



STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF CLIMATE, COASTAL AND ENERGY

STATE STREET COMMONS

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COASTAL
PROGRAMS

December 18, 2025

Todd A. Schaible
Chief, Regulatory Branch
United States Army Corps of Engineers
Philadelphia District
1650 Arch Street
Philadelphia, PA 19103-2004

RE: Delaware Coastal Management Program — Federal Consistency Determination for the 2026 Proposal to Reissue and Modify Nationwide Permits (FC 2025.0039)

Dear Chief Schaible,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program has completed its federal consistency review of the 2026 Proposal to Reissue and Modify Nationwide Permits (NWPs), as published in the Federal Register on June 18, 2025 (Federal Register Docket Number COE-2025-0002). This letter is in response to the federal consistency determination received by this office on June 20, 2025, and updated on July 29, 2025, submitted by you on behalf of the United States Army Corps of Engineers (USACE). The federal consistency review period was negotiated with the USACE to conclude on December 18, 2025, to align with the water quality certification review.

PROPOSED ACTION

The USACE is proposing to reissue 56 of the existing nationwide permits (NWPs), associated general conditions, regional conditions, and definitions, with some modifications; to issue one new NWP (currently NWP A) for activities that improve the passage of fish and other aquatic organisms and other important ecological processes; and to not reissue NWP 56, which authorized finfish mariculture activities in ocean and estuarine waters.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, as amended, federal activities located inside or outside of Delaware's federally approved coastal management area that can have reasonably foreseeable effects on coastal uses must be implemented in a manner consistent with the enforceable policies of the DCMP.

Section 307 of the CZMA provides states with approved coastal management programs the authority to review federal actions that have foreseeable effects on a state's coastal uses and resources. As defined in 15 CFR §930.11(g), effects include both direct effects which result from the activity and occur at the same time and place as the activity, and indirect (cumulative and secondary) effects which result from the activity.

PUBLIC PARTICIPATION

In accordance with 15 CFR §930.42, the public was invited to participate in the review of the USACE 2026 Proposal to Reissue and Modify Nationwide Permits. Public notice of this proposed action was published in the Daily State News, The News Journal and DNREC public notices website on August 27, 2025. The public was given 20 days to submit comments on the published notice. No public comments were received.

AGENCY COORDINATION

The Delaware Coastal Zone Management (CZM) Program consists of a network of programs administered by several agencies. The DNREC DCMP coordinates the review of consistency determinations with agencies administering the enforceable and advisory policies of the program. The following agencies participated in this review:

DNREC, Division of Air Quality
DNREC, Division of Water
DNREC, Division of Fish and Wildlife
DNREC, Division of Watershed Stewardship

CONSISTENCY ANALYSIS

Pursuant to the National Oceanic and Atmospheric Administration (NOAA) Regulations (15 CFR 930), the DCMP has reviewed the proposed changes to the NWP program against the program's NOAA-approved enforceable policies. The NWPs have been divided into three categories: issued, conditioned, and denied. Justifications for conditions and denials are detailed below.

The following is the federal consistency determination review response including supporting analysis and justification. The DCMP supports the draft 2026 Delaware Regional Conditions as proposed and the following review is based on those regional conditions being implemented. This review response is organized as follows:

- **Issued:** Those NWPs (provided adherence to all required General and Regional Conditions defined by the USACE) with which the DCMP concurs that the uses of those NWPs are consistent with the policies of the DCMP.
- **Conditioned:** Those NWPs (provided adherence to all required General and Regional Conditions defined by the USACE) with which the DCMP conditionally concurs that the use of those NWPs are consistent with the policies of the DCMP.
- **Denied:** Those NWPs with which the DCMP concludes that the use of those NWPs are inconsistent with the policies of the DCMP, and therefore, individual federal consistency reviews would be required.
- **Summary:** Table of Nationwide Permits and Delaware's Coastal Zone Management Federal Consistency Review

Pursuant to 33 CFR 330.4(d), the state may impose conditions on a general Coastal Zone Management Act (CZMA) consistency concurrence for the division engineer to review, which would be made into regional conditions. If the division engineer determines that the CZMA consistency concurrence conditions do not comply with the Corps' regulations regarding permit conditions (33 CFR 325.4), the consistency will be considered denied without prejudice. In those circumstances, any prospective permittee wanting to use such NWP to authorize activities within or outside the state's coastal zone that affects uses or resources of the state's coastal zone needs to obtain an individual CZMA consistency concurrence or a presumption of concurrence in order for the activity to be authorized by such NWP (15 CFR 930.31(d)).

