



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

June 18, 2025

Regulatory Division

Nevada Division of Environmental Protection
Bureau of Water Quality Planning
Attn: Ms. Jennifer Carr
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249
jcarr@ndep.nv.gov

Dear Ms. Carr:

The U.S. Army Corps of Engineers (Corps) is in the process of reissuing its existing Nationwide Permits (NWP) and associated general conditions and definitions. The proposed rule for reissuing the NWP was published in the Federal Register June 18, 2025. The Corps is proposing to reissue most of the NWP without changes. The NWP Federal Register Notice (FRN) is located at: <https://www.federalregister.gov/documents/2025/06/18/2025-11190/proposal-to-reissue-and-modify-nationwide-permits>.

Under Section 401 of the Clean Water Act (CWA), an activity which may result in a discharge into waters of the U.S. that is authorized by a Federal permit must receive a CWA Section 401 Water Quality Certification (WQC), or waiver, from the appropriate certifying authority. This process allows the certifying authority an opportunity to ensure that any discharge will comply with applicable water quality requirements. In accordance with 40 CFR 121.5, this letter and its attachments serve as the request for certification. As required in 40 CFR 121.5(a)(2) the FRN includes readily available water quality-related materials that informed the development of the NWP.

We are requesting water quality certification under Section 401 of the Clean Water Act for the proposed 2026 NWP that may result in a discharge in waters of the United States within the State of Nevada. Information required in a certification request, as defined at 40 CFR 121.5(b), is in the FRN, except for 40 CFR 121.5(b)(7) documentation that a pre-filing meeting request was submitted. A request for a pre-filing meeting was sent to your office on May 1, 2025 (enclosure 1).

The proposed categories of activities to be authorized by the NWP for which certification is requested are described in the text of the proposed NWP. Nationwide permits 15, 16, 17, 18, 21, 25, 29, 30, 34, 39, 40, 41, 42, 43, 46, 49, 50, and 59 would authorize activities that may result in discharges and therefore 401 water quality certification is required for those NWP. Nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 19, 20, 22, 23, 27, 31, 32, 33, 36, 37, 38, 44, 45, 48, 51, 52, 53, 54, 57, 58, and A would authorize various activities, some of which may result in a discharge and require 401 water quality certification, and others which may not. In the opinion of the Corps, Nationwide permits 1, 2, 9, 10, 11, 24, 28, 35, and 55 could not reasonably be expected to result in a discharge into waters of the United States and we do not deem certification to be necessary for this group of NWP. However, the final decision of whether

certification is needed for any of these nine (9) types of activities rests with the certifying authority. Additionally, NWP 8 only authorizes activities seaward of the territorial seas and therefore does not require water quality certification.

In addition, we are proposing regional conditions for the proposed 2026 NWPs for the State of Nevada (enclosure 2). The regional conditions are intended to ensure the proposed NWPs would result in no more than minimal, individual and cumulative, adverse environmental effects. For your convenience, we are providing a table showing the number of times we have authorized an activity under each of the 2021 NWPs in Nevada (enclosure 3) over the last five (5) years.

The date of this letter serves as the date on which the reasonable period of time begins running. In accordance with 40 CFR 121.6, the reasonable period of time (RPOT) for your office to act on the certification request for the 2026 NWPs is six months. The RPOT ends on December 15, 2025.

Please note that the Environmental Protection Agency regulations implementing Section 401 have changed since we last requested water quality certification for the NWPs in 2020. While the new regulations at 40 CFR 121 allow for the modification of a grant of certification upon the mutual agreement of the certifying authority and the Corps, conditions or other language that reserve the unilateral right of the certifying authority to modify or retract a certification are not allowed and may result in our office declining to rely on blanket certifications that contain such language.

We appreciate your attention to this matter and remain available to discuss certification, including proposed conditions you may be considering, for the 2026 NWPs. If you have any questions regarding this request, please feel free to contact Ms. Leah M. Fisher by telephone at 916-557-6639 or by email at leah.m.fisher@usace.army.mil.

Sincerely,



Michael S. Jewell
Chief, Regulatory Division

Enclosures

cc:

Mr. Zachary Carter, NDEP, zcarter@ndep.nv.gov

NDEP, ndep401@ndep.nv.gov

Mr. Philip Shannin, USACE, SPD, Philip.A.Shannin2@usace.army.mil

USEPA, 401 Water Quality Certification, R9CWA401@epa.gov

From: [Jewell, Michael S CIV USARMY CESPK \(USA\)](#)
To: zcarter@ndep.nv.gov; ndep401@ndep.nv.gov; [Cohen, Sahrye](#); [R9cwa401](#); [Huddleston, Russell](#)
Cc: [Fisher, Leah M CIV USARMY CESPK \(USA\)](#)
Subject: 2026 Nationwide Permits: Information and CWA 401 WQC Request for Pre-Filing Meeting
Date: Thursday, May 1, 2025 4:03:32 PM
Attachments: [image001.png](#)

The U.S. Army Corps of Engineers (USACE) is preparing to reissue the current (2021) Nationwide Permits (NWP) in 2026, including associated general conditions and definitions, with a few minor changes. The proposed rule for the 2026 NWP is expected to be published in the *Federal Register* in a few months.

