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May 15, 2026

Ms. Kathleen McCafferty
CECW-CO-R
U.S. Army Corps of Engineers
441 G. Street, N.W.
Washington, D.C. 20314-1000

Re: Docket # COE 2026-0001, "Notice of Solicitation of Input on Potential Future Changes to Nationwide Permits"

Dear Ms. McCafferty:

The National Association of Wetland Managers (NAWM) submits the following comments in response to the request from the U.S. Army Corps of Engineers (Corps) for written input on potential future changes to the Nationwide Permit (NWP) program, published on March 16, 2026.

NAWM is a national 501(c)(3) professional organization that supports the use of sound science, law, and policy in development and implementation of state and tribal wetland and aquatic resource protection programs. Since 1983, our organization and our member states and Tribes have had longstanding positive and effective working relationships with federal agencies including the Corps. As an association representing state and tribal co-regulators, NAWM understands the complexity of the Clean Water Act (CWA) and the implementation challenges the Act poses. We have worked together with federal agencies in the implementation of regulatory and non-regulatory programs designed to protect waters of the United States (WOTUS), such as challenges in determining the jurisdictional status of wetlands and other waters as WOTUS, CWA section 404 permit program for discharges of dredged or fill material, state and tribal water quality standards for wetlands, and CWA section 401 water quality certification of federal licenses and permits.

The Rivers and Harbors Act of 1899 and CWA section 404(e) authorize the Corps to issue general permits on a nationwide basis for any category of activities involving discharges of dredged or

fill material into WOTUS. The goals of NWPs and other general permits are administrative efficiency, including reduced paperwork and delays, while maintaining protections for jurisdictional aquatic resources. The activities authorized by an NWP must be similar in nature and cause only minimal adverse effects both individually and cumulatively. Under statute, NWPs and other CWA permits are valid for five years. The current set of NWPs will expire on March 15, 2031, unless they are modified or reissued before then.

NAWM supports efforts to increase efficiency of the section 404 dredged/fill permit program, including NWPs. However, streamlining should not come at the expense of environmental protection required under the CWA and other laws, nor should it shift additional burden to states and Tribes or limit their ability to ensure compliance with their water quality requirements. This means streamlining and increases in permitting efficiency should occur only while maintaining provisions necessary to protect WOTUS including wetlands.

Responding to Questions Posed in the Corps Solicitation

The Corps is seeking input on ways to increase the efficiency of the NWP program and will consider such input in future rulemakings. The solicitation states that input on all aspects of the NWP program is welcome, while providing six questions. These questions include (1) measures to eliminate unnecessary review; (2) measures to improve or maintain efficiency of Pre-construction notification (PCNs) and NWP verifications; (3) potential new NWPs; (4) measures to ensure NWPs cause no more than minimal adverse environmental effects; (5) NWP provisions addressing ocean waters; and (6) improvements to existing regulations regarding general permits and implementation of the NWP program.

NAWM has chosen to focus its comment letter on issues of particular concern to our state and tribal members, and where we can offer information and perspectives helpful for ensuring the NWP program is consistent with the CWA. Issues which NAWM is not addressing in this letter should not be interpreted as areas where NAWM has no concerns. NAWM is encouraging its state and tribal members to comment directly and provide additional specifics and information.

Pre-Construction Notifications (Questions #1, 2)

The Corps solicitation asks for measures to eliminate unnecessary review in the NWP program and improve efficiency in the review of PCNs. For many but not all NWPs, a project proponent must provide a PCN to the Corps, who in turn evaluates a PCN to ensure the project would comply with requirements. PCNs are required for specific categories of activities and their respective NWPs and for when certain thresholds of aquatic resource impacts are met (e.g., NWP 12, 13, 14, 21, 29, 39). PCNs are also required when certain NWP General Conditions apply, whether or not the NWP to be used has a PCN requirement (e.g., GC 18, 20, 22). Further, PCNs may be triggered at the Corps District level by the

District's Regional Conditions which are developed to ensure no more than minimal adverse impacts result at the regional level.

As stated earlier, NAWM supports efforts to increase efficiency of the NWP program, but not at the expense of environmental protection. For example, some stakeholders have previously suggested that Corps evaluation of PCNs would be quicker and more efficient if the Corps established a rebuttable presumption that all projects eligible for a NWP will have no more than minimal effects. To rebut this presumption, a project opponent could provide the Corps with evidence showing that the proposed project will have more than minimal effects. NAWM believes such a presumption and streamlined approach would be contrary to the CWA and would result in approval of projects that do not meet the statutory requirement that general permits cause no more than minimal environmental effects either individually or cumulatively.

