington State. NWP 48 is currently not available for use in Washington State, and as a result, commercial shellfish mariculture activities in Washington State are authorized through standard individual permits and letters of permission. The 2026 NWP propose to continue that practice.

On April 29, 2025, the Corps Seattle District submitted a pre-filing meeting request to the Washington State Department of Ecology (Ecology) for the NWP. On June 18, 2025, the Corps Seattle District submitted a request for Section 401 Water Quality Certification (WQC) for the NWP. The reasonable period of time for Ecology to act on the request for WQC ends on December 18, 2025.

On July 25, 2025, Ecology provided public notice of request for WQC for the NWP program to interested parties. No comments were received.

This programmatic WQC for the NWP program applies to the NWP published in the federal register on June 18, 2025, and the regional conditions proposed by the Corps Seattle District by Public Notice on June 18, 2025.

Projects and activities authorized by NWP must meet the conditions within this programmatic

WQC to be eligible for coverage. For projects and activities that cannot meet these conditions and thresholds of this programmatic WQC, or where Ecology has denied WQC for the NWP, individual WQC is required. See Ecology's Water Quality Certification webpage for details on how to request an individual WQC.

This programmatic WQC grants with conditions WQC pursuant to Section 401 of the Clean Water Act, 33 U.S.C. §1341. Ecology has determined that the proposed discharges of those NWP's granted with conditions will comply with applicable water quality requirements pursuant to RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, and Chapter 173-201A WAC, provided the project is conducted in accordance with this programmatic WQC and the conditions herein.

Failure of any person or entity to comply with the conditions of this programmatic WQC may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.

Project proponents are responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or Tribal authorities for projects or activities authorized by NWP. This programmatic WQC does not provide coverage under the Construction Stormwater General Permit (National Pollutant Discharge Elimination System – NPDES) or any other required NPDES or state waste discharge permit.

A. Description of impacts to waters of the state

Ecology defines impacts as direct, indirect, permanent or temporary impacts to waters of the state. Activities that impact waters of the state may include temporary fill activities such as placement of temporary stream crossings, or permanent impacts such as placement of permanent structures in waterways.

Ecology defines in-water activities are any activities below the ordinary high water mark (OHWM) regardless of the presence or absence of water.

Loss of streambed refers to the permanent alteration of the stream channel bed from activities including but not limited to filling, excavation, or drainage impacting aquatic habitat and water flow. For example, straightening a meandering stream or placing a portion of a stream in a pipe is considered a loss.

For impacts to waters of the state, project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resources wherever practicable before proposing compensatory mitigation. Project proponents should refer to the most current guidance when developing wetland mitigation plans: Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website).

B. Projects or activities where programmatic WQC is denied

Due to the potential loss of state waters, including wetlands, and the lack of adequate information regarding the discharge types, quantities, and specific locations, programmatic WQC is denied for projects or activities that meet the criteria below:

1. Projects or activities affecting the following aquatic resources cannot be authorized by this programmatic WQC and will require individual WQC unless authorized by *NWP 20 – Response Operations for Oil and Hazardous Substances*.

A. Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):

- i. Estuarine wetlands.
- ii. Wetlands of High Conservation Value.
- iii. Bogs.
- iv. Old-growth forested wetlands and mature forested wetlands.
- v. Wetlands in coastal lagoons.
- vi. Wetlands in dunal systems along the Washington coast.
- vii. Vernal pools.
- viii. Alkali wetlands.
- ix. Fens, aspen-dominated wetlands, camas prairie wetlands.
- x. Category I wetlands.
- xi. Category II wetlands with a habitat score ≥ 8 points.

B. Activities resulting in a loss of eelgrass (*Zostera marina*) beds.

2. Projects or activities that will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listed parameter cannot be authorized by this programmatic WQC and will require individual WQC.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visit Ecology's Water Quality Assessment webpage for maps and search tools. You can contact Ecology for technical assistance as needed.

3. Projects or activities that result in the loss of more than 300 linear feet of streambed cannot be authorized by this programmatic WQC and will require individual WQC.
4. Ecology **denies Water Quality Certification** for the NWPs identified in the table below. An individual WQC is required for projects or activities authorized under these NWPs.

NWP	Ecology Denies Programmatic WQC
12	Oil or Natural Gas Pipeline Activities
17	Hydropower Projects
21	Surface Coal Mining Activities
32	Completed Enforcement Actions
37	Emergency Watershed Protection and Rehabilitation
41	Reshaping Existing Drainage and Irrigation Ditches
44	Mining Activities
48	Commercial Shellfish Mariculture Activities <i>(not proposed for use in Washington)</i>
49	Coal Remining Activities
50	Underground Coal Mining Activities
51	Land-Based Renewable Energy Generation Facilities
52	Water-Based Renewable Energy Generation Pilot Projects
53	Removal of Low-Head Dams
54	Living Shorelines
55	Seaweed Mariculture Activities
59	Water Reclamation and Reuse Facilities
A	Activities to Improve Passage of Fish and Other Aquatic Organisms

C. Notification of coverage under this programmatic WQC

For projects where pre-construction notification is required to the Corps, project proponents must submit a copy of the pre-construction notification to Ecology via email at ecyrefedpermits@ecy.wa.gov. Project proponents should identify the NWP(s) under which they are seeking coverage.

For projects where pre-construction notification is not required, project proponents must comply with all applicable Ecology state general and nationwide permit specific conditions as outlined in this programmatic WQC decision.

D. State General Conditions for all Nationwide Permits

To ensure compliance with applicable water quality requirements in addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District's regional permit conditions, the following state general Water Quality Certification (WQC) conditions **apply to all NWPs granted with conditions** in Washington where Ecology is the certifying authority. If a project proponent is unable to meet any of the following conditions, an individual WQC is required.

1. The project proponent must ensure all projects or activities will not cause, and are not likely to cause or contribute to an exceedance of the State water quality standards, (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).
2. All projects involving land disturbance or impervious surfaces must implement



stormwater pollution prevention or control measures to avoid discharge of pollutants in stormwater runoff to waters.

- a. For land disturbances during construction, the project proponent must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology’s current stormwater manual.
- b. Following construction, prevention or treatment of on-going stormwater runoff from impervious surfaces shall be provided.

Note: Ecology’s Stormwater Management and Design Manuals and stormwater permit information are available on Ecology’s website.

E. Nationwide Permits where Ecology Grants Water Quality Certification with State General Conditions

For the activities identified within the following NWPs, Ecology has determined that the proposed discharges will not violate applicable state water quality standards, provided the work is done in accordance with the Corps national, regional, and NWP specific conditions and Ecology’s state general conditions.

Ecology **grants Water Quality Certification (WQC) with state general conditions** for the following NWPs.

NWP	Ecology Grants Programmatic WQC with State General Conditions
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
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

F. Nationwide Permits Where Ecology Grants Water Quality Certification with State General and Specific Conditions



For the activities identified within the following NWPs, Ecology has determined that the proposed discharges will not violate applicable state water quality standards, provided the work is done in accordance with the Corps national, regional, and NWP specific conditions and Ecology’s state general and specific conditions identified below.

Ecology grants **Water Quality Certification (WQC) with state general and specific conditions** for the NWPs identified in the table below.

NWP	Ecology Grants with Conditions Programmatic WQC State General and Specific Conditions
3	Maintenance
6	Survey Activities
13	Bank Stabilization
14	Linear Transportation Projects
15	U.S. Coast Guard Approved Bridges
18	Minor Discharges
19	Minor Dredging
23	Approved Categorical Exclusions
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28	Modifications of Existing Marinas
29	Residential Developments
34	Cranberry Production Activities
35	Maintenance Dredging of Existing Basins
36	Boat Ramps
38	Cleanup of Hazardous and Toxic Waste
39	Commercial and Institutional Developments
40	Agricultural Activities
42	Recreational Facilities
43	Stormwater Management Facilities
45	Repair of Uplands Damaged by Discrete Events
46	Discharges in Ditches
57	Electric Utility Line and Telecommunications Activities
58	Utility Line Activities for Water and Other Substances

3 – Maintenance

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity involves new, expansion, or complete replacement of a bank or shoreline stabilization in waters of the state; or
2. The project or activity increases the original footprint of the structure by more than 1/10th acre in wetlands; or



3. The project or activity includes adding a weir, flap gate, tide gate, or culvert to the site.

6 - Survey Activities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity involves oil or gas exploration; or
2. The project or activity requires trenching in wetlands.

13 - Bank Stabilization

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects and activities authorized under this NWP if:

1. The project or activity involves new, expansion, or complete replacement of a bank or shoreline stabilization in waters of the state; or
2. The project or activity has a length greater than 500 feet (individually or cumulatively) along the bank; or
3. The project or activity has not been designed and stamped by a Professional Engineer or Engineering Geologist; or
4. The project or activity exceeds an average of one cubic yard per running foot below the OHWM or High Tide Line.

14 - Linear Transportation Projects

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

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 Ecology's lowest acreage threshold of any NWP used. This condition does not apply when NWP 14 is combined only with NWP 27.

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

15 - U.S. Coast Guard Approved Bridges

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:



1. The project or activity triggers an individual U.S. Coast Guard bridge permit.

Note: An Advance Approval from the U.S. Coast Guard is not considered a bridge permit and would not require Ecology individual Water Quality Certification.

18 - Minor Discharges

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity has impacts to wetlands greater than $\frac{1}{4}$ acre; or
2. The project or activity involves poured- in- place concrete below the OHWM or High Tide Line.

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

19 - Minor Dredging

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in a known contaminated or cleanup site.

23 - Approved Categorical Exclusions

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity has impacts to waters greater than $\frac{1}{2}$ acre.