Regional conditions may be added to one or more NWP for a specific geographic area, class of activity, or class of waters when there are sufficient concerns for the environment under the Section 404(b)(1) Guidelines or any other factor of the public interest so requires, or a determination is made there would be more than minimal adverse environmental effects either individually or cumulatively. Since only minor changes are being proposed to the NWP, the USACE Sacramento District does not expect to make any changes to the current regional conditions for the State of Nevada.

Information regarding the 2021 NWP, including current regional conditions, can be found at <https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/2021NWP/>.

The USACE Sacramento District will be requesting water quality certification (WQC) for the proposed 2026 NWP. In accordance with 40 CFR 121.5, publication of the proposed 2026 NWP in the *Federal Register* in the coming months will serve as our request for general 401 WQC. We will notify you when the proposed 2026 NWP are published in the *Federal Register*. The date of the *Federal Register* notice is the begin date for the reasonable period of time for the certifying authority to act on the request. In accordance with 40 CFR 121.6, the reasonable period of time will be six (6) months from the publication date in the *Federal Register*.

Before requesting 401 WQC for the proposed 2026 NWP, and in the spirit of early coordination, we are requesting a pre-filing meeting with you, in accordance with 40 CFR 121.4. During the meeting, we will discuss the proposed reissuance of the NWP and regional conditions for the State of California. As a certifying authority, you may waive the pre-filing meeting requirement. If you are interested in attending a pre-filing meeting, we are offering two pre-scheduled meetings:

- a. May 20 @ 1000-1100 PST
- b. May 22 @ 1400-1500 PST

Our POC for the 2026 NWP, Leah Fisher, will be sending meeting invitations for these dates and times following this correspondence. If you cannot make one of the pre-scheduled meetings but still want to meet, please contact us as soon as possible

to schedule a standalone meeting. We will assume the pre-filing meeting requirement is waived if you choose not to attend one of the pre-scheduled meetings or request a standalone meeting.

Finally, we note that the Environmental Protection Agency's regulations implementing Section 401 CWA have changed since we last requested WQC for 2021 NWP's. While the new regulations allow for the modification of a grant of certification upon the mutual agreement of the certifying authority and the Federal permitting agency, conditions or other language that reserve the unilateral right of the certifying authority to modify or retract a certification are not allowed and may result in us declining to rely on any grant of certification that contains such language.

Thank you for your attention to this matter. We look forward to working with you throughout the WQC process for the proposed 2026 NWP's. If you have any questions, please feel free to contact Leah by telephone at 916-557-6639 or by email at leah.m.fisher@usace.army.mil.

Michael S Jewell
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Date: 6/11/2025

Row Labels	Count of PNN
NV	300
NWP	300
NWP 10	20
NWP 12	24
NWP 13	9
NWP 14	26
NWP 18	9
NWP 25	1
NWP 27	10
NWP 29	3
NWP 3	19
NWP 33	2
NWP 36	6
NWP 4	10
NWP 42	3
NWP 43	4
NWP 45	4
NWP 57	147
NWP 58	2
NWP 6	1
Grand Total	300

***Draft 2026 Nationwide Permit (NWP) Regional Conditions
for the States of Nevada and Utah***

(Effective March 14, 2026, until March 14, 2031)

A. Regional Conditions for the States of Nevada and Utah:

1. The permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;

b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal Lands; and,

c. Activities involving the permanent channelization, realignment, or relocation of streams.

2. The use of NWPs 4, 5, 7, 12 - 15, 17, 18, 21 - 23, 25, 29 – 31, 33, 34, 39 - 51, 57, or 58, authorizing the discharge of dredged and/or fill material is prohibited:

a. in peatlands¹ containing histosols, including bogs and fens; and,

b. below the ordinary high-water mark of the Great Salt Lake containing bioherms (microbialites).

B. 401 Water Quality Certification (401 WQC) Regional Conditions for Nevada:

1. TBD.

C. 401 Water Quality Certification (401 WQC) Regional Conditions for Utah:

1. TBD.

¹A peatland is defined as a wetland with saturated organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at:
http://www.nrcs.usda.gov/Internet/DOCUMENTS/nrcs142p2_053171.pdf

Summary of the Proposed 2026 Nationwide Permits¹

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 1 – Aids to Navigation	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 2 – Structures in Artificial Canals	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 3 – Maintenance	10/404						
(a) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills		authorizes only minor deviations for maintenance	PCN not required	no	all waters of the U.S.	none	Does not authorize: maintenance dredging for the primary purpose of navigation; beach restoration; or new stream channelization or stream relocation projects. Limits stream channel modification to the minimum necessary for the maintenance activity.
(b) Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals		200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal	all activities	yes	all waters of the U.S.	none	
(c) Temporary structures, fills, and work necessary to conduct maintenance activity			PCN not required	no	all waters of the U.S.	none	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	10/404	none	PCN not required	no	all waters of the U.S.	none	Does not authorize impoundments or artificial reefs. Does not authorize covered oyster trays or clam racks.
NWP 5 – Scientific Measurement Devices	10/404	25 cubic yards for weirs and flumes	PCN not required	no	all waters of the U.S.	none	Devices and any associated structures or fills be removed upon completion of the use and restored to pre-construction elevations to maximum extent practicable.
NWP 6 – Survey Activities	10/404	1/10-acre	PCN not required	no	all waters of the U.S.	none	Does not authorize fills for roads. Does not authorize permanent structures. Does not authorize fill associated with recovery of historic properties. Backfilling of exploratory trenches must not drain a water of the U.S.

