

JOSH STEIN
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D. REID WILSON
Secretary
TANCRED MILLER
Director



August 19, 2025

Brad A. Morgan
Colonel, U.S. Army
District Commander
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403-1343

SUBJECT: Consistency Concurrence Regarding the proposed reissuance of the Draft Nationwide Permits (NWP) including draft regional conditions in North Carolina (DCM#2025043)

Dear Colonel Morgan:

The Division of Coastal Management (DCM) received notice that the U.S. Army Corps of Engineers (USACE) announced the proposed reissuance of its draft NWPs. This announcement initiated the Coastal Zone Management Act (CZMA) federal consistency review process. The Federal Register announced a 60-day review period with a deadline of approximately August 19, 2025. DCM has reviewed both the proposed reissuance of the NWPs and the regional conditions, and this letter provides both state agency feedback and serves as the final federal consistency determination for the proposed reissuance of the draft NWPs.

Several state resource agencies have expressed substantive concerns with specific elements of the proposed NWP reissuance and modifications, particularly where changes may increase impacts to sensitive coastal and estuarine habitats or reduce the effectiveness of existing protections. The Division of Marine Fisheries (DMF) notes that the Corps' proposed definition of "nature-based solutions" is overly broad, encompassing hardened structures such as textured seawalls and bulkheads that do not replicate the ecological functions of natural features like marshes, oyster reefs, or gently sloping shorelines. DMF recommends revising the definition to emphasize truly "soft" or "green" approaches that incorporate natural coastal features and processes and urges that the use of coarse fill materials for living shorelines be restricted to areas where they are compatible with natural sediment conditions to avoid adverse effects on benthic communities, sediment dynamics, and submerged aquatic vegetation.

The Wildlife Resources Commission (WRC) raises related concerns over NWP 13 examples of nature-based solutions, which include rock revetments and other bank-hardening measures. WRC recommends prioritizing bioengineering approaches over hard structures and siting erosion-control measures to avoid submerged aquatic vegetation, coastal wetlands, and shellfish habitats.



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The Division of Water Resources (DWR) echoes concern about overly broad definitions, urging that “nature-based solutions” be clearly and consistently defined across NWP and that the term “ecological reference” be limited to high-quality, unaltered past ecosystems. DWR also has concerns with the proposed changes to NWP 27 that would allow the conversion of one aquatic resource type to another, potentially reducing ecological function, and that would remove the requirement for detailed delineation and pre-construction notification for certain projects. DWR stresses that accurate delineation is essential to ensure all aquatic resources are identified and protected during project planning.

North Carolina’s coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State’s Dredge and Fill Law, Chapter 7 of Title 15A of North Carolina’s Administrative Code, and the land use plan of the County and/or local municipality. It is the objective of the DCM to manage the State’s coastal resources to ensure that proposed Federal activities would be compatible with safeguarding and perpetuating the biological, social, economic, and aesthetic values of the State’s coastal waters.

DCM has reviewed the submitted information pursuant to the management objectives and enforceable policies of Subchapters 7H and 7M of Chapter 7 in Title 15A of the North Carolina Administrative Code and concurs that the proposed Federal activity by the U.S. Army Corps of Engineers is consistent, to the maximum extent practicable, with North Carolina’s certified coastal management program.

Should the proposed action be modified further, a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered, a supplemental consistency certification may be required. If you have any questions, please contact Cameron Luck at (252) 515-5419 or via email at Cameron.luck@deq.nc.gov.

Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,

Daniel Govoni

Daniel Govoni
Policy Section Chief
N.C. Division of Coastal Management