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

27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in a known cleanup site; or
2. The project or activity directly impacts $\frac{1}{2}$ acre or more of tidal waters; or
3. The project or activity directly or indirectly impacts $\frac{1}{2}$ acre or more of wetlands, including conversion of wetlands, changes to wetland hydrologic regime, soil



disturbance, or removal of native vegetation; or

4. The project or activity is an in lieu fee site, mitigation bank, or advance mitigation site.

Note: The above conditions for NWP 27 include permanent and temporary impacts. Indirect impacts are intentionally excluded from NWP 27 specific condition 2 and included in specific condition 3.

28 - Modifications to Existing Marinas

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

29 - Residential Developments

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The residential development has impacts to waters greater than ¼ acre; or
2. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed Ecology's lowest acreage threshold of any NWP used.

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

34 - Cranberry Production Activities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

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

35 - Maintenance Dredging of Existing Basins

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.



36 - Boat Ramps

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in a cleanup site or proposes excavation in a site that is known to have contaminated sediment or soil; or
2. The project or activity involves poured- in- place concrete below the OHWM or High Tide Line.

38 - Cleanup of Hazardous and Toxic Waste

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is not authorized through a Model Toxics Control Act (MTCA) order or a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) order.

39 - Commercial and Institutional Developments

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity impacts $\frac{1}{4}$ acre or more of waters; or
2. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed Ecology's lowest acreage threshold of any NWP used.

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

40 - Agricultural Activities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill or mechanized clearing impacting more than $\frac{1}{4}$ acre of waters.

42 - Recreational Facilities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:



1. The project or activity impacts $\frac{1}{4}$ acre or more of waters; or
2. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed Ecology's lowest acreage threshold of any NWP used.

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

43 - Stormwater Management Facilities

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity includes a Category I or Category II, wetland as part of a stormwater or flow control system. Including a Category I or Category II wetland in a stormwater treatment or flow control system is considered an impact and will need to be mitigated; or
2. The project or activity includes a Category III (with a habitat score of ≥ 6) wetland as part of a stormwater or flow control system.

45 - Repair of Uplands Damaged by Discrete Events

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity involves impacts to waters greater than $\frac{1}{2}$ acre.

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

46 – Discharge in Ditches

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity involves impacts to waters greater than $\frac{1}{2}$ acre.

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

57 - Electric Utility Line and Telecommunication Activities



Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in a cleanup site or proposes trenching or excavation in a site that is known to have contaminated sediment or soil; or
2. The project or activity impacts more than 1/3rd acre of waters; or
3. The project or activity requires a Federal Energy Regulatory Commission (FERC) license; or
4. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed Ecology's lowest acreage threshold of any NWP used.

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

58 - Utility Line Activities for Water and Other Substances

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for projects or activities authorized under this NWP if:

1. The project or activity is in a cleanup site or proposes trenching or excavation in a site that is known to have contaminated sediment or soil; or
2. The project or activity impacts more than 1/3rd acre of waters; or
3. The project or activity requires a Federal Energy Regulatory Commission (FERC) license; or
4. The Corps issues multiple authorizations for one federal permit application where the combined impacts to waters exceed Ecology's lowest acreage threshold of any NWP used.

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





REGION 10

SEATTLE, WA 98101

December 18, 2025

Colonel Kathryn P. Sanborn
District Commander
U.S. Army Corps of Engineers
Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

Re: U.S. Environmental Protection Agency Region 10 Clean Water Act Section 401 Water Quality Certification Decisions of the U.S. Army Corps of Engineers 2026 Nationwide Permits where Tribes do not have Treatment in a Similar Manner as a State and Lands with Exclusive Federal Jurisdiction

Dear Colonel Sanborn:

The Clean Water Act (CWA) Section 401, 33 U.S.C. § 1341, requires applicants for Federal licenses or permits to conduct any activity which may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no state or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. 33 U.S.C. § 1341(a)(1). In this case, several tribes within EPA Region 10 do not have the authority to provide CWA Section 401 certification for projects within their respective tribal lands (Attachment A). Therefore, EPA is making the CWA Section 401 certification decision for the 2026 Nationwide Permit (NWP) reissuance in Indian Country within EPA Region 10. Additionally, Alaska, Idaho, Oregon, and Washington do not have authority to provide CWA Section 401 certification for projects within lands of exclusive federal jurisdiction in relevant respects.¹

¹ An inventory report compiled by the U.S. General Services Administration for federal properties as of 1962 identifies properties that may contain exclusive federal jurisdiction. This document is accessible at <https://www.congress.gov/116/meeting/house/110088/documents/HHRG-116-II13-20191017-SD044.pdf>. The EPA notes that this inventory report is not all-inclusive and that the information contained within it has not been recently confirmed and/or updated. Please contact EPA Region 10 at R10-401-Certs@epa.gov with questions regarding the jurisdictions where this certification decision applies.

Therefore, EPA is making the certification decision for the 2026 NWP reissuance in lands of exclusive federal jurisdiction in relevant respects within EPA Region 10.

Project Description

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) proposed to reissue 56 NWP that would expire in March 2026 and issue one new NWP. 90 FR 26100 (June 18, 2025). The purpose of the NWPs is to authorize categories of activities under CWA Section 404, 33 U.S.C. § 1344, and Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403, that have no more than minimal individual and cumulative adverse environmental impacts. For more details see: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>

EPA's Public Notice Process

On June 18, 2025, EPA received a request for certification from the Corps for the proposed reissuance of the NWPs and issuance of the new NWP. On July 8, 2025, EPA issued a public notice regarding the request for certification and provided the opportunity for the public to submit comments until August 7, 2025. EPA received no public comments related to EPA's certification decision process during the 30-day public notice period.

General Information

The general information provided in this section does not constitute a certification condition(s).

General Applicability

- The Corps did not request CWA Section 401 certification for NWPs 1, 2, 8, 9, 10, 11, 24, 28, 35, and 55, and as such, the certification process did not begin and EPA neither certified nor waived certification. Consequently, if any activity authorized by these NWPs may result in a discharge into a water of the United States, on lands where the EPA acts as the certifying authority, the Corps must seek CWA Section 401 certification from EPA.
- If a project proposal does not meet either the general or NWP-specific certification conditions, or if certification is denied for a specific NWP, the project proponent must request an individual certification from EPA Region 10.

Documentation Recommendations

- Project proponents for potential projects authorized under the NWPs should retain this certification in their files with the applicable NWPs as documentation of EPA's certification decisions for the above-referenced proposed NWPs. This certification is specifically associated with the proposed NWPs described above and expires when those NWPs expire, five years from Corps issuance date, or are otherwise superseded by subsequent reissuance if less than five years.
- Copies of this certification should be kept on the job site and made readily available for reference.

Contact Information

- The project proponents for potential projects authorized under an NWP are encouraged to contact EPA Region 10 during the project planning phase if there are any questions about

relevant best management practices (e.g., bioengineering techniques, biodegradable erosion control measures, revegetation using native plant species, suitable fill materials, and disposal of debris/construction materials preventing runoff) and resources that can assist with compliance.

- Prior to work commencing, EPA recommends that project proponents notify the appropriate Tribal Environmental Office, if applicable.
- In the case of a spill, EPA recommends that the project proponent notify EPA Region 10 within 8 hours from discovery. For emergency spills, EPA recommends that the project proponent contact the EPA's National Response Center at 1-800-424-8802 as well as the appropriate personnel identified in the project's Spill Prevention Control and Countermeasures, or similar plan, if applicable.
- If you have any questions regarding this certification, please contact R10-401-Certs@epa.gov.

Grants of Certification with Conditions

EPA is granting certification with conditions for NWP's 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 57, 58, 59, and A (enclosed). For NWP's that EPA grants certification with conditions, EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under Sections 301, 302, 303, 306, and 307 of the CWA; any Federal and State or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of State or Tribal law, subject to the conditions listed under the NWP below, pursuant to CWA Section 401(d).

Sincerely,

Hanh Shaw, Manager
Standards, Assessment and Watershed
Management Branch
Water Division

Enclosure

cc: William Iyall, Cowlitz Indian Tribe
Christina Donehower, Cowlitz Indian Tribe
Darlene Hollum, Hoh Indian Tribe
Cynthia Hernandez, Hoh Indian Tribe
Frances G. Charles, Lower Elwha Klallam Tribe
Matt Beirne, Lower Elwha Klallam Tribe
Jaison Elkins, Muckleshoot Indian Tribe

Nancy Rapin, Muckleshoot Indian Tribe
Ken Choke, Nisqually Indian Tribe
Rachel Dunning, Nisqually Indian Tribe
RoseMary LaClair, Nooksack Indian Tribe
Margaret Taylor, Nooksack Indian Tribe
Douglas Woodruff Jr., Quileute Tribe
Robert Beck, Quileute Tribe
Tom Wooten, Samish Indian Nation
Todd Woodard, Samish Indian Nation
Norma A. Joseph, Sauk-Suiattle Indian Tribe
Scott Morris, Sauk-Suiattle Indian Tribe
Quintin Swanson, Shoalwater Bay Tribe
Larissa Pfleeger, Shoalwater Bay Tribe
Charles Miller, Skokomish Indian Tribe
Seth Book, Skokomish Indian Tribe
Robert de los Angeles, Snoqualmie Tribe
Cindy Spiry, Snoqualmie Tribe
Eric White, Stillaguamish Tribe of Indians
Jody Brown, Stillaguamish Tribe of Indians
Leonard Forsman, Suquamish Indian Tribe
Casey Schmidt, Suquamish Indian Tribe
Jennifer Washington, Upper Skagit Indian Tribe
Lisa Hainey, Upper Skagit Indian Tribe
Gerald Lewis, Confederate Tribes and Bands of the Yakama Nation
Elizabeth Sanchez, Confederate Tribes and Bands of the Yakama Nation

ENCLOSURE

Condition 1: Plan Development and Implementation for Projects that require Pre-Construction Notification (PCN)

Prior to construction for projects that require a PCN, the project proponent shall develop a plan that includes a copy of the PCN and the following information (if not already included in the PCN):

