



Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

Oregon Coastal Management Program

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

September 2, 2025

Headquarters

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

Portland District

Army Corps of Engineers
William Abadie
PO Box 2946
Portland, OR 97208-2946



Re: CZMA Consistency Concurrence with Conditions for the 2026 Modification and Reissuance of Nationwide Permits by the U.S. Army Corps of Engineers. (Docket Numbers: COE-2025-0002, COE-2025-00006)

Dear Mr. Abadie:

The Oregon Department of Land Conservation and Development (DLCD) has reviewed the U.S. Army Corps of Engineers (Corps) 2026 Nationwide Permits (NWP) for consistency with the Oregon Coastal Management Program (OCMP). The Corps announced the nationwide permits, general conditions, and definitions in the June 18, 2025 *Federal Register*, and the Portland District issued draft Regional Conditions on June 18, 2025. On June 18, 2025, the Portland District submitted a Consistency Determination outlining how the Corps has supported their determination of consistency with state authorities to the maximum extent practicable within the Coastal Zone, formally initiating the federal consistency review period. DLCD reviewed the consistency determination and corresponding nationwide permits, together with the general and regional conditions, pursuant to Section 307(c)(1) of the Coastal Zone Management Act (Act) and attendant regulations of 15 CFR Part 930.

DLCD is the state's designated coastal zone management agency and conducts consistency reviews to ensure that federal agency activities affecting any coastal use or resource are consistent to the maximum extent practicable with the enforceable policies of Oregon's federally approved coastal zone management program. Oregon's federally approved program, the OCMP, is a "networked" program that integrates authorities of local governments and other state agencies as the enforceable policies of the OCMP. As such, the enforceable policies of the OCMP include: 1) the statewide planning goals; 2) the applicable acknowledged city or county comprehensive plan and land use regulations; and 3) selected state agency authorities, including but not limited to those governing removal-fill, proprietary leasing, water quality, fish and wildlife protections, and ocean shore regulations.

NATIONWIDE REVIEW PROCESS AND MAJOR OVERARCHING CONCERNS

Process and Timeline

On May 9, 2025, the Portland District submitted a request for early coordination to discuss the proposed 2026. DLCD and the Portland District met on June 4, 2024 to discuss the reauthorization process and federal consistency process and timeline. The *Federal Register* notice issued on June 18, 2025 included an abbreviated public comment period of 30 days. A 30-day comment period is inadequate to comment fully on proposed policies as important as the reissuance of the NWP. DLCD worked with its state agency partners to submit joint-agency comments on July 18, 2025.

On July 9, 2025, DLCD submitted its formal 15-day federal consistency review extension request pursuant to 15 CFR §930.41(b), which grants state coastal programs a minimum of 60 days (i.e. August 17, 2025) for review, and provides a 15-day extension as a matter of right upon request. This placed OCMP's extended decision deadline to September 1, 2025. The Corps concurred with DLCD's extension request on July 10, 2025. On August 20, 2025, DLCD noted the deadline occurred on a national holiday and requested that the Corps confirm September 2, 2025 as the correct deadline. The Corps confirmed via email on August 21, 2025.

Although flexibility is built into the regulations that implement the CZMA, they are also very clear through §930.36 that the Consistency Determination should be provided at least 90 days before final approval of the Federal agency activity. Providing the Consistency Determination when the notice of proposed rulemaking is published in the Federal Register is incongruent with the Act and limited not only DLCD's ability to fully implement federal consistency review of this federal action but also hindered the Corps ability to make reasonable changes to reach consistency to a fuller extent with the enforceable policies of the OCMP. The OCMP is a uniquely networked coastal program that relies on local and state agency network partners to implement Oregon's diverse catalog of enforceable policies. The complexity and magnitude of this networked structure requires extensive coordination and planning to successfully implement the OCMP.

The Corps did not provide explanation for the proposed modifications to the regional general conditions or general conditions, leaving the state to evaluate the changes without context or rationale. DLCD again urges the Corps to implement early coordination with state coastal programs in the next iteration of the NWP Re-authorization process. In addition, DLCD strongly recommends that the Corps institute a transparent communications process to ensure meaningful state-federal coordination among state coastal programs, the Corps, and other federal agencies and entities. Finally, DLCD highly encourages the Corps to coordinate with the NOAA Office for Coastal Management to address inconsistencies, misalignments, or misunderstandings of the respective federal regulations regarding the reoccurring NWP Re-Authorization and Modification Process.

Significant Reduction in Thresholds

The OCMP continues to have significant concerns regarding the reductions in thresholds in the proposed NWP. The proposal to increase the stream impact threshold to ½ acre limit may allow for both direct and indirect stream impacts to be greater than minimal without adequate oversight by the Corps. It is not consistent with the purpose of the NWP, which is to "streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects." The rule, as proposed, strives for simplicity at the expense of adequacy. The proposed change to the ½ acre threshold would lead to an insufficient accounting of the

variability in stream functions, and result in increased risks to essential fish and wildlife habitat, and water quality. For example, using the ½ acre limit authorizing impacts to headwater streams that are very narrow in width (e.g., 3-4 feet width) could allow up to a mile (or 5,280 linear feet) of stream loss.