¹ This table is intended to provide **general** information on the proposed 2026 nationwide permits published in the *Federal Register* on June 18, 2025 (90 FR 26100).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 7 – Outfall Structures and Associated Intake Structures	10/404	none	all activities	yes	all waters of the U.S.	none	Activity must comply with National Pollutant Discharge Elimination System Program.
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf	10	none	all activities	no	navigable waters of the U.S.	none	Limited to facilities in areas leased by the Bureau of Ocean Energy Management of the Department of the Interior.
NWP 9 – Structures in Fleeting and Anchorage Areas	10	none	PCN not required	no	navigable waters of the U.S.	none	Applies to structures, buoys, and other devices placed in anchorage or fleeting areas established for those purposes
NWP 10 – Mooring Buoys	10	none	PCN not required	no	navigable waters of the U.S.	none	Non-commercial, single boat mooring buoys
NWP 11 – Temporary Recreational Structures	10	none	PCN not required	no	navigable waters of the U.S.	none	Structures must be removed within 30 days after use discontinued.
NWP 12 – Oil or Natural Gas Pipeline Activities	10/404	1/2 acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre new oil or natural gas pipeline greater than 250 miles in length 	yes, if PCN required	see text of NWP	Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting. Add Note recommending permittee contact USCG about project.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
oil or natural gas pipelines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
oil or natural gas pipeline substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for above-ground oil or natural gas pipelines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 13 – Bank Stabilization	10/404	<ul style="list-style-type: none"> 500 feet along the bank (unless waived by DE – waivers for bulkheads limited to 1,000 linear feet along the shore) 1 cubic yard per running foot (unless waived by DE) 	<ul style="list-style-type: none"> >500 linear feet in length >1 cubic yard per running foot, as measured along the treated bank, below OHWM or HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	<p>Add paragraph clarifying that nature-based solutions to provide habitat and other functions and services with bank stabilization activities.</p> <p>Add Note 2 to discuss hard and soft bank stabilization approaches and factors to consider when identifying an appropriate bank stabilization approach.</p>	Activity cannot impair surface water flow into or out of waters of the U.S. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Native plant species appropriate for site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization.
NWP 14 – Linear Transportation Projects	10/404	<ul style="list-style-type: none"> 1/2 acre in non-tidal waters 1/3 acre in tidal waters 	<ul style="list-style-type: none"> >1/10 acre discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Does not authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features.
NWP 15 – U.S. Coast Guard Approved Bridges	404	none	PCN not required	no	navigable waters of the U.S.	Add “General Bridge Act of 1946” as an applicable law for bridges over navigable waters.	Causeways and approach fills for bridges are not authorized by this NWP; those activities require separate section 404 authorization. Bridge structures can be authorized by Section 9 of the Rivers and Harbors Act or other applicable laws.
NWP 16 – Return Water From Upland Contained Disposal Areas	404	none	PCN not required	no	all waters of the U.S.	none	Water quality issues addressed through Clean Water Act section 401 certification process
NWP 17 – Hydropower Projects	404	none	all activities	yes	all waters of the U.S., except navigable (i.e., section 10) waters	none	Applies to activities licensed by the Federal Energy Regulatory Commission or activities exempt from licensing requirements.
NWP 18 – Minor Discharges	10/404	<ul style="list-style-type: none"> 25 cubic yards discharged below plane of OHWM/HTL 1/10 acre of waters of the U.S. 	<ul style="list-style-type: none"> >10 cubic yards discharged below plane of OHWM/HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize discharges for stream diversions.
NWP 19 – Minor Dredging	10/404	25 cubic yards below plane of OHWM/ MHWM	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging or degradation through siltation of coral reefs, submerged aquatic vegetation beds, anadromous fish spawning areas, or wetlands. Does not authorize the connection of canals to navigable waters.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 20 – Response Operations for Oil or Hazardous Substances	10/404	none	PCN not required	no	all waters of the U.S.	none	Authorizes activities subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Authorizes activities required for cleanup of oil releases in waters of the U.S. Authorizes use of temporary structures and fills for spill response training exercises.
NWP 21 – Surface Coal Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre No valley fills 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Activities must be authorized, or currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.
NWP 22 – Removal of Vessels	10/404	none	<ul style="list-style-type: none"> if vessel listed or eligible for National Register of Historic Places activities in special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize maintenance dredging, shoal removal, or river bank snagging. Disposal of removed vessel in waters of the U.S. may require separate authorizations from EPA and Corps.
NWP 23 – Approved Categorical Exclusions	10/404	none	PCN not required, except for certain activities identified in RGL 05-07	yes, if PCN required	all waters of the U.S.	Modify paragraph (a) to replace references to Council on Environmental Quality regulations with reference to the National Environmental Policy Act.	Categorical exclusions must be approved by the Office of the Chief of Engineers. See RGL 05-07 for list of agencies and their activities that are currently eligible for NWP 23.