- Time stamped photo-documentation of the baseline conditions (*i.e.*, 50 feet upstream of the project area, within the project area, and 100 feet downstream of the project area).
- Identifies on a site map, as applicable:
 - Project site with all waters of the U.S. demarcated. Identify all locations where the project will cross jurisdictional waterbodies and identify the ordinary high-water mark and/or wetland boundaries; the planned work area where wetlands/aquatic resources will be removed, disturbed, and/or protected; buffer zones; and areas to be restored/reclaimed, as well as site access points and other approved work areas.
 - Staging areas and stockpiling of materials and equipment, including locations for containment booms and/or absorbent materials, and/or hazardous materials. Stockpiles (*e.g.*, sediment, soil, or other construction materials) shall be stored at least 50 feet from where it may enter waters of the U.S.
 - Construction access points.
 - Disturbance limits.
 - Locations where site dredging and placement of dredged material activities will occur.
 - Locations where dewatering activities will occur including as applicable locations of cofferdams, temporary berms, piling, and/or dikes.
 - Locations of undergrounding or directional drilling (including bore pits).
 - Locations where hazardous materials are stored. Identify where containment booms and/or absorbent materials are located for corrective action if needed. Hazardous materials shall be stored in leak-proof containers with appropriate secondary containment measures (*e.g.*, spill berms, dikes, spill containment pallets, absorbent materials).
 - Any silt/sediment fencing.
 - Photo-reference sites. The project proponent shall indicate the directional view and location where photos were taken on the site map.
- A description of how the site will be restored to pre-construction conditions, as applicable, including measures that will be used to promote and maintain:
 - stream hydrology and stability.
 - aquatic resource composition.
 - diversity of native species existing on site and as introduced via restoration activities.
 - stability of soils.
 - establishment of vegetation at the same percent cover as pre-construction activities.
- The timeframe/schedule for revegetation following completion of construction. Revegetation should occur at the earliest practicable date following completion of construction. Drill seeding is the preferred method, where applicable.
- Non-native and invasive species shall not be used for restoration activities.

- Includes the following, as applicable:
 - Cofferdams, temporary berms, pilings, and/or dikes: Describe installation and maintenance practices for any cofferdams, temporary berms, pilings, and/or dikes.
 - Dredging: Describe how contaminated materials will be managed (*e.g.*, sediment testing data and information to identify whether sediments are clean or contaminated), if included in the project dredged area. Describe methods for minimizing dredging impacts (*i.e.*, sedimentation resuspension) in the water column.
 - Erosion and sediment control: Identify the types and locations of sediment and erosion control features that shall be used onsite, including sediment control fences, haybales, heavy mud mats, and/or other structures. Biodegradable blankets and/or loose-weave mesh shall be used for erosion control matting. If using velocity dissipation structures (*e.g.*, riprap aprons, check dams etc.), structures shall be constructed to include both peak flow rates and total stormwater volume, and provide protection from the erosive potential of high-velocity flows to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. The project proponent shall ensure all erosion and sediment control measures are in place prior to the onset of construction.
 - Bank stabilization and channel modification. If the project requires bank stabilization or stream channel modification, include pre-construction cross sections. If the project includes steep bank slopes of 3:1 or greater, include revetment cross sections. Bioengineering techniques suitable for steep slope disturbances are preferred (*e.g.*, vegetated toe, bioengineered boulder toe, etc.). Slopes of disturbed banks shall be designed and installed to not reduce the bottom width of the stream.
 - Dewatering: Work shall be completed in the dry unless coordinated with EPA Region 10. Describe methods for dewatering, including the equipment that would be used to conduct the dewatering activities. Identify the locations and timing, including length of time the area is to be dewatered. Explain removal method of the temporary structures and/or fill and what measures will be taken to minimize downstream turbidity and adaptive management measures that will be taken and employed to prevent the draining of waters of U.S., including wetlands.
 - Ditching and trenching: Explain ditching/trenching and material placement techniques and stabilization methods to be employed, as well as timing. In wetlands, the top 6 to 12 inches of the ditch/trench shall be backfilled with topsoil from the trench, unless other techniques are approved. Include activity timing needs for ditching and stabilization.
 - Undergrounding or directional drilling: Describe measures taken to prevent, contain and cleanup any inadvertent return of drilling fluid to the surface (*i.e.*, “frac-outs”).
- Submit the plan to EPA Region 10 at R10-401-Certs@epa.gov at least 30 days prior to commencing construction activities.

During construction for projects that require a PCN, the project proponent shall:

- Visually inspect construction activities daily.
- Prevent sediment, debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes from entering waters of the U.S. The discharge of unset cement, concrete, grout, or water that has contacted uncured concrete or cement, or related washout to waters of the U.S. is prohibited.

- Maintain documentation onsite that all equipment was cleaned of dirt, mud, and other materials prior to arriving on the project site.
- Inspect all equipment daily and prior to entering any waters of the U.S. for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, repair the equipment in a staging area or move it offsite.
- Limit vegetation clearing and disturbance to waters. Limit the clearing and grubbing of vegetation and disturbance to areas demarcated on the site map submitted as part of the vegetation restoration and monitoring plan. The boundaries of vegetation to protect shall be flagged in the field prior to beginning construction activities.
- Limit restoration of the channel bed to pre-existing contours and conditions. Any proposed deviations must be specified in advance. For example, if any improvements will be made using natural channel design.
- Photo-document any failures or increased turbidity due to construction activities.
 - Within 24 hours of observing a failure or marked increase in turbidity associated with construction, the project proponent shall remedy and implement any additional adaptive management measures to stabilize the activity and prevent further unauthorized discharges into waters of the U.S. The project proponent shall photo-document the failure (*i.e.*, 50 feet upstream of failure, at the incident site, and at least 100 feet downstream of the failure) and the adaptive management measures taken immediately following implementation. The project proponent shall take remediation condition photos at the same location(s) and direction(s) as in the failure condition photos.
 - Within 48 hours of observing any failure, the project proponent shall provide EPA Region 10 with the required photo-documentation, and descriptions of all observed failures and implemented remedies.
 - Within three weeks of observing a failure, the project proponent shall provide EPA Region 10 with a description of the impacts and effectiveness of the employed adaptive management measures.
- Carry out as applicable:
 - Erosion control: Inspect sediment and erosion control measures daily during project implementation and within 12 hours of precipitation events. After construction is complete, remove sediment and erosion control structures once vegetation is established to the same percent cover as pre-construction conditions, unless they are needed for long term stabilization purposes.
 - Dewatering: Assess all dewatering measures within 24 hours after a severe storm event.

Post construction for projects that require a PCN, the project proponent shall, as applicable:

- Submit a post-construction report, as defined below, within 90 days of completing construction activity to EPA Region 10 at R10-401-Certs@epa.gov or, if the Corps requires a post-construction report for the project activity, the applicant may submit that report to EPA to fulfill this post-construction requirement. The project proponent shall include the

following items in the post-construction report:

- Construction dates.
- As-built drawings.
- Documentation of site restoration activities using photographs and any field data sheets showing that the site was restored to pre-existing conditions or better. Include photographs of the site restoration areas on a map.
- Any water quality data gathered before, during, and post-construction and associated maps showing the sample locations.
- A description of any adaptive management strategies that were employed during construction, with a focus on strategy effectiveness.
- Details on the removal of any sediment and erosion control structures, unless they are needed for long term stabilization purposes.
- Effectiveness of the plan developed and implemented as required under this condition, and recommendations to remedy any deficiencies in plan development and implementation where employed measures were ineffective.
- For activities that require dredging, submit a copy of the as-builts and a post dredged and disposal report within 45 days of each dredging or disposal event to EPA Region 10 at R10-401-Certs@epa.gov. The project proponent shall include the following items in the post-dredged and disposal report:
 - Dredging and disposal dates.
 - Updated site map displaying the disposal location(s).
 - Dredging and disposal volumes.
 - Water quality monitoring data.
 - Post-dredged bathymetry.
 - Updated site maps displaying any new ditches, spoil piles, widths, and depths.

Why these conditions are necessary: These conditions are necessary to minimize suspended particulates/turbidity caused by construction activities and is necessary to ensure water quality is not degraded by toxic pollutants in toxic amounts, including construction materials, oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project, or discharges from dust abatement activities as well as contaminants in dredged material. These conditions also appropriately minimize impacts from access roads, staging areas, and stockpiling to further ensure that construction activities will result in no more than minimal individual and cumulative adverse environmental effects. These conditions will protect water quality because they ensure that the project proponent is using planning and construction practices that will maintain the integrity of the site hydrology and maintain the aquatic resource functions and values and ensure that appropriate revegetation measures are used to re-establish riparian/wetland vegetation to minimize the adverse impacts of discharges of sediment and pollutants that enter waterways. Limiting the amount of vegetation that is disturbed will minimize the adverse environmental impacts of any potential discharges. Monitoring for at least three growing seasons, or until replanted areas meet monitoring success criteria, will provide an adequate indication that the restoration effort is able to demonstrate restoration is successful.

The general conditions in the Corps' NWP package do not address concerns about resuspension and turbidity caused by construction and dredging activities, thereby justifying the inclusion of this condition. General Condition 32 only requires agency coordination in certain circumstances. Additionally, General Condition 11 (equipment), General Condition 12 (soil erosion and sediment controls), and General Condition 13 (removal of temporary structures and fills) provide some aquatic resource protections, but greater specificity is needed to determine what measures are suitable to comply with applicable water quality requirements.

Citations: 33 U.S.C. § 1341(a)(4); 40 C.F.R. § 230.10(c)-(d); 40 C.F.R. § 230.10(d); 40 C.F.R. § 230.21(a); 40 C.F.R. § 230.70; 40 C.F.R. § 230.71; 40 C.F.R. § 230.72; 40 C.F.R. § 230.74; 40 C.F.R. § 230.75;

Condition 2: Special Aquatic Resources

Projects or activities expected to have potential discharges into the below special aquatic resources areas on tribal lands in Alaska, Idaho, Oregon, and Washington are not covered by this certification and applicants must request a project-specific CWA Section 401 certification from EPA Region 10 consistent with 40 C.F.R. § 121.5.