Issued: Those NWPs (provided adherence to all required General and Regional Conditions defined by the USACE) with which the DCMP concurs that the uses of those NWPs are consistent with the policies of the DCMP.

- 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 9 - Structures in Fleeting and Anchorage Areas
- NWP 10 - Mooring Buoys
- NWP 11 - Temporary Recreational Structures
- 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 - Oil Spill Cleanup
- NWP 22 - Removal of Vessels
- NWP 25 - Structural Discharges
- NWP 27 - Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities
- NWP 28 - Modifications of Existing Marinas
- 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 36 - Boat Ramps
- NWP 37 - Emergency Watershed Protection and Rehabilitation
- NWP 38 - Cleanup of Hazardous and Toxic Waste
- NWP 41 - Reshaping Existing Drainage Ditches
- NWP 45 - Repair of Uplands Damaged by Discrete Events
- NWP 49 - Coal Remining Activities
- NWP 53 - Removal of Low-Head Dams

Conditioned: Those NWPs (provided adherence to all required General and Regional Conditions defined by the USACE) with which the DCMP conditionally concurs that the uses of those NWPs are consistent with the policies of the DCMP. The following analysis refers to each Nationwide Permit being granted with conditions, an explanation of why the condition is necessary to concur that the use of the permit would be consistent with the policies of the DCMP, and a citation to the policy(-ices) relevant to the condition.

- NWP 23 – Approved Categorical Exclusions

According to the recent regulatory changes to the National Environmental Policy Act, there are concerns related to the ability of agencies to adopt other agencies' categorical exclusions. As such, there is not enough information regarding other possible categorical exclusions to fully evaluate them against the policies of the DCMP. [7 DE Admin. Code 2201, subsection 3.2.3.2.1]

Specific Condition:

- 1) An individual federal consistency review is required for any proposed projects designated as a categorical exclusion that has not been previously approved as noted in the USACE regulatory guidance letter 05-07.

- NWP 35 - Maintenance Dredging of Existing Basins

As described in DCMP's NOAA-approved justification to review dredging projects exceeding 50,000 cubic yards in interstate waters, larger scale projects have more significant direct and secondary environmental impacts, and the required maintenance dredging to maintain a targeted depth must be considered with regard to cumulative impacts to the Delaware Estuary. Repeated, large-scale dredging operations can alter the balance of sediment transport systems. Sediment budget estimates indicate that maintenance dredging removes more sediment from the Delaware Estuary than that which is supplied by rivers, suggesting that the system as a whole has a deficit of sediment¹. Therefore, the increased removal of sediment has the potential to starve marshes of depositional material, needed to keep pace with rising sea levels. [7 DE Admin. Code 2201, subsections 5.3.2.7, 5.4.17, 5.4.25, and 5.11.1.1.3]

Specific Condition:

- 1) Proposed projects utilizing NWP 35 require individual consistency concurrence reviews if the proposed project exceeds 50,000 cubic yards of dredge material.

- NWP 40 - Agricultural Activities
NWP 42 - Recreational Facilities
NWP 43 - Stormwater Management Facilities
NWP 46 - Discharges in Ditches

According to Delaware's anti-degradation policies, degradation of water quality in such a manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Discharges into Delaware Exceptional Recreational or Ecological Significance (ERES) waters shall be avoided to the maximum extent practicable. In order to be permitted in ERES Waters, a discharge must be the least environmentally damaging, practicable alternative. Note: The DCMP continues to support the prohibition of the use of NWPs 40, 42, and 43 in Critical Resource Waters as specified in General Condition 22 and Regional General Condition 7. [7 DE Admin. Code 2201, subsections 5.3.1.5 and 5.3.1.13]

Specific Condition:

- 1) An individual federal consistency review is required for any projects that may result in discharges to Delaware ERES waters.

¹ Cook, T. L., Sommerfield, C. K., Wong, K-C. 2007. Estuarine, Coastal and Shelf Science. Vol. 72. pp 235-246.