NWP 24 – Indian Tribe or State Administered Section 404 Program	10	none	PCN not required	no	navigable waters of the U.S.	Remove Florida from list of states that have been approved to administer the section 404 permit program.	Does not authorize activities in navigable waters that require only a section 10 permit.
NWP 25 – Structural Discharges	404	none	PCN not required	no	waters of the U.S.	none	Structure may require a section 10 permit if located in navigable waters of the U.S. Does not authorize structures that support buildings or similar structures.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 27 – Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities	10/404	none	PCN not required, Report required for all activities	If PCN required, see Note 2, general description and map of aquatic and terrestrial habitat types and their approximate boundaries on that site, substitutes for the delineation	all waters of the U.S.	<p>Change title of NWP.</p> <p>Modify paragraph on ecological references.</p> <p>Remove list of examples of activities that may be authorized by this NWP.</p> <p>Remove prohibition against conversions of non-tidal aquatic ecosystem types.</p> <p>Clarify that NWP does not authorize dam removal activities.</p> <p>Add Bureau of Land Management to list of agency agreements.</p> <p>Require reporting for all activities, instead of pre-construction notifications.</p> <p>Add Note 2 to state that description and map of aquatic and terrestrial habitat types on project site is to be used in place of a delineation of waters and wetlands required by general condition 32 when a PCN is required by a general condition or regional condition.</p>	Does not authorize stream channelization. Does not authorize relocation or conversion of tidal waters. Does not authorize conversion of natural wetlands or streams, except for relocation activities. Compensatory mitigation is not required for NWP 27 activities.
NWP 28 – Modifications of Existing Marinas	10	activities limited to authorized marina area	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging, additional slips, dock spaces, or expansion in waters of the U.S.
NWP 29 – Residential Developments	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	For residential subdivisions, the aggregate total loss of waters of the U.S. cannot exceed 1/2-acre.
NWP 30 – Moist Soil Management for Wildlife	404	none	PCN not required	no	non-tidal waters of the U.S.	none	Authorizes only on-going activities. Does not authorize construction of new dikes, roads, water control structures, etc. Does not authorize conversion of wetlands to uplands. Does not authorize impoundments. Does not authorize activities that result in net loss of aquatic functions and services.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 31 – Maintenance of Existing Flood Control Facilities	10/404	maintenance baseline approved by district engineer	all activities	yes	all waters of the U.S.	none	PCN must indicate location of sites for disposal of dredged or excavated material and baseline information. Authorizes the removal of vegetation from levees associated with a flood control project, if Corps permits are required for those activities.
NWP 32 – Completed Enforcement Actions	10/404	<ul style="list-style-type: none"> 5 acres of non-tidal waters 1 acre of tidal waters also see text of NWP 	PCN not required	no	all waters of the U.S.	none	
NWP 33 – Temporary Construction, Access, and Dewatering	10/404	none	all activities in navigable (i.e., section 10) waters	yes	all waters of the U.S.	none	Associated primary activity must be authorized by Corps or U.S. Coast Guard, or be exempt from permit requirements. PCN must include restoration plan.
NWP 34 – Cranberry Production Activities	404	10 acres, but activity cannot result in net loss of wetland acreage	all activities	yes	section 404 waters only	none	Does not authorize discharges in waters of the U.S. for attendant features, such as warehouses, processing facilities, or parking areas.
NWP 35 – Maintenance Dredging of Existing Basins	10	dredging to previously authorized depths or controlling depths, whichever are less	PCN not required	no	navigable waters of the U.S.	none	
NWP 36 – Boat Ramps	10/404	<ul style="list-style-type: none"> 50 cubic yards, unless waived by DE 20 foot width, unless waived by DE 	<ul style="list-style-type: none"> >50 cubic yards >20 feet wide 	yes, if PCN required	all waters of the U.S., except special aquatic sites	none	Section 10 permit required if dredging navigable water is necessary for access to boat ramp. No placement of material in special aquatic sites.
NWP 37 – Emergency Watershed Protection and Rehabilitation	10/404	none	all activities, except in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur	yes	all waters of the U.S.	none	Prospective permittee should wait 45 calendar days before proceeding with the activity if the DE has not yet issued a verification letter, but may proceed immediately if there is an unacceptable hazard to life or significant loss of property or economic hardship will occur.
NWP 38 – Cleanup of Hazardous and Toxic Waste	10/404	none	all activities	yes	all waters of the U.S.	none	Does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
NWP 39 – Commercial and Institutional Developments	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Does not authorize construction of new golf courses or new ski areas. Authorizes the construction of oil or gas wells. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 40 – Agricultural Activities	404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	NWP can be used for agricultural activities, regardless of whether applicant is USDA participant. Does not authorize aquaculture ponds.
NWP 41 – Reshaping Existing Drainage and Irrigation Ditches	404	none	PCN not required	no	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Reshaping drainage ditch cannot increase capacity of ditch or drain additional waters of the U.S. Does not authorize relocation of drainage ditches constructed in waters of the U.S.
NWP 42 – Recreational Facilities	404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Authorizes variety of recreational facilities, except for hotels, restaurants, racetracks, stadiums, arenas, or similar facilities (these may be authorized by NWP 39).