Further, the change to ½ acre threshold does not provide assurances that there will be minimal individual or cumulative adverse environmental impacts. There are considerable concerns regarding the cumulative impacts to streams, which are uniquely vulnerable to adverse impacts under the proposed 2026 NWP process. Any threshold to streams can be challenging because it is highly dependent on-site conditions, channel conditions, proposed action, watershed context, etc. However, if the intent of the NWP is to have no more than minimal individual and cumulative adverse environmental effects, the threshold and allowable impacts should be less than the current threshold of 300 linear feet. By allowing impacts up to ½ acre, and with many activities never even triggering a PCN, adverse individual and cumulative impacts to stream function are likely. For example, a project impacting an 8-foot-wide stream could impact a ½ mile of stream and still be under the ½ acre threshold.

Pre-Construction Notice Requirements

A proposed modification to NWPs for 2026 removes or reduces the PCN requirement for several NWPs in addition to the PCN requirements removed or reduced from the NWPs in 2021. When a PCN is removed, the Corps has reduced opportunity to influence the project outcomes, including the ability to track and evaluate temporary and cumulative effects, recommend measures to avoid/minimize adverse effects, and require mitigation for unavoidable impacts to aquatic resources. The PCN is an opportunity for the Corps District to review proposed NWP activity and determine eligibility, as well as for facilitating coordination between state agency partners. Our concerns are amplified by minimized regional conditions across all NWPs since the 2021 NWP modifications, further increasing the likelihood of individual or cumulative adverse environmental effects.

Additionally, Oregon's natural resource agencies have less opportunity to ensure that state interests and the enforceable policies are considered during the issuance of federal permits. For example, the removal of a PCN for NWP 27 is a significant concern since the PCN process has provided a critical opportunity for early state agency review and coordination. This proactive coordination has allowed state agencies to evaluate potential ecological impacts, including those from habitat conversion, before restoration projects commence. While post-project reporting offers some transparency, it limits the state's ability to prevent adverse impacts. DLCD is concurring with the Corps proposed changes to NWP 27 to not impede the pace and scale of habitat restoration projects by recommending an Individual Consistency Review for all projects. However, the state recommends the Corps reinstates a PCN requirement for NWP 27 to continue to allow for proactive interagency coordination,

FEDERAL CONSISTENCY DECISION

DLCD concurs, with conditions, with the Corps determination that the nationwide permits are, to the maximum extent practicable, consistent with the enforceable policies of the OCMP. Except for the conditional and situational exclusions and objections listed below, DLCD grants advance concurrence to activities authorized by the nationwide permits provided the Corps agrees to the conditions below and applies the OCMP Standard Coastal Zone Conditions provided in Enclosure A to each issued nationwide permit with advanced concurrence. An overview of the federal consistency decisions is provided in the table below. More details on permit-specific federal consistency requirements for the 2026 NWP, as described in this decision, are provided in Enclosure B.

Nationwide Permits	OCMP Federal Consistency Decision
<p>DLCD will require individual consistency review of any proposed Nationwide Permit that takes place under the following conditional exclusions, with exceptions as noted:</p> <p><u>Conditional Exclusion 1:</u> Within or directly affecting the Territorial Sea (Not applicable to NWP 1)</p> <p><u>Conditional Exclusion 2:</u> Aquatic Habitats of Special Concern (Not applicable to NWP 20, 22, 27, 32, and 38)</p> <p><u>Conditional Exclusion 3:</u> Any project within Oregon’s Geographic Location Description, as described below (Not applicable to NWP 1)</p> <p><u>Conditional Exclusion 4:</u> Projects proposing greater than 300 linear foot loss of stream bed (Not applicable to NWP 20, 22, 32, and 38)</p>	
<p>1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 45, 46, 49, 51, 52, 57, 58</p>	<p>Advanced Conditional Concurrence These Nationwide permits are granted advance conditional concurrence so long as the Standard OCMP Coastal Zone Conditions are attached to each verification.</p>
<p>6, 29, 39, 44</p>	<p>Situational Exclusions to Advance Conditional Concurrence These Nationwide Permits may be granted advance conditional concurrence so long as the OCMP Standard Coastal Zone Conditions are attached to each verification, unless their specific exclusion is triggered. Specific situational exclusions are described below.</p>
<p>12, 13, 48, 50, 53, 54, 55, 56, A Fish Passage (anticipated NWP 60)</p>	<p>Objection These Nationwide Permits always require Individual Consistency Review.</p>

CONDITIONAL EXCLUSIONS TO ADVANCED CONCURRENCE

DLCD does not extend advanced concurrence to, and will require individual consistency review Individual Consistency Review of any proposed Nationwide Permit that takes place under the following conditional exclusions:

Exclusion 1: Territorial Sea

Any permit where the project is within or directly impacts the Territorial Sea (waters and seabed extending three (3) nautical miles seaward from the coastline, in conformance with federal law), except for projects permitted under NWP 1.