- **Wetlands classified as peatlands:** For the purposes of this condition, peatlands are permanently or seasonally waterlogged areas containing organic soils classified as a Histosol with a specific thickness of an accumulation of peat (i.e., organic matter) and include fens, bogs and muskegs.²
- **Natural Springs:** Within 100 feet of the water source in natural spring areas. For the purposes of this condition, a spring water source is defined as any location where there is flow emanating from a distinct point at any time during the growing season. Some examples of spring-fed wetlands are hanging gardens. Some examples of spring-fed headwater slopes are peat-accumulating wet meadows and fens (see above). These resources may be identified using U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, or other aquatic resource mapping tools.
- **Riffle and Pool Complexes:** For the purposes of this condition, riffle and pool complexes are steep gradient sections of streams recognizable by their hydraulic

² It is a general rule that a soil is classified as an organic soil (Histosol) if more than half of the upper 80 cm (32 inches) of the soil is organic or if organic soil material of any thickness rests on rock or on fragmental material having interstices filled with organic materials. Generally, organic soil materials have organic carbon content by weight of 12 percent or more. See the following for more information on what constitutes "organic soil material," limits between Histosols and soils of other orders, problematic hydric soils situations, and other indicators to identify peatlands: Soil Survey Staff. 1999. Soil taxonomy: A basic system of soil classification for making and interpreting soil surveys. 2nd edition. Natural Resources Conservation Service. U.S. Department of Agriculture Handbook 436. <https://www.nrcs.usda.gov/resources/guides-and-instructions/soil-taxonomy>; United States Department of Agriculture, Natural Resources Conservation Service. 2025. Hydric soils of problematic conditions and altered materials, Version 1.0. <https://usace.contentdm.oclc.org/utis/getfile/collection/p266001coll1/id/11824>; United States Department of Agriculture, Natural Resources Conservation Service. 2024. Field Indicators of Hydric Soils in the United States, Version 9.0. <https://www.nrcs.usda.gov/sites/default/files/2024-09/Field-Indicators-of-Hydric-Soils.pdf>

characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate.

Why this condition is necessary: This condition is necessary to ensure a case-by-case review of any point source discharges into waters of the United States that are proposed in these specific aquatic resource site types which are inherently difficult to replace and have important ecological functions and values. Discharges into these systems have the potential to alter water circulation patterns and hydroperiods, release nutrients causing shifts in native to non-native species composition, release chemicals that adversely impact biota (plants and animals), increase turbidity levels, reduce light penetration and photosynthesis, or otherwise change the capacity of these systems to support aquatic life uses and other beneficial uses of these special aquatic sites, including impairing their diverse and unique communities of aquatic organisms, including fish, wildlife and the habitats upon which they depend. Project specific information is needed to ensure compliance with water quality requirements.

Citations: 40 C.F.R. § 230.1(d); 40 C.F.R. § 230.10(a)(3); 40 C.F.R. § 230.10(c); 40 C.F.R. § 230.10(d); 40 C.F.R. § 230.20-24; 40 C.F.R. § 230.21-22; 40 C.F.R. § 230.41; 40 C.F.R. § 230.45; 40 C.F.R. § 230.75(c)

Condition 3: Specific Condition for Bridges for NWP 3, 14, 15, 57, 58 and A

Project proponents shall use an established bridge analysis and hydraulic design tool when designing and constructing bridges (e.g., HEC-RAS, FHWA, etc.). Bridges shall be constructed in a manner such that stormwater does not drain directly into the waterbody. Bridges shall span greater than or equal to 1.2 times the bankfull width and adjacent wetlands of the affected waterbody, where feasible. Crossings shall be placed perpendicular to the direction of the stream flow where possible and account for potential future lateral migration in the stream, unless the project proponent can document that this would result in increased impacts to aquatic resources or compromise the safety of the structure.

Why this condition is necessary: This condition is necessary to ensure that discharges associated with bridge design and placement minimally affect water quality and aquatic resource functions and values. Perpendicular stream crossings minimize the impacts of bank erosion and scouring from length of stream bed and bank impacts for a project. Drainage directly from the bridge decks may cause erosion and scouring, and introduce additional pollutants, such as oil, gas, sediment, and toxics. Directing bridge deck drainage into constructed runoff water quality control systems will help prevent erosion and keep pollutants from directly entering the waterway. This condition will ensure that physical habitat and hydrologic characteristics of waters are not degraded, will maintain the habitat and biology of the waters and will ensure the hydrogeomorphology is not negatively impacted by the project.

Citation: 40 C.F.R. § 230.10(d); 40 C.F.R. § 230.72; 40 C.F.R. § 122.26

Condition 4: Specific condition for NWP 7

Outfall design and placement shall include an appropriate energy dissipation structure (e.g., rip rap aprons) and shall be sized to prevent high pressure discharge. For intake structures, project proponents shall use an intake screen that reduces the size of aquatic organisms that can be entrained (e.g., a Johnson-type screen/intake), where feasible. Intake velocities shall not exceed 0.5 feet per second.³

Why this condition is necessary: This condition is necessary to ensure that outfall structures and intakes are constructed such that they provide localized erosion control at the point(s) of discharge while minimizing habitat degradation and assimilative capacity of the waterbody. Erosion from outfall structures due to improperly designed and placed structures increases sedimentation that alters stream and wetland hydrology (e.g., scouring and deposition) and uncontrolled stormwater contaminants harm aquatic organisms and habitat. Impingement controls for intake structures reduce the size of aquatic organisms that can be entrained and minimize impacts to aquatic species.

Citations: 40 C.F.R. § 230.10(c)-(d); 40 C.F.R. § 230.30; 40 C.F.R. § 230.70; 40 C.F.R. § 230.73; 40 C.F.R. § 230.74; 40 C.F.R. § 230.75

Condition 5: Specific Condition for NWP 13

For projects using gabions, the project proponent shall visually inspect and repair any damage to gabions and the gabion installation area after construction is completed at least once a year after spring flows.

Why this condition is necessary: This condition is necessary to reduce the individual and cumulative adverse environmental effects caused by hard bank stabilization structures on aquatic biodiversity, habitat, and aquatic resource functions and services. This condition is also necessary to minimize the potential for gabion failure and corresponding water quality impacts. Gabion failure leads to erosion and sediment release, which can significantly affect aquatic ecosystem diversity, productivity and stability, and can potentially release wire into the environment that can impact aquatic habitat. Rock released from damaged gabions can impact channel flow, which can interfere with aquatic habitat processes and infrastructure.

Citations: 40 C.F.R. § 230.10(c)-(d); 40 C.F.R. § 230.72; 40 C.F.R. § 230.74

Condition 6: Specific Condition for NWP 16

The project proponent shall provide EPA Region 10 with a description of the return water from the upland disposal area prior to discharge, including a description of the nature of the dredged material and a description of any contaminants present in the discharge. The project proponent

³ Additional guidance on water intakes is available from the U.S. Fish and Wildlife Service: <https://www.fws.gov/sites/default/files/documents/water-intake-recommendations.pdf>

shall also provide an analysis of how the return water may impact the physiochemical conditions of the receiving water prior to discharge, including a description of how the project proponent will ensure controls are in place to ensure compliance with applicable water quality requirements.

Why this condition is necessary: This condition is necessary to ensure any return water meets applicable water quality requirements and does not degrade receiving waters. Dredged material from industrial and urban areas, stormwater and agricultural runoff, as well as from areas of natural deposits of minerals and other natural substances, often contain contaminants from these sources and may have the potential to alter the chemistry of receiving waters, including but not limited to, nutrients, metals, organic carbon, and invasive species. To ensure that all appropriate and practicable measures to minimize harm to the aquatic ecosystem from contaminants are addressed, the project proponent should consider the unique nature of dredged material and the related contaminant pathway to understand the physicochemical conditions of each disposal site under consideration.

Citation: 40 C.F.R. § 230.10(b)-(d); 40 C.F.R. § 230.11; 40 C.F.R. § 230.12; 40 C.F.R. § 230.22; 40 C.F.R. § 230.31; 40 C.F.R. § 230.32; 40 C.F.R. § 230.61

Condition 7: Specific Condition for NWP 40

The project proponent shall ensure that any return water flows back into waters of the U.S. does not contain levels of toxic and priority pollutants in excess of effluent limitation guidelines established under CWA Section 307, 33 U.S.C. § 1317.

Rationale: This condition is necessary to ensure that return water to waters of the U.S. meets water quality requirements. Agricultural runoff can degrade receiving waters due to contaminants, including toxic and priority pollutants that are subject to effluent limitations pursuant to CWA Section 307 of the Clean Water Act. Project specific information is needed to consider the contaminants proposed for discharge and the aquatic environment at the proposed discharge site to ensure that all appropriate and practicable measures to minimize harm to the aquatic ecosystem are addressed.