NWP 43 – Stormwater Management Facilities	404	1/2 acre	all activities involving expansion or construction of SWM facilities	yes, if PCN required	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	State that NWP can be used to authorize nature-based solutions for managing storm water, with additional examples, to replace “low impact development integrated management features” and “pollutant reduction green infrastructure features”.	Does not authorize construction of new stormwater management facilities in perennial streams. Maintenance does not require PCN if limited to restoring original design capacities. Also authorizes low impact development integrated management features and pollutant reduction green infrastructure features.
NWP 44 – Mining Activities	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	PCN must include final reclamation plan if reclamation is required by other statutes.
NWP 45 – Repair of Uplands Damaged by Discrete Events	10/404	Restore uplands to pre-event ordinary high water mark	all activities	yes	all waters of the U.S.	none	PCN must be submitted to district engineer within one year of date of damage; work must start or be under contract within two years of date of damage.
NWP 46 – Discharges in Ditches	404	1 acre	all activities	yes	certain types of non-tidal ditches constructed in uplands and determined to be waters of the U.S.	none	NWP does not authorize discharges into ditches constructed in streams or other waters of the U.S., or in streams that have been relocated in uplands.
NWP 48 –Commercial Shellfish Mariculture Activities	10/404	none	New and existing activities that directly affect greater than 1/2-acre of submerged aquatic vegetation	yes	navigable waters of the U.S.	Exclude activities in navigable waters within Washington State. Revise Note recommending permittee contact USCG about project. Add Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.	Does not authorize nonindigenous species not previously cultivated in the waterbody, aquatic nuisance species, or attendant features such as docks or staging areas. Does not authorize the deposition of shell material back into waters of the U.S. as waste. Project area is the area in which the operator is authorized to conduct commercial shellfish mariculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 49 – Coal Remining Activities	10/404	Limited to sites that were previously mined for coal, but new mining may be conducted in adjacent areas if the newly mined area is less than 40 percent of the area being remined plus any unmined area needed for reclamation.	all activities	yes	non-tidal waters of the U.S.	none	Permittee must demonstrate net increase in aquatic resource functions through reclamation. Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title IV and V of the Surface Mining Control and Reclamation Act of 1977. Corps will review the SMCRA determination regarding the amount of previously unmined area necessary for the reclamation and make an independent determination of the amount needed.
NWP 50 – Underground Coal Mining Activities	10/404	1/2 acre	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Activities must be authorized by the Department of the Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977. If reclamation required, a copy of the plan must be submitted with PCN. Does not authorize coal preparation and processing activities outside of the mine site.
NWP 51 – Land-Based Renewable Energy Generation Facilities	10/404	1/2 acre	<ul style="list-style-type: none"> discharges that result in the loss of >1/10 acre 	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	Authorizes construction, expansion or modification of land-based renewable energy production facilities, including attendant features. If only activity requiring DA authorization is utility line, then NWP C shall be used. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate single and complete linear projects. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 52 – Water-Based Renewable Energy Generation Pilot Projects	10/404	<ul style="list-style-type: none"> 1/2 acre No more than 10 generation units Floating solar panels in section 10 waters limited to 1/2-acre in size 	all activities	yes	all waters of the U.S. except in coral reefs	<p>Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p> <p>Add Note recommending permittee contact USCG about project.</p>	Authorizes construction, expansion, modification, or removal of water-based renewable energy generation pilot projects and their attendant features. Limited to “pilot projects.” Placement of a transmission line on bed of a navigable water of U.S. from generation unit to land-based collection facility is considered a structure under section 10 and is not considered a loss of waters of the U.S. Prohibits activities in coral reefs. Structures in anchorage areas must comply with U.S. Coast Guard requirements. Does not authorize structures in established danger zones, restricted areas, etc. Upon completion of pilot project, associated structures and/or fills must be removed unless authorized by separate DA permit. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate and complete linear projects. An activity located on an existing, maintained Corps project requires separate approval under 33 USC 408. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer coordinates PCN and NWP verification with Department of Defense Siting Clearinghouse.
NWP 53 – Removal of Low-Head Dams	10/404	none	all activities	yes	all waters of the U.S.	none	Authorizes the removal of low-head dams for stream restoration and public safety. “Low-head dam” defined as a dam built to pass upstream flows over the entire width of the dam crest on a continual and uncontrolled basis. As a general rule, compensatory mitigation is not required for these activities because they result in net increases in stream ecological functions and services. NWP does not authorize regulated activities for restoration of stream in vicinity of former impoundment (these activities may be authorized by NWP 27), or bank stabilization activities (these activities may be authorized by NWP 13).