Justifying the removal of PCN requirements for categories of activities, conditions, or thresholds would be inconsistent with CWA section 404, Corps regulations, and current NWP General Condition 32 (PCN). General Condition 32 specifies that the permittee must submit a PCN to the district engineer before starting work if a NWP authorizes activities that might cause more than minimal impacts, or if required by specific NWP conditions. The Corps has long acknowledged that some activities appearing to be authorized by a NWP might cause more than minimal impacts, either individually or cumulatively.[1] The Corps has relied on Division and District Engineers to ensure that any authorizations regionally or on individual projects respectively do not exceed minimal effects. If current PCN requirements are eliminated or reduced, or the list of NWPs that do not require a PCN is expanded, the Corps would be unable to ensure projects would be consistent with the statutory and regulatory requirement of no more than minimal effects.

NAWM Recommendation: All NWPs should contain or trigger a PCN requirement when the activities and associated discharges that the permit authorizes could cause or contribute to more than minimal adverse impact without review. NAWM recommends retaining current PCN requirements unless further scientific work and research documents that there would be only minimal individual or cumulative adverse impacts applicable to all regulated waters across the nation. Proposed new NWPs also should be accompanied by the scientific justification that there will be no more than minimal adverse impacts, both individually and cumulatively, for any and all regulated waters.

[1] *See, e.g.,* 33 CFR §330.1(d), indicating that the Corps will authorize only activities that have no more than minimal individual or cumulative impacts.

Experience shows that efficient environmental protection results when the Corps coordinates its PCN processes and procedures with states and Tribes, as well as with other Federal agencies with relevant authorities.

For example, one of NAWM's state members has emphasized that its existing PCN coordination process with the Louisville District is functioning effectively and should be maintained. In this case, the Corps receives PCNs and coordinates directly with the state, allowing the state to identify within approximately ten days the appropriate Water Quality Certification (WQC) pathway (e.g., no WQC, General WQC, or Individual WQC). This approach has improved overall efficiency without delaying project timelines. The state believes strongly that this coordination framework should not be bypassed or compressed.

NAWM and many of its state and tribal members stress that early and consistent coordination among the Corps and affected states and Tribes is critical, particularly for projects that are likely to require an Individual WQC, as it helps avoid delays later in the review process. States and Tribes encourage continued emphasis on early coordination rather than reducing or streamlining these interactions in a way that limits state and tribal involvement. Coordinated, interagency review processes for PCNs have improved both efficiency and environmental outcomes and should be expanded and supported rather than reduced or replaced through national-level streamlining efforts.

Such interagency coordination of PCNs need not be a source of delay. Corps data indicates that the average processing time for authorization under a NWP with an associated PCN is 55 days.[2] This timeframe is within the review time predicted by many state, tribal, and local entities, indicating no delays to the overall process.[3] As a result, the current PCN process does not appear to delay start and completion of the activity and project.

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[2] 90 Fed.Reg. 26100, 26102 (June 18, 2025). Note that the Corps also has discussed how NWPs with PCNs are significantly less burdensome than individual permits. *See, e.g*., 86 Fed.Reg. 2744, 2745 (January 13, 2021). ("In fiscal year 2018, the average processing time for an NWP PCN was 45 days and the average processing time for standard individual permit was 264 days. This difference in burden can incentivize project proponents to reduce the adverse effects of their planned activities that would otherwise require an individual permit … in order to qualify for NWP authorization.")

[3] For example, an examination of several counties in Maryland showed times ranging from 10 to 15 days to 180 days to issue a building permit, if all information is complete and code compliant. The time to prepare the detailed information required at the local level can be done concurrently with NWPs with PCNs, or in advance of local reviews without delays in the overall process. Specific timeframes vary from county to county. For example, Prince George's County averages 4-6 weeks (https://www.princegeorgescountymd.gov/faq/commercial-building-permit-permitting-inspections-and-enforcement/what-estimated-timeframe-processing-and-issuing-building-permit-use-occupancy-uo-application Retrieved 4/13/2026). Anne Arundel County timeframe for approvals for a subdivision is a minimum 180 days (https://www.aacounty.org/planning-and-zoning/development/residential Retrieved 4/13/2026). Carroll County processing timeframe is 10-15 days if application complete and code compliant (https://www.carrollcountymd.gov/government/directory/public-works/permits-inspections/residential-projects/building-a-new-home-or-addition/ Retrieved 4/13/2026). Montgomery County takes 4-6 weeks to process an application (https://www3.montgomerycountymd.gov/311/SolutionView.aspx?SolutionId=1-4WU20J&AspxAutoDetectCookieSupport=1 Retrieved 4/13/2026).