Citations: 33 U.S.C. 1317(a)(1); 40 C.F.R. § 401.15; 40 C.F.R. § 230.10(c); 40 C.F.R. § 230.31; 40 C.F.R. § 230.32

ATTACHMENT A

Tribes That Do Not Have Treatment in a Similar Manner as a State in Alaska, Idaho, Oregon, and Washington

Alaska

- Metlakatla Indian Community

Idaho

- Kootenai Tribe of Idaho
- Nez Perce Tribe
- Coeur d'Alene Tribe: (EPA Region 10 writes CWA Section 401 certifications for all waters within the Coeur d'Alene reservation boundaries with the exception of the portions of Coeur d'Alene Lake and St. Joe River within the reservation boundaries for which the Tribe has treatment in a similar manner as a state and water quality standards that are effective under the CWA)

Oregon

- Burns Paiute Tribe
- Coquille Indian Tribe
- Cow Creek Band of Umpqua Tribe of Indians
- The Confederated Tribes of Grand Ronde
- The Klamath Indian Tribe
- Confederated Tribes of Siletz Indians

Washington

- Cowlitz Indian Tribe
- Hoh Indian Tribe
- Lower Elwha Klallam Tribe
- Muckleshoot Indian Tribe
- Nisqually Indian Tribe
- Nooksack Indian Tribe
- Quileute Tribe
- Samish Indian Nation
- Sauk-Suiattle Indian Tribe
- Shoalwater Bay Tribe
- Skokomish Indian Tribe
- Snoqualmie Tribe
- Stillaguamish Tribe of Indians
- Suquamish Indian Tribe
- Upper Skagit Indian Tribe
- Confederate Tribes and Bands of the Yakama Nation



12/15/2025

Katherine P. Sanborn
Colonel, Corps of Engineers
District Commander
Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

Re: Clean Water Act Section 401 Water Quality Certification for U.S. Army Corps of Engineers
Nationwide Permits

Dear Colonel Sanborn,

The Jamestown S'Klallam Tribe has completed its review of the U.S. Army Corps of Engineers' request for Clean Water Act (CWA) Section 401 Water Quality Certification for the proposed 33 CFR Chapter II reissuance and modification of the Nationwide Permits (NWP) and associated regional conditions (RGCs), as described in docket number COE-2025-0002, published on 06/18/2025. This review was conducted pursuant to CWA § 401 and under the Tribe's Treatment-as-a-State (TAS) authority.

1. Decision

A. The Tribe hereby **approves** the following NWP) and associated RGCs without conditions:

- NWP 5: Scientific Measuring Devices
- NWP 20: Response Operations for Oil or Hazardous Substances
- NWP 22: Removal of Vessels
- NWP 27: Aquatic Ecosystem Restoration, Enhancement and Establishment Activities
- NWP 54: Living Shorelines
- NWP 55: Seaweed Mariculture Activities
- NWP A: Activities to Improve the Passage of Fish and Other Aquatic Organisms

B. The Tribe hereby **denies** certification for the remainder of the proposed NWP's and associated RGCs including permits the Corps has deemed unnecessary for 401 certification and includes:

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Oil or Natural Gas Pipeline 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
21. Surface Coal Mining Activities
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
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
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
57. Electric Utility Line and Telecommunications Activities
58. Utility Line Activities for Water and Other Substances
59. Water Reclamation and Reuse Facilities

C. NWP 48 and 56 are omitted because they were disallowed within Washington State and NWP 8 does not require a 401 certification.

2. Basis for Decision

A. Approvals: Based on the information provided, we agree with the Corp's determination that the permits listed in 1.A will result in no more than minimal individual and cumulative adverse environmental effects. We have concluded that discharges authorized under the proposed NWPs listed under 1.A of this letter will comply with applicable Tribal water quality requirements adopted under the *Tribal Environmental Policy Act* sections 27.04.01(D)1 and 27.04.01(K)2.

B. Denials: Based on the information provided, we cannot conclude that discharges authorized under the proposed NWPs listed under 1.B. of this letter will comply with CWA §§ 301, 302,

303, 306, and 307 or with applicable Tribal water quality requirements adopted under *Tribal Environmental Policy Act* sections 27.04.01(D)1 and 27.04.01(K)2.

The proposed NWP's do not include sufficient information to determine whether the permitted activities are compliant with Tribal codes as allowed under 40 CFR § 121.3. Necessary details such as discharge characteristics, quantities, precise locations, and receiving water conditions are absent. Without this information, the Tribe cannot certify that water quality will be protected.

Missing Information Needed for Certification

To evaluate compliance on any project that might seek authorization under an NWP, the Tribe would require, at minimum:

- receiving water name and project discharge location;
- type and quantity of discharge;
- baseline water quality or site monitoring data;
- map of affected waters and project footprint;
- description of activity, treatment/mitigation, and monitoring methods;
- any environmental review documents.

Because such information can only be obtained through individual project review, certification for the NWP's in section 1B above are denied.

3. Public Notice

The Tribe issued public notice of this certification request on December 4th on the Tribe's [announcements page](#), with comments accepted until December 15th. No comments were received.

4. Conclusion

For the reasons stated above, the Jamestown S'Klallam Tribe approves Section 401 certification for the proposed NWP's 5, 20, 22, 27, 54, 55 and A, as well as their regional general conditions. The Tribe denies NWP's 1-4, 6-19, 21, 23-25, 28-53 and 57-59. Project proponents for these permits must obtain project-specific 401 certification or waiver from the Tribe before the Corps may authorize activities under any NWP within Tribal jurisdiction.

If you have any questions, please email me at ascagliotti@jamestowntribe.org

Sincerely,



Alex Scagliotti
Environmental Planner
Jamestown S'Klallam Tribe



PUYALLUP TRIBE OF INDIANS



December 18, 2025

VIA ELECTRONIC MAIL ONLY

Colonel Kathryn P. Sanborn
Seattle District
U.S. Army Corps of Engineers
ATTN: Regulatory Program – NWP Team Seattle
P.O. Box 3755
Seattle, WA 98124-3755
NWP-SeattleTeam@usace.army.mil

RE: Puyallup Tribe of Indians 401 Water Quality Certification (WQC) Decisions on Proposed 2026 Nationwide Permits

Dear Colonel Sanborn:

The Puyallup Tribe of Indians is a federally recognized Indian tribe that has authority to issue water quality certifications for applications pursuant to Section 401 of the Clean Water Act, 33 U.S.C. § 1341. The Tribe delegates the certification authority to the Puyallup Fisheries Department to determine whether applications will comply with the applicable tribal water quality laws and requirements (*e.g.*, Puyallup Tribal Code Ch. 10.08, *et seq.*).

The Tribe's reservation and jurisdiction covers seven miles of the Puyallup River and a highly urbanized area in the south end of Puget Sound's Commencement Bay, near the mouth of Puyallup River, in Pierce County, Washington. The Tribe manages many natural and cultural resources throughout Water Resource Inventory Area 10, and the Tribe also retains federally protected fishing rights within its reservation and in the Tribe's usual and accustomed fishing grounds. The Tribe's laws, including its water quality standards, are designed to preserve and enhance the Tribe's water resources and the cultural, spiritual, economic, and physical health of the Tribe and its members.

Your office submitted a request for certification of the 2026 Proposed Nationwide Permits (NWP) on June 18, 2025. The Tribe has complied with applicable tribal law and practice, including its public notice procedures established pursuant to Clean Water Act Section 401(a)(1). After examining the Corps' application for the 2026 Proposed NWPs, the Tribe has determined the following:

A. Nationwide Permits where the Tribe Grants with Conditions Water Quality Certification

The Tribe **grants with conditions water quality certification** for the NWPs identified in the table below. The certification is expressly conditioned on strict compliance with the



PUYALLUP TRIBE OF INDIANS



U.S. Army Corps of Engineers’ national general or activity-specific conditions; the Seattle District’s regional or activity-specific conditions; any general or specific conditions that the state of Washington adopts in regard to the 2026 NWP’s listed in the table below; and the Additional Tribal Conditions for NWP’s 8, 24, and 34 listed below the table. To the extent any general or specific condition requiring additional review is triggered, the Tribe will need to review the project on a case-by-case basis and may request additional information regarding the project and associated discharges to ensure the proposed project meets the Tribe’s water quality laws and requirements. Failure of the project proponent to comply with any condition of the certification shall constitute a violation of the certification and may result in enforcement action, suspension, or revocation.

NWP	Tribe Certifies with Conditions Programmatic WQC
8	Oil and Gas Structures on the Outer Continental Shelf
24	Indian Tribe or State Administered Section 404 Program
34	Cranberry Production Activities

Additional Tribal Conditions for NWP’s 8, 24, and 34:

Anti-Degradation

Tribal Fisheries finds that this certification, as conditioned, complies with applicable antidegradation requirements, based on the following determinations:

1. Existing uses and designated uses will be fully protected, as the activity is limited in scope, duration, and footprint, and is subject to enforceable conditions that prevent degradation of water quality.
2. No lowering of water quality is authorized beyond that which is temporary, localized, and minimal, and any such effects will be controlled through compliance with:
 - o These Tribal Conditions;
 - o Applicable NWP general and activity-specific conditions;
 - o Applicable Seattle District regional and activity-specific conditions; and
 - o State of Washington’s general and activity-specific conditions for NWP’s 8, 24, and 34 (which are hereby incorporated by reference to the extent such conditions are adopted for the 2026 NWP’s).
3. AKART will be implemented to minimize pollutant discharges and physical disturbance to tribal waters, ensuring consistency with Tier 1 and Tier 2 antidegradation protections, as applicable.



PUYALLUP TRIBE OF INDIANS



- 4. The activity does not authorize permanent or measurable degradation of water quality, nor does it preclude attainment or maintenance of applicable numeric or narrative water quality criteria.

Scope and Limitations

This certification:

- 1. Applies only to the activities reviewed and authorized under the applicable Nationwide Permit;
- 2. Does not authorize impacts beyond those evaluated in the Federal Register notice for the Proposed 2026 NWP; and
- 3. Does not relieve the permittee from compliance with any other applicable federal, state, tribal, or local requirements.

Reservation of Authority

The certifying authority reserves the right to:

- 1. Enforce all certification conditions; and
- 2. Reevaluate, require additional information, or impose additional conditions on the certification if a project’s methods, timing, or scope are modified.