- NWP 48 – Commercial Shellfish Mariculture

Water resources must be protected and conserved to ensure continued availability for public recreational purposes, public interest, for the conservation of aquatic life and wildlife, for surface and groundwater hydrology, and for sediment transport functions. Existing instream water uses and the level of water quality necessary to protect the existing uses must be maintained and protected. [7 DE Admin. Code 2201, subsections 5.3.1.3, 5.3.1.4, 5.3.1.6, 5.3.1.10, 5.4.17, 5.4.22, 5.4.23, 5.4.24, 5.11.1, 5.11.2, and 5.11.4]

Specific Condition:

- 1) An individual federal consistency review is required for projects proposed within critical resource waters and/or Delaware ERES Waters.

- NWP 54 - Living Shorelines

Changes in scope, size, location, or other characteristics of a project may lead to the utilization of the NWP outside of the conditions under which concurrence was issued. Additionally, proposed projects which include the establishment of pocket beaches may alter the use of existing subaqueous lands as allowed under the public trust doctrine, and the material used to create the pocket beach could alter the use of the shoreline by wildlife species (e.g., access and utilization by horseshoe crabs). [7 DE Admin. Code 2201, § 3.1.4, 5.4.22, 5.4.23, 5.11, 5.14]

Specific Conditions:

- 1) Proposed projects requiring a waiver by the USACE district engineer for NWP 54 or projects that propose pocket beaches will require individual consistency reviews.

- NWP 55 – Seaweed Mariculture Activities

No activity shall have an adverse environmental effect on living resources, and all forms of protected wildlife shall be managed and protected from negative impacts. The DCMP shall include in the review of a proposed activity the consideration of the activity's effects on the removal or recycling of inorganic nutrients, wetland production value, habitat value, and unique wetland features. Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife. Water resources must be protected and conserved to assure continued availability for public recreational purposes, public interest, for the conservation of aquatic life and wildlife, for surface and groundwater hydrology, and for sediment transport functions. Existing instream water uses and the level of water quality necessary to protect the existing uses must be maintained and protected. According to Delaware's anti-degradation policies, degradation of water quality in such a

manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Discharges to Delaware ERES Waters shall be avoided to the maximum extent practicable. In order to be permitted, a discharge must be the least environmentally damaging practicable alternative. [7 DE Admin. Code 2201, subsections 5.3.1.3, 5.3.1.4, 5.3.1.6, 5.3.1.10, 5.3.1.13, 5.3.1.14, 5.4.17, 5.4.22, 5.4.23, 5.4.24, 5.11.1, 5.11.2, and 5.11.4]

Specific Conditions:

- 2) An individual federal consistency review is required for projects proposed within critical resource waters and/or Delaware ERES Waters.
- 3) Any introduced shellfish as part of an integrated multi-trophic mariculture system must be certified under Delaware standards as being disease and parasite free.
- 4) Use of unsuitable materials for shellfish seeding (i.e. asphalt, bituminous concrete slag, tires, wallboard, plastic, wood, metal, crushed glass, and garbage) is prohibited.
- 5) Any proposed mariculture activity within any portion of the Shellfish Aquaculture Development Areas (SADA) locations in the Delaware Inland Bays would not be subject to the terms of Regional General Conditions G-1 or G-2.
- 6) Any PCN to the Corps of Engineers for any mariculture activities within the SADA locations in the Delaware Inland Bays must provide the following information: (1) name and address of the applicant, (2) a copy of any lease agreement between the applicant and the State of Delaware for the proposed mariculture activity, (3) a description of the proposed equipment to be used at each location, (4) the location of the proposed activity including latitude and longitude coordinates along with any other lease area identification numbers further identifying the leased area(s).

- NWP 57 - Electric Utility Line and Telecommunications Activities
NWP 58 - Utility Line Activities for Water and Other Substances

According to Delaware's anti-degradation policies, degradation of water quality in such a manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Discharges to Delaware ERES Waters shall be avoided to the maximum extent practicable. In order to be permitted, a discharge must be the least environmentally damaging practicable alternative. [7 DE Admin. Code 2201, § 5.3.1.13, 5.3.1.14]

Specific Condition:

- 1) An individual federal consistency review is required for any projects proposed within Delaware ERES Waters.