NAWM Recommendation: The Corps should establish or continue coordination that speeds up the approval process, particularly where the project implicates CWA section 401 water quality certification.

Ensuring No More Than Minimal Effects (Question #4)

CWA section 404(e) authorizes the Corps to develop general permits on a nationwide basis, provided that activities authorized under an NWP are similar in nature and result in only minimal adverse environmental effects both individually and cumulatively.[4] The minimal effects requirement is a foundational element of the NWP program and essential to ensuring consistency with the CWA's goal of protecting aquatic resources.

The NWP program needs better coordination with states and Tribes when the Corps determines whether the minimal effects standard is met. States and Tribes play a critical role in evaluating impacts to waters within their jurisdictions, including consideration of cumulative effects and consistency with water quality requirements. Such coordination should be accompanied by clearer Corps methodologies and more complete data for determining cumulative impacts to ensure consistency with the CWA. Such guidance should include clarification of appropriate spatial and temporal scales for analysis, improved documentation of cumulative effects considerations in PCN reviews and verifications, and should ensure that the use of multiple NWPs (or "stacking") for components of a single entire project does not obscure the full scope of impacts or avoid appropriate mitigation. Such clear and transparent guidance would improve consistency and support effective interagency coordination.

NAWM's state and tribal members have noted that, in practice, there are ongoing concerns that cumulative effects are not always fully captured, particularly at the watershed scale, where repeated use of NWPs over time may result in incremental degradation of waters. These incremental impacts, often described as a "death by a thousand cuts," can collectively exceed what would be considered minimal, even where individual activities appear minor. Without a robust and consistently applied framework for evaluating cumulative effects, the NWP program risks authorizing impacts that, in aggregate, exceed the "minimal adverse environmental effects" threshold required under the CWA.

NAWM Recommendation: The Corps should clarify its methodology for assessing cumulative impacts used to ensure a NWP will result in no more than minimal adverse environmental impacts. Such clarification would make the process more transparent and consistent and assist coordination among the Corps with state, tribal, and federal agencies.

[4] CWA §404(e), 33 U.S.C. §1344(e)(1).

Improved Corps guidance on cumulative effects analyses could build off existing information and guidance by federal agencies and others, including how to strengthen the review. For example, attachment 1 at the end of this letter includes examples of cumulative effects methodologies that could prove helpful.

NAWM Recommendation: The Corps should engage federal agencies, the states, Tribes, and other experts when developing a scientifically sound and transparent approach to demonstrating that the NWPs meet the statutory threshold of no more than minimal adverse environmental impacts. The Corps should seek agreement from states and Tribes on the cumulative impact assessment methodologies being used.

The Corps' NWP program includes several provisions that help ensure that NWPs have no more than minimal adverse effects. These include, for example, a PCN requirement for many NWPs (General Condition 32, discussed above), Corps district regional conditions, and CWA section 401 water quality certification.

Regional Conditions and Other Localized Tools. The evaluation of cumulative impacts is critical to the NWP program meeting the statutory requirement of CWA 404(e), at both the national and regional level. In fact, the Corps Federal Register Notice announcement of the new NWPs relies on the District Engineers to ensure compliance with the minimal effects statutory provision. Division engineers are authorized to modify, suspend, or revoke NWP authorizations on a regional basis to take into account regional differences among aquatic resources and ensure that use of NWPs will result in no more than minimal individual and cumulative adverse environmental effects in a region.[5] "After the NWPs are issued or reissued, division engineers will issue supplemental documents to determine whether regional conditions are necessary to ensure that use of the NWPs on a regional basis (*e.g.,* within a Corps district or state) will authorize only those activities with no more than minimal individual and cumulative adverse environmental effects." [6]

In its push for streamlining and increased efficiency, the Corps should not reduce or eliminate regional conditioning of NWPs. Regional conditions are essential for ensuring no more than minimal effects result from the use of a NWP on a regional or smaller scale. Regional conditions are more likely to achieve their objective where they are developed in consultation with affected states or Tribes who are most familiar with aquatic resources in their jurisdictions.