B. Nationwide Permits where the Tribe Denies Without Prejudice Water Quality Certification

The Tribe **denies without prejudice water quality certification** for the NWP identified in the table below. The Tribe does not have the necessary information to assure that the discharges from the activities associated with these NWP will, in each instance, be consistent with relevant tribal water quality laws and requirements. Such missing information includes, but is not limited to, the specific project location; the footprint of the project or any expansion of the footprint of a project; the type and amount of pollutants associated with the proposed activity; the condition of receiving waters and the quantity of waters (including wetlands) that may be lost; proposed treatment methods; proposed in-water work windows; proposed structure specifications and construction sequencing and methods; proposed best management practices; proposed mitigation plan; and proposed water quality management plan. An individual 401 Water Quality Certification must be issued by the Tribe for projects or activities authorized under these NWP.

NWP	Tribe Denies without Prejudice Programmatic WQC
1	Aids to Navigation
2	Structures in Artificial Canals
3	Maintenance



PUYALLUP TRIBE OF INDIANS

4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices
5	Scientific Measurement Devices
6	Survey Activities
7	Outfall Structures and Associated Intake Structures
9	Structures in Fleeting and Anchorage Areas
10	Mooring Buoys
11	Temporary Recreational Structures
12	Oil or Natural Gas Pipeline 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
25	Structural Discharges
27	Aquatic Ecosystem Restoration, Enhancement, and Establishment 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
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 and Irrigation Ditches
42	Recreational Facilities
43	Stormwater Management Facilities
44	Mining Activities
45	Repair of Uplands Damaged by Discrete Events
46	Discharges in Ditches
48	Commercial Shellfish Mariculture Activities
49	Coal Remining Activities
50	Underground Coal Mining Activities
51	Land-Based Renewable Energy Generation Facilities



PUYALLUP TRIBE OF INDIANS



52	Water-Based Renewable Energy Generation Pilot Projects
53	Removal of Low-Head Dams
54	Living Shorelines
55	Seaweed Mariculture Activities
57	Electric Utility Line and Telecommunications Activities
58	Utility Line Activities for Water and Other Substances
59	Water Reclamation and Reuse Facilities
A	Activities to Improve Passage of Fish and Other Aquatic Organisms

This letter outlines the Tribe's Section 401 Water Quality Certification decisions for each NWP proposed on June 18, 2025. Please contact me at char.naylor@puyalluptribe-nsn.gov or (253) 405-7818 with any questions.

Sincerely,

Char Naylor

Char Naylor
Assistant Director
Puyallup Tribe of Indians Fisheries Department

cc: Lia Protopapadakis, Senior Project Manager, Regulatory Division, Seattle District, USACOE



December 9, 2025

Kathryn P. Sanborn, PhD, PE, PMP
Colonel, U.S. Army Corps of Engineers
District Commander
Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

SUBJECT: Lummi Nation Clean Water Act Section 401 Certification for the 2026 Nationwide Permit Reissuance – Proposed National and Regional Conditions

Dear Ms. Sanborn:

The Lummi Nation has completed review of the U.S. Army Corps of Engineers' (USACE) Proposal to Reissue and Modify Nationwide Permits, as published in the *Federal Register (90 FR 26100)* on June 18, 2025. The purpose of this letter is to notify you that, pursuant to Section 401 of the Clean Water Act (CWA), the Lummi Nation as a matter of sovereignty denies without prejudice all 401 Certifications for USACE regulated discharges of dredged or fill material on the Lummi Indian Reservation (tribal and non-tribal lands) and other Lummi Nation lands.

Based on the available information we are unable to conclude that authorization of discharges under the USACE's proposed Nationwide Permits (NWP) and District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and our tribal water quality requirements, including Lummi Nation Code of Laws Title 17 (Water Resources Protection Code), Lummi Administrative Regulation 17 LAR 07 (Water Quality Standards for Surface Waters of the Lummi Indian Reservation), and Lummi Nation Code of Laws Title 15 (Tidelands Code). The proposed NWP provide insufficient information to identify waters receiving discharges from potential projects that may be authorized, and thus it is impossible to make a determination under 40 CFR § 121.7(f) whether any Lummi Nation water quality requirements are applicable to the potential projects and to conclude that they would be met. Additionally, for potential projects that would discharge to Lummi Nation water, due to the lack of specific information on the discharge types, we cannot determine whether these NWP and the discharges they would authorize will comply with Lummi Nation tribal codes and regulations. Therefore, we deny Clean Water Act 401 Certification for the 2026 NWP and their applicable regional conditions.

The only way to receive the information required is by doing a case-by-case review of each project and associated discharges. Therefore, we deny 401 Certification to review each project and make an individual 401 Certification decision for each authorization. Please notify applicants that to apply for an

individual 401 Certification from the Lummi Nation, they should submit certification and Pre-Filing meeting requests to:

Lummi Natural Resources Department
ATTN: Water Resources Manager
2665 Kwina Road
Bellingham, WA 98226-9298

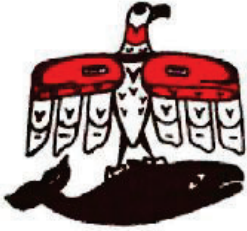
Please contact Kristin Lowell of my staff at (360) 312-2128 or KristinL@lummi-nsn.gov if you have any questions regarding this action.

Sincerely,

A handwritten signature in blue ink that reads "Merle Jefferson". The signature is written in a cursive style and extends to the right with a long, thin stroke.

Merle Jefferson, Executive Director
Lummi Natural Resources Department

cc Lia Protopapadakis, USACE
Andrew Shuckhart, USACE



MAKAH TRIBE

P.O. BOX 115 • NEAH BAY, WA 98357 • 360-645-2201



Kathryn P Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander
Seattle, WA 98124-3755
PO Box 3755

December 15, 2025

RE: 2026 Nationwide Permits 401 Water Quality Certification (Request for Certification)

Dear Colonel Sanborn,

I am writing on behalf of the Makah Tribe Water Quality Department to submit our review of the U.S. Army Corps of Engineers (USACE), Seattle District's request for Clean Water Act (CWA) Section 401 Water Quality Certification of the 2026 Nationwide Permits (NWP). The Tribe appreciates the opportunity to review the applicable materials. After review, **the Makah Tribe denies the USACE's request for CWA Section 401 Water Quality Certification of the 2026 NWP.** Denying this request allows the Tribe to exercise its sovereign and 401 authorities to review individual projects within Makah waters.

The Makah Indian Tribe is a federally recognized Tribe indigenous to the northwestern portion of the Olympic Peninsula in Washington State, at the confluence of the Pacific Ocean and the Strait of Juan de Fuca and is the southernmost of the Nuuchah-nulth Tribes. The current reservation is 30,067 acres and our treaty protected area includes Usual and Accustomed Hunting and Fishing Stations (U&A) in waters of the United States that extend off the outer coastline north from 48° 02'15" N latitude and east of 125° 44'00" W longitude, and in the western end of the Strait of Juan de Fuca east to 123° 41'56" W (Figure 1). However, the Makah area of interest and traditional use of the ocean, as well as the original boundaries of the U&A, extend far beyond the current boundaries including into what are today Canadian waters.

The 1855 Treaty of Neah Bay reserves the Makah's right to retain and exercise inherent sovereign authority over our treaty protected area and ownership of the resources therein. The Treaty of Neah Bay is the legal agreement between the Makah Tribe and the United States that recognizes the Makah Tribe's status as a sovereign nation and therefore a resource trustee. It reserves inherent sovereign rights to natural resources, cultural practices, and other services and benefits in exchange for the cession of approximately 500 square miles of territory to the US Government.

The Makah Tribe has Treatment as a State status for the Clean Water Act and thus has authority for Section 401 certifications on its lands and waters. The Makah Fisheries Management Department, under the direction of the Makah Tribal Council, is the tribal agency responsible for collecting, reviewing, evaluating, processing, approving or denying all applications to the Tribe for certification pursuant to Section 401 of the Federal Clean Water Act, 33 U.S.C. §1341.

The Makah Tribe is denying water quality certification for the activities authorized by the proposed NWP within the State of Washington where the Tribe has 401 water quality certification authority. In considering this certification request, the Makah Water Quality Department followed the process as outlined in the Makah Water Quality Standards prior to the decision to deny. In turn, USACE will deny without prejudice authorization for those activities. Anyone wanting to perform such activities must first obtain an activity-specific water quality certification or waiver thereof from the Makah Fisheries Management Department before proceeding under the NWP. Appendix B of the Makah Tribe Water Quality Standards for Surface Water outlines procedural details for complying with this tribal permit.

Thank you again for the opportunity to conduct this review and for your engagement in this matter. Please contact me at elizabeth.miller@makah.com or (360) 645-3162 if you have any questions or need additional information.

Sincerely,



Elizabeth Miller
Water Quality Specialist
Makah Fisheries Management
Environmental Division

CC:

Russell Svec, Fisheries Director, Makah Tribe
Ryan Erhart, Assistant Director, Fisheries Management & Environmental Division,
Makah Tribe
Lia Protopapadakis F., U.S. Army Corps of Engineers

December 18th, 2025



Lia Protopapadakis F., D.Env.
Senior Project Manager
Regulatory Branch, Seattle District
U.S. Army Corps of Engineers
206-669-2196
Lia.Protopapadakis.F@usace.army.mil

Re: Quinault Indian Nation Water Quality Program Denial of New Nationwide Permits Under Sec. 401 of the Clean Water Act

Dear Lia Protopapadakis:

This letter is submitted on behalf of the Quinault Indian Nation's ("QIN") Water Quality Program. QIN is a federally recognized sovereign Indian Nation with recognized certifying authority with Treatment as a State (TAS) under Section 401 of the Clean Water Act. **At this time, the Quinault Indian Nation is issuing a blanket denial without prejudice of the 2026 Nationwide Permits ("NWP") and associated Regional Conditions** for the reasons outlined below.

Based on the limited information provided, we are unable to conclude that authorization of discharges under the USACE's proposed NWPs and District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and applicable Water Quality Standards. The proposed NWPs provide insufficient information to identify waters receiving discharges from potential projects that may be authorized. Thus, it is impossible to make a determination under 40 C.F.R. § 121.7(f) whether any Tribal water quality requirements are applicable to the potential projects and to conclude whether the activities under the NWP will meet those water quality standards.