- NWP 59 - Water Reclamation and Reuse Facilities

No activity shall have an adverse environmental effect on living resources, and all forms of protected wildlife shall be managed and protected from negative impacts. The DCMP shall include in the review of a proposed activity the consideration of the activity's effects on the

removal or recycling of inorganic nutrients, wetland production value, habitat value, and unique wetland features. Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife. Water resources must be protected and conserved to assure continued availability for public recreational purposes, public interest, for the conservation of aquatic life and wildlife, for surface and groundwater hydrology, and for sediment transport functions. Impairment of water resources in such a manner that results in reduced number, quality, or river or stream mileage of existing uses is prohibited. According to Delaware's anti-degradation policies, degradation of water quality in such a manner that results in reduced number, quality, or river or stream mileage of existing uses shall be prohibited. Discharges to Delaware ERES Waters shall be avoided to the maximum extent practicable. In order to be permitted, a discharge must be the least environmentally damaging practicable alternative. DCMP considers the degree to which the project incorporates sound engineering principles and appropriate materials of construction. [7 DE Admin. Code 2201, subsections 5.3.1.3, 5.3.1.4, 5.3.1.6, 5.3.1.7, 5.3.1.10, 5.4.17, 5.4.22, 5.4.23, 5.4.24, 5.11.1, 5.11.2, and 5.11.4]

Specific Conditions:

- 1) Projects proposed in critical resource waters and/or Delaware ERES waters require individual federal consistency reviews.
- 2) This NWP does not authorize the placement of any temporary structures in any areas mapped with submerged aquatic vegetation (SAV).
- 3) This NWP may not be used to authorize stream elimination, relocation, or impoundment.
- 4) This NWP does not authorize construction of sewage disposal systems in waters of the United States.
- 5) Activities occurring in wetlands, authorized by this NWP shall require the use of construction pads, timber matting, and/or geotextile fabric, or a best management practice (BMP) to prevent wetland compaction.

• NWP A - Activities to Improve Passage of Fish and Other Aquatic Organisms

No activity shall have an adverse environmental effect on living resources, and all forms of protected wildlife shall be managed and protected from negative impacts. Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife. [7 DE Admin. Code 2201, subsections 5.11.2.1, 5.11.4.1]

Specific Conditions:

- 1) Coordination with DNREC Division of Fish and Wildlife, Fisheries Section regarding the design and installation of activities to improve passage of fish and other aquatic organisms is required when utilizing this NWP.

- 2) Activities related to nature-like fishways, in-water structures, and weirs shall follow the standards for fish passage found in the Federal Interagency design guidelines for Atlantic Coast diadromous fishes (related to swimming capabilities and safe, timely, efficient passage)² to minimize impacts to target species.

If the district engineer does not intend to incorporate any of the above conditions into the “Delaware 2026 Nationwide Permit Regional Conditions”, please notify the DCMP of this decision and direct prospective applicants for the affected NWP(s) to seek individual federal consistency review.

Denied: Those NWPs with which the DCMP concludes that the use of those NWPs are inconsistent with the policies of the DCMP, and therefore, individual federal consistency reviews would be required.

- NWP 8 - Oil and Gas Structures on the Outer Continental Shelf
- NWP 12 - Oil or Natural Gas Pipeline Activities
- NWP 21 - Surface Coal Mining Activities
- NWP 29 - Residential Developments
- NWP 39 - Commercial and Institutional Developments
- NWP 44 - Mining Activities
- NWP 50 - Underground Coal Mining Activities
- NWP 51 - Land-Based Renewable Energy Generation Facilities
- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects

Proposed projects discharging dredged or fill material into waters of the United States for oil or natural gas pipeline activities, residential development, commercial and institutional development, mining activities, and land- or water-based renewable energy generation facilities, as permitted under NWPs 8, 12, 21, 29, 39, 44, 50, 51, and 52 require individual federal consistency reviews.