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 54 – Living Shorelines	10/404	<ul style="list-style-type: none"> 30 feet channelward of mean low water in tidal waters or mean high water line in Great Lakes (unless waived by DE) 500 feet along the bank (unless waived by DE) 	all new activities; PCN not required for repair and maintenance of existing living shorelines	yes	all waters of the U.S.	Add “gravel” and “cobbles” to the fill materials that can be used to construct living shorelines. Clarify that a portion of a living shoreline may consist of a pocket beach.	Authorizes construction and maintenance of living shorelines for shore erosion control. Living shorelines consist of natural and man-made materials. May include stone or reef structures to protect the shoreline from low to moderate energy waves. Living shorelines must have a substantial biological component, either tidal or lacustrine fringe wetlands or oyster or mussel reef structures. Does not authorize beach nourishment or land reclamation activities. Discharges of dredged or fill material into waters of the United States, including the construction of fill structures such as sills or breakwaters, must be the minimum necessary for the establishment and maintenance of the living shoreline.
NWP 55 – Seaweed Mariculture Activities	10	none	all activities	yes	navigable waters of the U.S., including federal waters on the outer continental shelf	<p>Revise Note recommending permittee contact USCG about project.</p> <p>Revise Add Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p>	Prohibits the cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 or the cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody. Structures in an anchorage area established by the U.S. Coast Guard must comply with the requirements in 33 CFR 322.5(l)(2). Structures may not be placed in established danger zones or restricted areas designated in 33 CFR part 334, Federal navigation channels, shipping safety fairways or traffic separation schemes established by the U.S. Coast Guard (see 33 CFR 322.5(l)(1)), or EPA or Corps designated open water dredged material disposal areas.
NWP 57 – Electric Utility Line and Telecommunications Activities	10/404	1/2-acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	<p>Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting.</p> <p>Add Note recommending permittee contact USCG about project.</p>	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
electric utility lines and telecommunications lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
electric utility line and telecommunications substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
foundations for overhead electric utility line or telecommunication line towers, poles, and anchors					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 58 – Utility Line Activities for Water and Other Substances	10/404	1/2-acre	<ul style="list-style-type: none"> a section 10 permit is required discharges that result in the loss of >1/10 acre 	yes, if PCN required	all waters of the U.S.	Revise Note recommending permittee provide information to National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) for charting. Add Note recommending permittee contact USCG about project.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
utility lines					all waters of the U.S., including navigable waters		Must restore area to pre-construction contours.
utility line substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for above-ground utility lines					all waters of the U.S.		
access roads					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 59 – Water Reclamation and Reuse Facilities	10/404	1/2-acre	all activities	Y	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	none	
NWP A – Activities to Improve Passage of Fish and Other Aquatic Organisms	10/404	1-acre	<ul style="list-style-type: none"> discharges that result in the loss of >1/10-acre 	Y	all waters of the U.S., including navigable waters	new NWP	Activities to improve or restore passage of fish and other aquatic organisms. Includes activities not authorized by NWP 27. Includes nature-based solutions to improve connectivity for fish and other aquatic organisms.