For QIN to consider approving the NWP and their associated Regional Conditions, we will require the following information for each proposed project: legal descriptions and project locations; detailed maps; names and descriptions of water bodies which may be affected; names and addresses of immediately adjacent property owners and lessees; copies of relevant environmental assessments and permitting documents; copies of public notice information; description of equipment used to treat waste and effluents and degree of treatment; dates for proposed activities and anticipated discharge, etc. Only after we receive this information can we make an informed decision on whether applicable Water Quality Standards apply. The potential

for discharge into Tribal waters could potentially impact our federally recognized and protected treaty rights and resources. Therefore, we deny the Clean Water Act 401 certification for the 2026 NWP's and their applicable regional conditions at this time.

If and when we receive this additional information from the project proponents, we will review the information provided on a case-by-case basis, and if appropriate, issue a Section 401 waiver. For further 401 Certification coordination with the Quinault Indian Nation Natural Resource Division, please contact Kiley Smith (360) 276-8211 ext. 7341 kiley.smith@quinault.org, 1214 Aalis Dr. P.O. Box 189 Taholah, WA 98587.

The Water Quality Program within in the QIN Environmental Protection Division, presented the U.S Army Corps of Engineers Nationwide Permit to the Natural Resource Council Division on November 4th. The NRCD meeting is an open public meeting for the council and community members to be informed, ask questions, and provide input on Quinault Division of Natural Resource decisions. We received no comments from the public. The Council approved the decision for denial of the USACE Nationwide Permits.

Sincerely,

A handwritten signature in black ink, appearing to read "Kiley Smith", written over a faint horizontal line.

Kiley Smith
Quinault Indian Nation
Environmental Quality Section Supervisor



SQUAXIN ISLAND TRIBE

December 4, 2025

Katherine P. Sanborn
Colonel, Corps of Engineers
District Commander
Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

CC: Jeffrey Brittain
EPA Region 10
Brittain.Jeffrey@epa.gov

Re: Denial of 401 Water Quality Certification Request for Proposed Army Corps of Engineers
2026 Nationwide Permits

Dear Colonel Sanborn:

The Squaxin Island Natural Resources Department has completed its review of the notice of proposed rulemaking by the Department of the Army Corps of Engineers 33 CFR Chapter II Proposal to Reissue and Modify Nationwide Permits as described in the Federal Register dated June 18, 2025. This review was conducted in response to the Corps request for review pursuant to Section 401 of the Clean Water Act. ("CWA"). The Tribe is denying your application for water quality certification for the proposed Nationwide Permits under Section 401 of the Clean Water Act.

Section 401(a) of the CWA requires that applicants for federal permits that may result in discharges into waters of the United States obtain certification that the discharge will comply with various applicable provisions of the CWA. The Squaxin Island Tribe has EPA approval to administer a water quality standards program and to issue water quality certifications on the Squaxin Island Reservation.

Based on the available information, we are unable to conclude that authorization of discharges under the US Army Corps of Engineers' (USACE's) proposed Nationwide Permits and District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and the Squaxin Island Tribal Code. The proposed Nationwide Permits provide insufficient information to identify waters receiving discharges from potential projects that may be authorized. Thus, it is impossible to make a determination under 40 C.F.R. § 121.7(f) whether any Tribal water quality requirements are applicable to the potential projects and to conclude that they would be met.

Additionally, due to the lack of specific information on the discharge characteristics, quantities and specific locations, as well as the conditions of receiving waters and their quantities to be lost, we cannot determine whether these Nationwide Permits, and the discharges they would authorize, will comply with Squaxin Island Tribal Code.

In order to demonstrate that the range of discharges from potential projects authorized under the Nationwide Permits would comply with the Squaxin Island Tribal Code, the following water quality data and information would be needed for each such project: a map showing the location of Regulated Surface Waters which may be affected by the activity, a description of the proposed activity and of any discharge characteristics (biological, chemical, thermal or other), the locations at which discharges may enter Regulated Surface Waters, a description of the function and operation of equipment or facilities used to treat possible pollutants including specification of the degree of treatment expected to be attained, dates of proposed activity, description of proposed discharge monitoring methods, site plan and basic design of activity, and copies of any environmental assessments, impact statements or other environmental review documents.

The only way to receive the information required is by doing a case-by-case review of each project and associated discharges. Therefore, we deny Clean Water Act 401 certification for the 2026 Nationwide Permits and their applicable regional conditions in order to retain the ability to make an individual 401 certification decision for each authorization.

The Squaxin Island Tribe's Public Notice Process:

On June 18, 2025, the Tribe received a request for certification from the Army Corps of Engineers. On November 12, 2025, the Tribe issued a public notice regarding the proposed project and provided the opportunity for the public to submit comments until December 3, 2025. The notice was posted on <https://squaxinland.org/epa-treatment-as-a-state/>. No public comments were received.

If you have any further questions, please contact me at awhitener@squaxin.us and emarbet@squaxin.us.

Sincerely,



[Andy Whitener \(Dec 4, 2025 08:51:25 PST\)](#)

Andy Whitener

Director

Squaxin Island Tribe

Natural Resources Department

ACE_Nationwide_Squaxin_04Dec2025

Final Audit Report

2025-12-04

Created:	2025-12-04
By:	Christine Marbet (emarbet@squaxin.us)
Status:	Signed
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"ACE_Nationwide_Squaxin_04Dec2025" History

-  Document created by Christine Marbet (emarbet@squaxin.us)
2025-12-04 - 0:33:33 AM GMT
-  Document emailed to Andy Whitener (awhitener@squaxin.us) for signature
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-  Email viewed by Andy Whitener (awhitener@squaxin.us)
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-  Document e-signed by Andy Whitener (awhitener@squaxin.us)
Signature Date: 2025-12-04 - 4:51:25 PM GMT - Time Source: server
-  Agreement completed.
2025-12-04 - 4:51:25 PM GMT



Swinomish Indian Tribal Community
Department of Environmental Protection

11430 Moorage Way - LaConner, WA 98257 - 360.466.7280 - 360.466.1615 fax

12/18/2025

Kathryn Sanborn
Chief, Regulatory Branch
Seattle District, USACE
Kathryn.Sanborn@usace.army.mil

CC: Lia Protopapadakis
Regulatory Project Manager
Lia.Protopapadakis.F@usace.army.mil

Re: Denial of 401 WQC Request for Proposed 2026 NWP

Dear Ms. Sanborn:

The Swinomish Department of Environmental Protection (DEP) has completed its review and is denying your application for water quality certification for the proposed Nationwide Permits (NWP) under Section 401 of the Clean Water Act.

Based on the available information we are unable to conclude that authorization of discharges under the USACE's proposed NWP and District's regional conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and our Tribal water quality requirements as stated in Swinomish Tribal Code (STC) Title 19 Chapter 6. The proposed NWP provide insufficient information to identify waters receiving discharges from potential projects that may be authorized, and thus it is impossible to make a determination under 40 C.F.R. § 121.7(c) whether any Tribal water quality requirements are applicable to the potential projects and to conclude that they would be met.

Additionally, for potential projects that would discharge to a water with Tribal water quality requirements in place, due to the lack of specific information on the discharge characteristics, quantities and specific locations, as well as the conditions of receiving waters and their quantities to be lost, we cannot determine whether these NWP, and the discharges they would authorize, will comply with Tribal water quality requirements.

In order to demonstrate that the range of discharges from potential projects authorized under the NWP would comply with the Tribe's water quality requirements, specifically STC 19-06.280 (B), the following water quality data and information would be needed for each such project: a map showing the location of Regulated Surface Waters which may be affected by the activity, a description of the proposed activity and of any discharge characteristics (biological, chemical, thermal or other), the locations at which discharges may enter Regulated Surface Waters, a description of the function and operation of equipment used to treat possible pollutants including specification of the degree of treatment expected to be attained, dates of proposed activity,

description of proposed discharge monitoring methods, site plan and basic design of activity, and copies of any environmental assessments, impact statements or other environmental review documents.

The only way to receive the information required is by doing a case-by-case review of each project and associated discharges. Therefore, we deny Clean Water Act 401 certification for the 2026 NWP's and their applicable regional conditions in order to retain the ability to make an individual 401 certification decision for each authorization.

If you have any further questions, please contact me at (360) 661-0683 or ncasper@swinomish.nsn.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Casper".

Nicole Casper, Water Resources Manager
Swinomish Department of Environmental Protection



Natural Resources Department
Environmental Division
6406 Marine DR NW
Tulalip, WA 98271
.....

December 18, 2025

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch
Post Office Box 3755
Seattle, WA 98124-3755

RE: Tulalip Tribes Section 401 Certification for the 2026 reissuance and modifications to Nationwide Permits authorized by the Department of the Army as described in Docket Number: COE-2025-0002 and proposed regional conditions regional conditions by the U.S. Army Corps of Engineers Seattle

Dear Madam/Sir:

The Tulalip Tribes have completed their review of the proposed rule for reissuing Nationwide Permits by the United States Department of the Army, Corps of Engineers as described in the Federal Register dated June 18 2025. This review was conducted in response to the Corps request for review pursuant to Section 401 of the Clean Water Act that there is reasonable assurance that the proposed reissuance and modifications to the Department of the Army Corps of Engineers Nationwide Permits and Regional General Conditions will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act (CWA) and The Tulalip Tribes Water Quality Standards, in those areas where the Tulalip Tribes is the certifying authority.

Section 401(a) of the CWA requires that applicants for Federal permits that may result in discharges into waters of the United States obtain certification that the discharge will comply with various applicable provisions of the CWA. The Tulalip Tribes of Washington has EPA approval to administer a water quality standards program and to issue water quality certifications on the Tulalip Reservation. 63 Fed. Reg. 194 (Oct. 7, 1998).