Water resources of the state must be protected and conserved to assure continued availability for public recreational purposes, public interest, for the conservation of aquatic life and wildlife, for surface and groundwater hydrology, and for sediment transport functions. Existing instream water uses and the level of water quality necessary to protect the existing uses must be maintained and protected. Impairment of water resources in such a manner that results in reduced number, quality, or river or stream mileage of existing uses is prohibited. All surface waters of the state must be free from substances that are attributable to wastes of industrial, municipal, agricultural, or other human-induced origin. Additionally, no activity shall have an adverse environmental effect on living resources, and all forms of protected wildlife shall be managed and protected from negative impacts. Actions which may interfere with or otherwise adversely affect fish and wildlife in Delaware shall be implemented only after careful consultation with DNREC and exploration of alternatives less damaging to such fish and wildlife. [7 DE Admin. Code 2201, subsections 5.3.1.3, 5.3.1.4, 5.3.1.6, 5.3.1.10, 5.3.1.15, 5.4.17, 5.4.22, 5.4.23, 5.4.24, 5.11]

² Turek, James et al. (2016). Federal Interagency Nature-like Fishway Passage Design Guidelines for Atlantic Coast Diadromous Fishes (<https://repository.library.noaa.gov/view/noaa/28919>).

- Nationwide Permit 8 - Oil and Gas Structures on the Outer Continental Shelf

In addition to the justification noted above, Sections 307(c) and (d) of the CZMA provide that no federal agency shall grant a license or permit for any activity described in detail in an OCS plan which affects any land or water use or natural resource in the coastal zone until the DCMP concurs with the certification of consistency made by the person submitting the OCS plan. The discharge of oil from a vessel, truck, pipeline, storage tank, or tank cars which causes or poses a threat of making a film on, emulsion in, or sludge beneath the waters of the state or its shoreline is prohibited. [7 DE Admin. Code 2201, subsections 2.2.3, 5.3.1.15]

- Nationwide Permit 12 - Oil or Natural Gas Pipeline Activities

In addition to the justification noted above, the natural environment of the coastal strip must be protected from the impacts of heavy industry and oil pollution for the purpose of recreation, tourism, fishing, crabbing, and gathering other marine life useful in food production. The discharge of oil from a vessel, truck, pipeline, storage tank, or tank cars which causes or poses a threat of making a film on, emulsion in, or sludge beneath the waters of the state or its shoreline is prohibited. Offshore pipelines which transfer bulk quantities of gas, oil, or other liquids are prohibited from terminating within the coastal strip. Leases for the extraction and production of minerals determined to be in the public's interest must not create any air, water, or other pollution, endanger marine life or wildlife, and must protect state lands from drainage of oil, gas, or other minerals or objectionable substances. [7 DE Admin. Code 2201, subsections 5.3.1.15, 5.4.2, 5.4.10, 5.4.14.7, and 5.12.1]

- NWP 29 - Residential Developments

In addition to the justification noted above, new community development actions should discourage "sprawl" and generally should occur within or near existing population concentrations where utility networks and community facilities and services are already in place or can economically be expanded. [7 DE Admin. Code 2201, subsections 5.23.1.1.1 and 5.23.1.1.2]

- NWP 39 - Commercial and Institutional Developments

In addition to the justification noted above, major commercial development should be encouraged in existing central business districts. Commercial strip development impedes traffic flow throughout the highway network, reduces the operating capacity of roadways, and decentralizes commercial activity should be significantly curtailed. [7 DE Admin. Code 2201, subsection 5.23.1.2]

- NWP 21 - Surface Coal Mining Activities
NWP 44 - Mining Activities
NWP 50 - Underground Coal Mining Activities

In addition to the justification noted above, coal mining activities have not occurred within Delaware and as such, there is not enough information regarding possible impacts to fully evaluate them against the policies of the DCMP. Additionally, leases for the extraction and production of minerals determined to be in the public's interest must not create any air, water, or other pollution, endanger marine life or wildlife, and must protect state lands from drainage of oil, gas, or other minerals or objectionable substances. [7 DE Admin. Code 2201, subsections 3.2.3.2.1 and 5.12.1]

- NWP 51 - Land-Based Renewable Energy Generation Facilities

The use of this NWP is denied on the basis of the justification noted above regarding potential impacts to water quality and living resources.

- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects

In addition to the justification noted above, sections 307(c) and (d) of the CZMA provide that no federal agency shall grant a license or permit for any activity described in detail in an OCS plan which affects any land or water use or natural resource in the coastal zone until the DCMP concurs with the certification of consistency made by the person submitting the OCS plan. [7 DE Admin. Code 2201, subsection 2.2.3]

Summary - Table of Nationwide Permits and Delaware's Coastal Zone Management Federal Consistency Review

Nationwide Permit	Delaware CZMA Response
1. Aids to Navigation	Issued
2. Structures in Artificial Canals	Issued
3. Maintenance	Issued
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	Issued
5. Scientific Measurement Devices	Issued
6. Survey Activities	Issued
7. Outfall Structures and Associated Intake Structures	Issued
8. Oil and Gas Structures on the Outer Continental Shelf	Denied
9. Structures in Fleeting and Anchorage Areas	Issued
10. Mooring Buoys	Issued
11. Temporary Recreational Structures	Issued
12. Oil or Natural Gas Pipeline Activities	Denied
13. Bank Stabilization	Issued
14. Linear Transportation Projects	Issued

Nationwide Permit	Delaware CZMA Response
15. U.S. Coast Guard Approved Bridges	Issued
16. Return Water from Upland Contained Disposal Areas	Issued
17. Hydropower Projects	Issued
18. Minor Discharges	Issued
19. Minor Dredging	Issued
20. Response Operations for Oil or Hazardous Substances	Issued
21. Surface Coal Mining Activities	Denied
22. Removal of Vessels	Issued
23. Approved Categorical Exclusions	Conditioned
24. Indian Tribe or State Administered Section 404 Programs (Delaware does not administer Section 404)	-
25. Structural Discharges	Issued
26. [Reserved]	-
27. Aquatic Ecosystem Restoration, Establishment, and Enhancement Activities	Issued
28. Modifications of Existing Marinas	Issued
29. Residential Developments	Denied
30. Moist Soil Management for Wildlife	Issued
31. Maintenance of Existing Flood Control Facilities	Issued
32. Completed Enforcement Actions	Issued
33. Temporary Construction, Access, and Dewatering	Issued
34. Cranberry Production Activities	Denied
35. Maintenance Dredging of Existing Basins	Conditioned
36. Boat Ramps	Issued
37. Emergency Watershed Protection and Rehabilitation	Issued
38. Cleanup of Hazardous and Toxic Waste	Issued
39. Commercial and Institutional Developments	Denied
40. Agricultural Activities	Conditioned
41. Reshaping Existing Drainage Ditches	Issued
42. Recreational Facilities	Conditioned
43. Stormwater Management Facilities	Conditioned
44. Mining Activities	Denied
45. Repair of Uplands Damaged by Discrete Events	Issued
46. Discharges in Ditches	Conditioned
47. [Reserved]	-
48. Commercial Shellfish Mariculture Activities	Conditioned
49. Coal Remining Activities	Issued
50. Underground Coal Mining Activities	Denied
51. Land-Based Renewable Energy Generation Facilities	Denied
52. Water-Based Renewable Energy Generation Pilot Projects	Denied
53. Removal of Low-Head Dams	Issued
54. Living Shorelines	Conditioned
55. Seaweed Mariculture Activities	Conditioned

Nationwide Permit	Delaware CZMA Response
56. [Not Reissued] Finfish Mariculture Activities	-
57. Electricity Utility Line and Telecommunication Activities	Conditioned
58. Utility Line Activities for Water and Other Substances	Conditioned
59. Water Reclamation and Reuse Facilities	Conditioned
A. Activities to Improve Passage of Fish and Other Aquatic Organisms	Conditioned

Pursuant to 15 CFR § 930.31(e), in the case of modifications of any aspect of the NWPs as proposed that result in a substantially different effect on any coastal use or resource, the DCMP will review the modified aspects of this activity for consistency with the enforceable policies of Delaware's approved management program.

Thank you for the opportunity to review and respond to the 2026 Proposal to Reissue and Modify Nationwide Permits federal consistency determination. The DCMP looks forward to working with the Philadelphia District to continue to implement the NWP program in Delaware. If you have any questions, please contact Jennifer Holmes of my staff at (302) 739-9283.

Sincerely,



Jesse Hayden, Administrator
Coastal Programs Section

JH:jlh

cc: File FC 2025.0039
Kimberly Cole – DNREC DCCE
Tina Merrill – DNREC DAQ
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Anthony Gonzon – DNREC DFW
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