A national rule would not be able to address all regional differences. An effective measure for the Corps would be to work with the states and Tribes to identify the activities, thresholds, and information requirements which could result in a more streamlined review. The Corps should build upon, rather than eliminate, existing regional coordination

[55] 91 Fed.Reg. 768, 771 (January 8, 2026)
[6] *Id.* at 771.

tools and programmatic approaches that have demonstrated success. The removal of such mechanisms, including the use of regional general permits (RGPs) or state programmatic general permits (SPGPs) in the place of NWPs and other coordinated frameworks, risks reducing efficiency and undermining well-established state, tribal, and federal partnerships.

NAWM Recommendation: The NWP program should continue to call on district engineers to establish regional conditions for NWPs, developed in consultation with affected states or Tribes and other relevant federal agencies, that are necessary to ensure the NWP results in no more than minimal effects regionally. Other regionalized mechanisms, such as RGPs and SPGPs, should continue to be available.

Section 401 Water Quality Certification. Another example of a CWA provision ensuring water quality goals are met under the NWP and other programs is CWA 401 water quality certification. This certification requirement applies to every federal license or permit that may result in a discharge to WOTUS.[7] Under section 401, an individual or general section 404 permit cannot be issued unless a state or tribe certifies that the permit would be consistent with water quality standards and other listed CWA programs as well as with state or tribal water quality requirements.

Effective implementation of section 401 depends on early coordination, clear communication, and the availability of sufficient and complete information to support state and tribal decision making. Ensuring that certifying authorities have the time and information necessary to evaluate compliance with water quality standards and requirements is essential to both efficiency and environmental protection and should be reinforced in any future changes to the NWP program.

Many states and Tribes find that early coordination with the Corps regarding WQCs for NWPs results in an efficient and improved result. For example, one state shared that they have executed a Memorandum of Understanding (MOU) with the Corps, formalizing section 401 coordination procedures to streamline certification processing and modification approvals. This state has also developed programmatic certifications for a variety of NWPs and regional general permits, helping to reduce administration burden by allowing qualifying projects to go forward while maintaining water quality protection and review for those projects requiring greater scrutiny. Formalized coordination mechanisms such as these provide predictability and efficiency while maintaining appropriate environmental review, and the Corps should encourage the development and use of similar tools nationwide.

NAWM Recommendations: Efforts to streamline and increase efficiency of the NWP program must ensure that 401 certifying authorities retain the ability to conduct meaningful timely, and fully informed section 401 certification reviews. The Corps

[7] CWA §401(a), 33 U.S.C. §1341.

also should seek to develop MOUs with certifying authorities that establish processes for faster and more effective certifications.

NWPs for Marine Waters (Question #5)

NWPs are reserved for discharges that have at a national level only minimal individual and cumulative impacts. As a category of actions, there should not be extensive work necessary to determine if the discharge qualifies for a NWP.

Ocean dumping requires information on baseline conditions of the disposal area and material[8]. A concern for receiving States is also that the material may move into other jurisdiction's waters. The information and actions needed for ocean dumping are extensive, and include:

a. A hydrographic study;
b. Onsite monitoring, including bathymetric surveys to ensure that 'mounding' is not occurring and that navigation is not impacted. If mounding is occurring or navigation is impacted, the conditions will be abated prior to receiving additional material. If hypoxic conditions are reported within a region-specific distance to the site, no material can be received until hypoxic conditions are abated and conditions return to normal; and
c. Tests of the material to ensure that the material is free from hazardous waste, garbage or other trash, plastics, organic materials, chemicals, and pesticides.

Given the extensive testing and studies which must be conducted, NAWM does not believe that ocean dumping is suitable for a NWP.

NAWM Recommendation: The Corps should not develop a NWP for discharges of dredged or fill material into marine waters. Requirements for ocean dumping activities are extensive and site-specific, making the activity not suitable for a NWP.