US Army Corps
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PUBLIC NOTICE

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Expires: August 2, 2025

Sacramento District Nationwide Permits (NWP) Reissuance Request for Comments on Proposed NWPs and Regional Conditions

On June 18, 2025, the U.S. Army Corps of Engineers (Corps) published in the Federal Register its proposal to reissue 56 existing nationwide permits and issue one new nationwide permit (NWP). One NWP is not proposed for reissuance.

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

National Issues Concerning the Proposed NWPs: The Federal Register notice is the public's opportunity to comment on the proposed NWPs, general conditions, and definitions. Comments on national issues relating to these NWPs should be submitted to docket number COE-2025-0002 at **www.regulations.gov**, or by email to **2026nationwidepermits@usace.army.mil** or by mail to U.S. Army Corps of Engineers, Attn: CECW-CO-R, 441 G Street NW, Washington, DC 20314-1000. Instructions for submitting comments are provided in the June 18, 2025, Federal Register notice. Comments on the proposed NWPs are due by July 18, 2025.

Regional Issues Concerning the Proposed NWPs, Including Regional Conditioning: Division engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or state. Regional conditions are an important mechanism to help ensure that the adverse environmental effects of activities authorized by the NWPs are no more than minimal, both individually and cumulatively. Division engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., states or watersheds) or high-value aquatic systems where the adverse environmental effects caused by activities authorized by those NWPs may be more than minimal. Enclosures to this public notice list the proposed regional conditions currently under consideration by the Los Angeles, San Francisco, and Sacramento Districts for the State of California, and by the Sacramento District for the States of Nevada and Utah. We are seeking comments on the proposed regional conditions and on the need for additional regional conditions to help ensure that the adverse environmental effects of activities authorized by the proposed NWPs are no more than minimal, individually

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Nationwide Permits Reissuance Request for Comments

and cumulatively. Unless otherwise noted, all proposed regional conditions listed on the enclosures are applicable for activities in California, Nevada, and Utah. Comments on regional issues relating to the proposed NWP and proposed regional conditions should be sent to **CESPK-2026NWPMailbox@usace.army.mil**. Comments relating to regional conditions are due by August 2, 2025. Similar public notices proposing regional conditions in other states are being published concurrently by other divisions or district offices. After the final NWP are issued, the final regional conditions will be issued after they are approved by the Division Commander.

401 Water Quality Certification: States, tribes, and other certifying authorities will make their Clean Water Act Section 401 water quality certification decisions after reviewing the proposed NWP.

Draft Decision Documents: Draft decision documents for each of the proposed NWP, which include environmental documentation prepared for the purposes of the National Environmental Policy Act, have been written by Corps Headquarters. The decision documents will address compliance of the NWP with the requirements for issuance under the Corps' general permit authority. These draft decision documents, as well as the proposed NWP, are available for viewing at **www.regulations.gov**, docket number COE-2025-0002. Final decision documents will be prepared for the NWP that are issued.

Anyone wishing to provide comments may obtain a full text copy of the NWP through the Corps Home Page at: **<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>**, at: **www.regulations.gov** in docket number COE-2025-0002, or at the following Federal Register address: **<https://www.federalregister.gov/documents/2025/06/18/2025-11190/proposal-to-reissue-and-modify-nationwide-permits>**.

***Draft 2026 Nationwide Permit (NWP) Regional Conditions
for the State of California***

(Effective March 14, 2026, until March 14, 2031)

A. Regional Conditions for the State of California:

1. The permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;

b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal lands;

c. Activities involving the permanent channelization, realignment, or relocation of streams; and,

d. Activities that have the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council. The PCN shall include an EFH assessment and analysis of effects of the action on EFH, in accordance with 50 C.F.R. § 600.920 (e). For Federal permittees, if a PCN is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with the Magnuson-Stevens Fishery Conservation and Management Act.

2. In the desert regions of Los Angeles District (USGS Hydrologic Unit Code accounting units: *Lower Colorado* - 150301, *Northern Mojave* - 180902, *Southern Mojave* - 181001, and *Salton Sea* - 181002), NPWs 3, 7, 12 – 15, 17 – 19, 21, 23, 25, 29, 35, 36, 39 – 46, 48 – 54, and 57 – 59, cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the loss of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45, in excess of 0.1 acre.

3. In the Los Angeles District, NWPs 29, 39, 42 and 43, or NWP 14 combined with any of those NWPs, cannot authorize a loss of waters of the United States greater than 0.25 acre within the Murrieta Creek and Temecula Creek watersheds in Riverside County.

4. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through discretionary authority has revoked the use of the following 26 selected NWPs within these SAMP watersheds: 3, 7, 12 – 14, 16 – 19, 21, 25, 27, 29, 31, 33, 39 – 44, 46, 49, 50, 57, and 58. Consequently, these NWPs are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority. Additional information is available here:

<https://www.spl.usace.army.mil/Missions/Regulatory/Established-LOP-Procedures>.

5. In the Los Angeles District, the permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities that would result in a loss of waters of the United States within the Murrieta and Temecula Creek watersheds in Riverside County, California;

b. Activities that would result in a loss of waters of the United States within Santa Clara River watershed in Los Angeles and Ventura County, California, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River;

c. Activities that would result in a loss of waters of the United States within all watersheds in the Santa Monica Mountains in Los Angeles and Ventura County, California, bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south; and,

d. Activities that would result in a loss of waters of the United States within all perennial waterbodies and special aquatic sites.

6. In the San Francisco District, the use of NWP 29 and 39 are prohibited within the San Francisco Bay diked baylands¹ (see figure 1).

7. In the San Francisco District, the permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, for all NWP activities that will take place in waters or wetlands of the U.S. that are within the San Francisco Bay diked baylands¹ (see figure 1).

8. In the Sacramento District, the use of any NWP (except NWP 3, 6, 16, 20, 24, 27, 37, 38, 52, 53, and 59) authorizing the discharge of dredged or fill material in peatlands² containing histosols, including bogs and fens, is prohibited.