Based on the available information provided in the notice of proposed rulemaking and proposed changes or modifications to NWPs and Regional General Conditions by the U.S. Army Corps of Engineers Seattle District, we are unable to conclude that authorization of discharges under the USACE's proposed NWPs modifications will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act and the Tulalip Tribes Water Quality Standards (Tulalip Tribes Natural Resources Department, 1996). The proposed

The Tulalip Tribes are federally recognized successors in the interest to the Snohomish, Snoqualmie, Skykomish, and other allied tribes and bands signatory to the Treaty of Point Elliott.



6406 Marine DR NW
Tulalip, WA 98271
360-716-4617

NWPs provide insufficient information to identify waters receiving discharges from potential projects that may be authorized, and thus it is impossible to make a determination under 40 C.F.R. § 121.7(f) whether any Tribal Water Quality Standards are applicable to the potential projects and to conclude that they would be met. Additionally, for potential projects where a discharge would take place, the lack of specific information on the discharge types, quantities and specific locations, as well as the conditions of receiving waters, we cannot determine whether these NWPs and the discharges they would authorize, will comply with Tribal Water Quality Standards. Therefore, we deny Clean Water Act 401 certification for the 2025 NWPs and their applicable regional conditions.

In order to demonstrate that the range of discharges from potential projects authorized under the NWPs and whether they comply with the Tribe's Water Quality Standards, the following water quality data and information would be needed for each such project: the name or identifier of the receiving water, the specific location of the project discharge, the amount and area of the discharge, and any available site-specific baseline conditions or monitoring data for the project site. The only way to receive the information required is by doing a case-by-case review of each project and associated discharges. Therefore, we deny 401 certification in order to review each project and make an individual 401 certification decision for each authorization.

The Tulalip Tribes understand that the effect of these denials is that the Corps will deny, without prejudice, authorization for activities covered by the applicable NWP's. A project proponent must therefore obtain project specific CWA Section 401 Certification or waiver from the Tulalip Tribes before proceeding under a NWP. For further 401 Certification coordination with the Tulalip Tribes Natural Resources Department, please contact Mr. Kurt Nelson (360) 716-4617 knelson@tulaliptribes-nsn.gov 6406 Marine Dr., Tulalip WA 98271.

Sincerely,
The Tulalip Tribes

Jason Gobin, Executive Director
Natural and Cultural Resources Division



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Mr. Glen Connelly
Natural Resources Director
Confederated Tribes of the Chehalis Reservation
Post Office Box 536
Oakville, Washington 98568

Reference: 2026 Nationwide Permits
401 Water Quality Certification
(Determine Waiver Occurred)

To the Confederated Tribes of the Chehalis Reservation:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed reissuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of Confederated Tribes of the Chehalis Reservation. Specifically, on June 18, 2025 the Seattle District requested certification of NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and A be provided on or before December 18, 2025.

The established reasonable period of time to act on the request for certification has passed. The Confederated Tribes of the Chehalis Reservation has failed or refused to act on a certification request within the reasonable period of time. In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification regulations at 40 CFR Part 121, the Seattle District has determined that a waiver of the 401 WQC requirement has occurred for the NWPs identified above. This constitutes your notice per 40 CFR 121.8 and 40 CFR 121.9 of Seattle District's determination that the certification requirement has been waived as described above.

Thank you for your coordination and efforts on the re-issuance of the NWP's.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, loopy oval shape.

for Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
HQ USACE



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Ms. Rebecca Hunt
Natural Resources Director
Confederated Tribes of the Colville Reservation
Post Office Box 150
Nespelem, Washington 99155

Reference: 2026 Nationwide Permits
401 Water Quality Certification
(Determine Waiver Occurred)

To the Confederated Tribes of the Colville Reservation:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed reissuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of Confederated Tribes of the Colville Reservation. Specifically, on June 18, 2025 the Seattle District requested certification of NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and A be provided on or before December 18, 2025.

The established reasonable period of time to act on the request for certification has passed. The Confederated Tribes of the Colville Reservation has failed or refused to act on a certification request within the reasonable period of time. In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification regulations at 40 CFR Part 121, the Seattle District has determined that a waiver of the 401 WQC requirement has occurred for the NWPs identified above. This constitutes your notice per 40 CFR 121.8 and 40 CFR 121.9 of Seattle District's determination that the certification requirement has been waived as described above.

Thank you for your coordination and efforts on the re-issuance of the NWP's.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, horizontal oval shape.

for Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
HQ USACE



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Ms. Deane Osterman
Executive Director of Natural Resources
Kalispel Indian Community of the Kalispel Reservation
Post Office Box 39
Usk, Washington 99180

Reference: 2026 Nationwide Permits
401 Water Quality Certification
(Determine Waiver Occurred)

To the Kalispel Indian Community of the Kalispel Reservation:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed reissuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of Kalispel Indian Community of the Kalispel Reservation. Specifically, on June 18, 2025 the Seattle District requested certification of NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and A be provided on or before December 18, 2025.

The established reasonable period of time to act on the request for certification has passed. The Kalispel Indian Community of the Kalispel Reservation has failed or refused to act on a certification request within the reasonable period of time. In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification regulations at 40 CFR Part 121, the Seattle District has determined that a waiver of the 401 WQC requirement has occurred for the NWPs identified above. This constitutes your notice per 40 CFR 121.8 and 40 CFR 121.9 of Seattle District's determination that the certification requirement has been waived as described above.

Thank you for your coordination and efforts on the re-issuance of the NWP's.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, horizontal oval shape.

for Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
HQ USACE



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Ms. Roma Call
Natural Resources Director
Port Gamble S'Klallam Tribe
31912 Little Boston Road Northeast
Kingston, Washington 98346

Reference: 2026 Nationwide Permits
401 Water Quality Certification
(Determine Waiver Occurred)

To the Port Gamble S'Klallam Tribe:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed reissuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of Port Gamble S'Klallam Tribe. Specifically, on June 18, 2025 the Seattle District requested certification of NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and A be provided on or before December 18, 2025.

The established reasonable period of time to act on the request for certification has passed. The Port Gamble S'Klallam Tribe has failed or refused to act on a certification request within the reasonable period of time. In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification regulations at 40 CFR Part 121, the Seattle District has determined that a waiver of the 401 WQC requirement has occurred for the NWPs identified above. This constitutes your notice per 40 CFR 121.8 and 40 CFR 121.9 of Seattle District's determination that the certification requirement has been waived as described above.

Thank you for your coordination and efforts on the re-issuance of the NWP's.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, loopy oval shape.

for

Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
HQ USACE



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Ms. Char Naylor
3002 Duct Cho
Tacoma, Washington 98404

Reference: 2026 Nationwide Permit 8
401 Water Quality Certification
(Decline to Accept)

To the Puyallup Tribe of Indians:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed issuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of The Puyallup Tribe of Indians on June 18, 2025. We specifically did not request 401 WQC for NWP 8 *Oil and Gas Structures on the Outer Continental Shelf* because NWP 8 only authorizes activities seaward of the territorial seas, which is outside the authority of the Clean Water Act and therefore does not require 401 WQC. The Puyallup Tribe of Indians granted 401 WQC on December 18, 2025.

The Seattle District has reviewed the granted 401 WQC for NWP 8 and has determined that decision to grant is inconsistent with the Environmental Protection Agency's (EPA's) current 401 WQC regulations at 40 CFR Part 121 because it expands the certifying authority's jurisdiction beyond the limits of the Clean Water Act. The EPA regulations at 33 CFR 328.4(a) make it clear that jurisdiction under the Clean Water Act (referred to as waters of the United States) is limited to the territorial seas.

The Corps views the Puyallup Tribe's certification for NWP 8 as invalid and thus declines to rely on the certification for NWP 8. If any activity authorized by this NWP may result in a discharge into a water of the United States where the Puyallup Tribe of Indians acts as the certifying authority, the Corps would seek individual 401 WQC from you.

The Corps will rely on your general 401 WQC for NWP 24 *Indian Tribe or State Administered Section 404 Program* and NWP 34 *Cranberry Production Activities*. The Corps will also rely on your denial of 401 WQC for the following NWPs: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, and A . Thank you for your coordination and efforts on the re-issuance of the NWPs.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, horizontal oval shape.

for Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
USACE HQ



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

December 22, 2025

Regulatory Division

Mr. Brent Nichols
Fish and Water Division Director
Spokane Tribe of the Spokane Reservation
Post Office Box 100
Wellpinit, Washington 99040

Reference: 2026 Nationwide Permits
401 Water Quality Certification
(Determine Waiver Occurred)

To the Spokane Tribe of the Spokane Reservation:

The Seattle District requested water quality certifications under Section 401 of the Clean Water Act (401 WQC) for the proposed reissuance of those Nationwide Permits (NWP) that may result in a discharge in waters of the United States within the jurisdiction of Spokane Tribe of the Spokane Reservation. Specifically, on June 18, 2025 the Seattle District requested certification of NWPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and A be provided on or before December 18, 2025.

The established reasonable period of time to act on the request for certification has passed. The Spokane Tribe of the Spokane Reservation has failed or refused to act on a certification request within the reasonable period of time. In accordance with the U.S. Environmental Protection Agency's (EPA's) current water quality certification regulations at 40 CFR Part 121, the Seattle District has determined that a waiver of the 401 WQC requirement has occurred for the NWPs identified above. This constitutes your notice per 40 CFR 121.8 and 40 CFR 121.9 of Seattle District's determination that the certification requirement has been waived as described above.

Thank you for your coordination and efforts on the re-issuance of the NWP's.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Sanborn', enclosed within a large, loopy oval shape.

for Kathryn P. Sanborn, PhD, PE, PMP
Colonel, Corps of Engineers
District Commander

cc:

USEPA Region 10
HQ USACE



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 NWP 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
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Sincerely,

A handwritten signature in blue ink, appearing to read "Joenne McGerr". The signature is stylized with a large initial "J" and "M".

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
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