Policies and Regulations Confirming the Need for Coordination with Other Federal, State, and Tribal Aquatic Resource Protection Programs (Question #6)

Coordinating with states and Tribes is essential. The primary goal of the CWA is to "restore and maintain the chemical, physical, and biological integrity of the nation's waters,"[9] and the Act expressly recognizes the critical and important role states and Tribes play in protecting and enhancing waters within their respective borders.[10] NAWM's state and tribal members believe the NWPs are important components of state and tribal protection

[8] See list of references for ocean dumping in Attachment 2
[9] CWA §101(a), 33 U.S.C. §1251(a).
[10] "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources." CWA §101(b), 33 U.S.C. §1251(b).

of their wetlands and other aquatic resources when they reflect appropriate regional conditions and coordination procedures, including those to ensure compliance with their 401 water quality certifications and other legal requirements.

States and Tribes have essential roles to play in the NWP program to ensure all relevant and applicable requirements are met. States and Tribes must coordinate their aquatic resource protection programs with federal individual and NWP permitting programs to avoid inconsistencies and unnecessary duplication. For example, some states have worked very closely with their Corps Districts to develop state programmatic general permits (SPGPs) or regional general permits (RGPs) to take the place of the NWPs and streamline the permitting processes. Additionally, NWPs and individual 404 permits are subject to CWA section 401 water quality certifications from certifying authorities, to ensure proposed projects are consistent with water quality standards and other applicable water quality requirements. States and Tribes believe robust coordination with the Corps is vital to achieving CWA water quality goals and mandates.

Under current law and interagency agreements, the Corps also needs to coordinate with other federal agencies and states. For example, the Fish and Wildlife Coordination Act[11] (FWCA) requires coordination with the U.S. Fish & Wildlife Service and the state wildlife agency where the project is occurring for any federally permitted, licensed, or executed water development projects. A 2003 Memorandum of Agreement[12] between the U.S. Fish and Wildlife Service and the Corps of Engineers further guides coordination under the FWCA and ensures efficiency in the review process, compliance with other applicable laws, and environmental sustainability.

Interagency Coordination Meetings.

The Corps should continue to encourage interagency coordination meetings to discuss projects and address any potential concerns. Such meetings can be important because when a section 404 application is submitted it is not always clear whether the project might qualify for a NWP or requires an individual permit. Such coordination also can help highlight that many restrictions take place at the local level. For example, the Baltimore District of the Corps is a lead in the Interagency Review Team in Maryland, which also includes other state and federal agencies. Applicants are invited to present projects of interest or concern at these meetings, after which the agencies work together to address any concerns they may have before notifying the applicant with recommendations and needed information for their permit application. This process expedites the permit review process, ensuring necessary information is received. These meetings are held monthly and have proven extremely useful. These types of coordinated, interagency pre-application review processes have proven to improve both efficiency and environmental outcomes,

[11] Fish and Wildlife Act of 1956 (16 U.S.C. § 742 et seq.).

[12] "Partnership Agreement for Water Resources and Fish and Wildlife," signed by the U.S. Fish and Wildlife Service and the Army Corps of Engineers, January 2003.

and should be expanded and supported rather than reduced or replaced through national-level streamlining efforts.

NAWM Recommendation: The Corps should encourage coordination meetings with potentially affected states, Tribes, and federal agencies to discuss potential projects before it receives a permit application, and encourage project proponents to present projects at these meetings.

Coordinated Applications and Environmental Reviews.

Coordinated applications are an important tool for increasing efficiency and reducing duplication.

For example, in Washington State the Joint Aquatic Resource Permit Application (JARPA) was created to streamline the permitting process for work in waters requiring Corps permits under Rivers and Harbors Act Section 10 and CWA section 404. The JARPA helps ensure all required information is provided by project proponents needing to obtain federal, state, and local jurisdiction permits or authorizations. Additionally, Washington State developed coordination procedures to help streamline environmental review. In a state where there are multiple federally recognized Tribes to coordinate with to ensure treaty rights are met, and more than one 401 certifying authority (of the 29 federally recognized Tribes, 13 have 401 certification authority), this streamlined process was instrumental to ensuring timely permit processing and meeting complex environmental requirements.