2

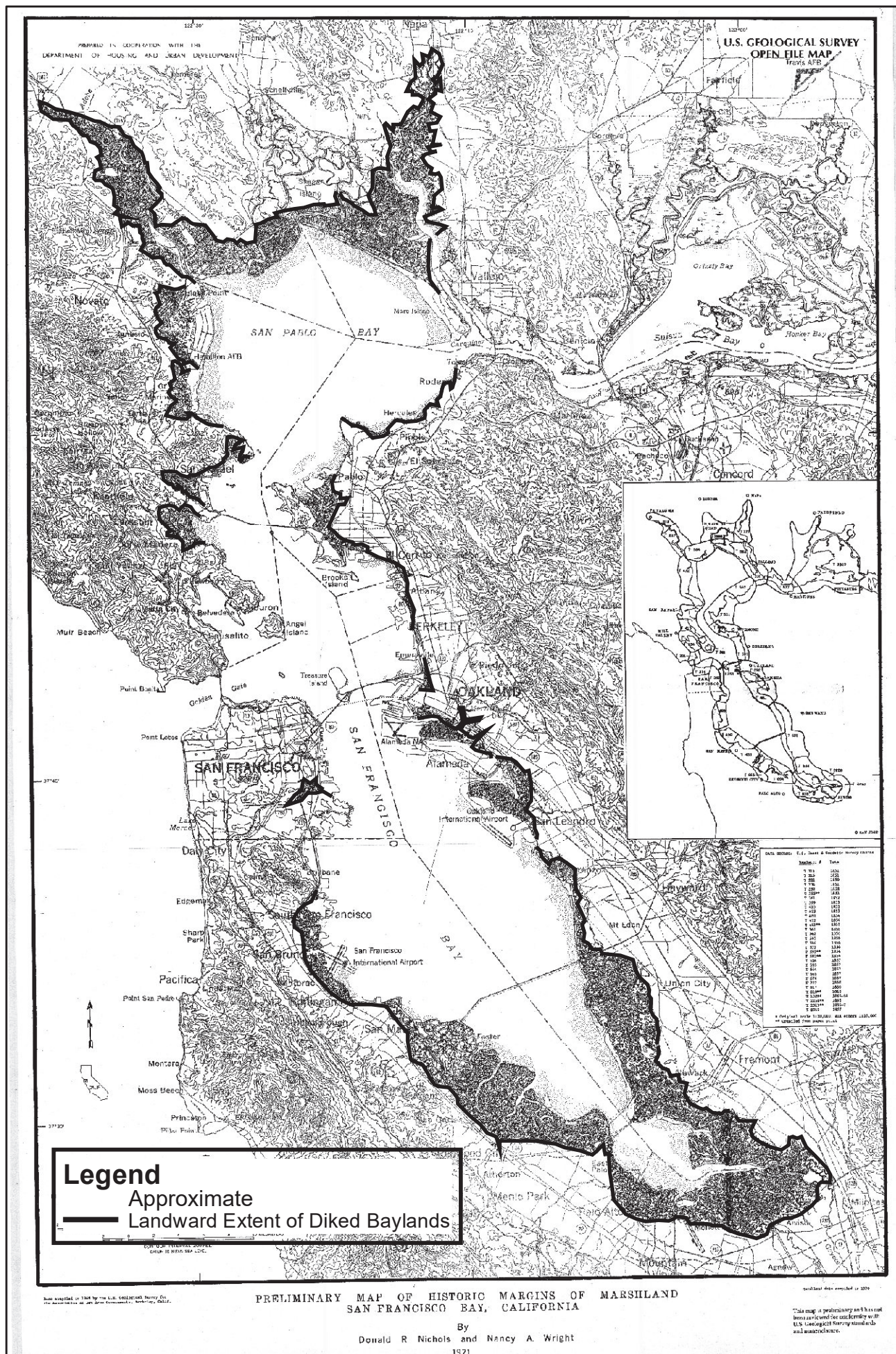
¹The San Francisco Bay diked baylands are defined as undeveloped areas that are currently behind levees and are within the historic margin of the Bay. The historic margin of the Bay is defined as areas on the Nichols and Wright map (see figure 1) below the 5-foot contour line, National Geodetic Vertical Datum (NGVD) (Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map).

²A peatland is defined as a wetland with saturated organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at: http://www.nrcs.usda.gov/Internet/DOCUMENTS/nrcs142p2_053171.pdf

B. 401 Water Quality Certification (401 WQC) Regional Conditions for California:

1. TBD.

Figure 1: Map of Diked Baylands



***Draft 2026 Nationwide Permit (NWP) Regional Conditions
for the States of Nevada and Utah***
(Effective March 14, 2026, until March 14, 2031)

A. Regional Conditions for the States of Nevada and Utah:

1. The permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;

b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal Lands; and,

c. Activities involving the permanent channelization, realignment, or relocation of streams.

2. The use of NWPs 4, 5, 7, 12 - 15, 17, 18, 21 - 23, 25, 29 – 31, 33, 34, 39 - 51, 57, or 58, authorizing the discharge of dredged and/or fill material is prohibited:

a. in peatlands¹ containing histosols, including bogs and fens; and,

b. below the ordinary high-water mark of the Great Salt Lake containing bioherms (microbialites).

B. 401 Water Quality Certification (401 WQC) Regional Conditions for Nevada:

1. TBD.

C. 401 Water Quality Certification (401 WQC) Regional Conditions for Utah:

1. TBD.

¹A peatland is defined as a wetland with saturated organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at:
http://www.nrcs.usda.gov/Internet/DOCUMENTS/nrcs142p2_053171.pdf