Ironically, recent changes to Corps application requirements and procedures have resulted in less efficient and effective permit application processes, leading to not just a "one stop shop" for permit applicants/project proponents, but back to pre-1990's duplicative application procedures. This de-coupled permit application process, and/or changes in District coordination procedures, or other Corps' unilateral approaches to "streamline" can cause more delay and confusion for the regulated public. NAWM believes it is more efficient to have a coordinated approach with relevant state and tribal co-regulators. Maryland provides a useful example for how coordination can improve efficiency. In Maryland, it is a requirement under the terms of a State Programmatic Permit (MGSPGP-6) issued by the Corps for use in Maryland, that applicants use a joint permit application (JPA) developed by the Corps and Maryland Department of the Environment (MDE). It also is a requirement under MGSPGP-6 that applications be sent to MDE. MDE categorizes the activities in the JPA, and according to terms of the MDSPGP, transmits the application to the Corps if their review is needed as agreed upon through certain thresholds and conditions. This coordination approach has been continuously used by the Corps and MDE since the 1990s.[13]

[13] U.S. Army Corps of Engineers, "Maryland State Programmatic General Permit-6 (MDSPGP-6), 2021.

NAWM Recommendation: The Corps should include requirements for coordinated applications and environmental reviews where applicable and avoid policies that discourage such coordination.

Changes in Response to Executive Orders.

Federal policymakers are interested in reducing regulatory requirements to achieve policy goals. The Trump Administration has issued an unprecedented number of Executive Orders (EOs). Responses to these EOs should carefully evaluate the extent to which existing regulations, policies, and permits are already responsive to goals underlying the EOs.

For example, EO 14394, "Removing Regulatory Barriers to Affordable Home Construction," calls upon federal agencies to identify and implement opportunities to eliminate requirements affecting housing construction.[14] While an increase in affordable housing is desirable, a change to the existing NWP program would not accomplish this. Several existing NWPs already help facilitate streamlined permits for housing development at the federal level (e.g., NWP 18: Minor Discharges, NWP 29: Residential Development, and NWP 48: Stormwater Management Facilities). Further, specifications and requirements for housing construction are controlled by local entities with their own processes. Local government review typically is more detailed than what the Corps considers, including zoning, plumbing, well/septic, electrical, setbacks, occupancy, and inspections, regardless of whether the area is a regulated water, including wetlands. The time required to receive any approval, whether State, federal, or local depends upon the completeness of the application.

The provisions, wording, and use of NWP 29 (residential development) have remained largely identical for at least ten years, including no changes to the wording of the 2026 NWP 29 valid until 2031. The Corps has stated that the NWP 29 authorization is used over 1,000 times per year.[15] The Corps has not included any information in its NWP record documents that NWP 29 has been rejected for use in any particular instances. The Corps has relied on text included in its documentation and analysis in the last two NWP record documents that Division and District Engineers can restrict the use of NWP 29 to ensure that there will be no adverse individual and cumulative environmental effects of NWP 29.

NAWM Recommendation: The Corps should evaluate the NWP program to identify existing provisions that are responsive to EO requirements before making changes.

[14] 91 Fed.Reg. 13207 (March 18, 2026).

[15] Corps 2026 decision document for NWP 29 residential development: https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll9/id/3177 ("Based on reported use of this NWP during the period of March 15, 2021, to March14, 2024, the Corps estimates that this NWP will be used approximately 1,160 times per year on a national basis, resulting in impacts to approximately 325 acres of waters of the United States, including jurisdictional wetlands.") (Accessed April 26, 2026).

Appropriate Corps Staffing Levels.

The Corps solicitation of ideas to modify the NWP program comes only weeks after the finalization of the new NWP package in effect until 2031. Districts need to review PCNs required under the new NWP requirements, issue NWP verification letters, and generally implement the current NWP package. Reworking the NWP program even as Corps staff work to implement the new NWP package seems likely to result in inefficiencies or inadequate environmental analyses due to gaps in staffing and administrative resources caused by substantial programmatic change in a short time. The existing process is largely effective and efficient when agencies are fully staffed.

NAWM recommendation: The Corps should focus its limited resources on implementation of the new NWP package before making additional changes to the NWP program. Funding for the relevant federal agencies should support sufficient staff to review and implement the NWP program, both to authorize permits timely and to ensure protection of aquatic resources.

Conclusions

Federal aquatic resource protection requirements are in a state of unprecedented flux. The *Sackett* opinion and the ongoing rulemaking to once again re-define WOTUS creates both a rollback in the scope of protected waters and uncertainty about which waters must be protected by CWA programs including the NWP program. The Environmental Protection Agency is modifying its regulations governing the CWA section 401 requirements and processes. A new set of NWPs has just been finalized. Various Executive Orders, including the recent one addressing affordable housing, act as a source of additional change and uncertainty.

The uncertain state of environmental policy creates a very difficult context for changing the NWP program to increase efficiency. Such frequent and recent changes to related regulatory frameworks create substantial uncertainty for state and tribal programs and can reduce overall efficiency by requiring continual adjustments to established processes.

NAWM wishes to emphasize that input by states and Tribes into potential Corps' revisions to the NWP program is essential. In addition to being most familiar with existing relationships among the multiple water quality protection authorities, state and tribal co-regulators have over fifty years of experience implementing CWA programs. As a result, state and tribal perspectives will help ensure proposed changes to the NWP program are consistent with other statutory provisions such as water quality standards. NAWM also believes retaining PCN requirements for both specific NWPs and the General Conditions is critical, as is Corps District coordination with state, tribal, and federal agencies to develop their Regional Conditions to ensure appropriate protection of aquatic resources. Ensuring effective section 401 implementation, maintaining successful coordination frameworks,

and strengthening the existing framework of the program are all critical to ensuring that the NWP program remains consistent with the CWA's requirement that authorized activities result in no more than minimal adverse environmental effects.

Many states and Tribes have developed aquatic resource protection programs as well as methods for coordinating with the Corps to increase program efficiency and effectiveness. NAWM is encouraging its state and tribal members to submit detailed comments in response to the Corps request for recommendations for improving the NWPs. Some of these approaches might be replicated elsewhere or incorporated into the Corps' overall NWP program.

NAWM appreciates the opportunity to provide input on the NWP program. While these comments have been prepared by NAWM with input from the NAWM Board of Directors, they do not necessarily represent the individual views of all states and tribes; we therefore encourage your full consideration of the comments of individual states and tribes and other state and tribal associations. Please do not hesitate to contact me should you wish to discuss these comments.

Sincerely,

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Cc: NAWM Board of Directors

Attachment 1: Partial List of Cumulative Impact Assessment References

Hemond, Harold F. and Janina Benoit. 1988. Cumulative impacts on water quality functions of wetlands. *Environmental Management* Vol. 12. No. 5, pp. 639-653.

Johnson, J. Bradley. 2005. Hydrogeomorphic Wetland Profiling: An Approach to Landscape and Cumulative Impacts Analysis. EPA/620/R-05/001. U.S. Environmental Protection Agency, Washington, D.C.

National Academies of Sciences, Engineering, and Medicine. 2025. *State of the Science and the Future of Cumulative Impact Assessment*. Washington, DC: The National Academies Press.

Natural Resources Conservation Service. 2019. Assessing Cumulative Impacts of Wetlands on Watershed Hydrology Using an Improved Hydrologic Modeling Approach. Conservation Effects Assessment Project (CEAP) CEAP-Wetlands Science Note September 2019

U.S. Environmental Protection Agency, Office of Federal Activities Consideration of Cumulative Impacts In: EPA Review of NEPA Documents (2252A) EPA 315-R-99-002/May 1999

U.S. Environmental Protection Agency. 2022. Cumulative Impacts Research: Recommendations for EPA's Office of Research and Development., Washington, D.C., EPA/600/R-22/014a, 2022.

Winter, Thomas C. 1988. A Conceptual Framework For Assessing Cumulative Impacts on the Hydrology of Nontidal Wetland. Environmental Management Vol. 12, No. 5, pp. 605-620

ATTACHMENT 2: Partial List of References Describing Information Requirements for Ocean Dumping

EA Engineering, Science, and Technology, Inc. PBC. 2024. Evaluation of dredged material for Ocean Placement. Sparrows Point Container Terminal Sparrows Point Channel- South and Mid-Channel Patapsco River, Baltimore County, Maryland. Final Report.

PBS&J. 2010. Environmental Impact Statement Sabine-Neches Waterway Channel Improvement Project Texas Ocean Dredged Material Disposal Site Appendix B. Prepared for U.S. Army Corps of Engineers, Galveston District.

U.S. Environmental Protection Agency. 40 CFR Chapter 1, Subchapter H Retrieved May 14, 2026.

U.S. Environmental Protection Agency and U.S. Army Corps of Engineers. 2019. Site Management and Monitoring Plan for the Norfolk Ocean Dredged Material Disposal 8itc (OUMDS)