Rationale: Projects within the Territorial Sea vary widely and thus have unpredictable coastal effects. In order to adequately assess coastal effects, determine in water work timing recommendations, and apply Statewide Planning Goal 19: Ocean Resources and the Territorial Sea Plan, DLCD requires an Individual Consistency Review. Policies: Statewide Planning Goal 19; ORS 358, ORS 509, ORS 468, ORS 468B.

Exclusion 2: Aquatic Habitats of Special Concern

Individual Consistency Review is required for any permit where the project is within or directly impacts the following aquatic habitats of special concern within Corps jurisdiction, except for projects permitted under NWP 20, 22, 27, 32, and 38:

- Native eel grass beds
- Mature forested wetland
- Wetlands in dunal systems
- Estuarine wetlands (in natural or conservation management units only)
- State special management areas (including marine gardens, marine reserves, marine research areas, marine conservation areas, , marine protected areas, and shellfish preserves)
- Kelp beds
- Rocky substrate in tidal waters (interpreted as all marine subtidal rock substrate and reefs and rocky intertidal shores)
- Native oyster beds
- Seabird Protected Area
- Shellfish Preserve
- Offshore Rocks and Islands National Wildlife Refuge
- Pinniped haul-out sites
- Coastal foredunes known to be occupied by ESA-listed Western Snowy Plover

Rationale: The OCMP is dedicated to assuring the comprehensive review of any project potentially impacting the full diversity of high value or special concern resources applicable under the expedited nationwide permit process. Previous language was originally established over 15 years ago to ensure ‘no more than minimal environmental impact’ occurred by requiring an individual permit process for rare, high functioning, or sensitive habitats. This requirement is consistent with DLCD’s 2021 NWP decision which implemented the use of the Critical Habitat Mapping tool¹ to aid in implementation of this requirement. Therefore, DLCD requires an Individual Consistency Review for any project in or potentially affecting habitats that are high value , rare , or of special concern in the coastal zone.

DLCD encourages the continued use of the Critical Habitat Mapping tool¹ to verify projects are being evaluated consistently. The Corps’ definitions of habitats may differ from the state’s definitions. Consult with state resource agencies if the Critical Habitat Mapping tool differs from the Aquatic Resources of Special Concern defined by the Corps and if the conditions on site are not consistent with the Critical Habitat

¹ <https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=1b4a3202b66c4ab79b6907e7b4abf9db>

Mapping tool. Policies: Statewide planning Goals 5, 16, 18; ORS 509, ORS 506, ORS 468, ORS 468A, ORS 468B, ORS 496.

Exclusion 3: Oregon's Geographic Location Description

Individual Consistency Review is required for permits within Oregon's Geographic Location Description (GLD) related to the following activities:

- Any offshore wind or wave power generation facilities or structures(s), of a permanent nature, regardless of size or number.
- Underwater cables to service power generating facilities.
- Research and monitoring devices such as LIDAR, Met towers or wave energy measurement instruments with a deployment window of 5 years or greater.

Rationale: Oregon's GLD for federal waters is within the area defined in Oregon Statewide Planning Goal 19 Ocean Resources as the Oregon Ocean Stewardship Area. The Ocean Stewardship Area is delineated and described in the Oregon Ocean Resources Management Plan, and the state's management goals and policy interests for this area are enumerated in Part One of the Territorial Sea Plan. The GLD is designed to ensure any marine renewable energy projects within the area are automatically subject to the federal consistency review process, to verify federal activities such as the leasing and permitting authorized by the federal Bureau of Ocean Energy Management (BOEM), are consistent with the enforceable policies of Oregon's Coastal Management Program. Policies: Oregon Territorial Sea Plan; ORS 506, ORS 496.

Exclusion 4: Greater Than 300 Linear Foot Loss of Stream Bed

Individual Consistency Review is required for any permit where the project proposes greater than 300 linear foot loss of stream bed except for projects permitted under NWP 20, 22, 32, and 38.

Rationale: The proposed 2026 NWP revisions (and previous 2021 NWP revisions) significantly reduce the verification and evaluation of individual and cumulative project impacts on aquatic habitats. Many 2026 NWPs have impact thresholds ranging from ½ acre to 10 acres, with PCN thresholds that have progressively increased over the years from 300 linear feet to 500 linear feet to ½ acre, or no thresholds at all. High PCN thresholds (or the lack thereof) could lead to insufficient accounting of the variability in stream functions, and increased impacts to essential fish and wildlife habitat and water quality. DLCD requires Individual Consistency Review to verify consistency and evaluate projects for minimal individual and cumulative impacts.

Policies: Statewide Planning Goals 5, 16, 18; ORS 196, ORS 496, ORS 506, ORS 509.

SITUATIONAL EXCLUSIONS

DLCD does not extend advance concurrence to and will require individual consistency review (Individual Consistency Review) of any proposed Nationwide Permit that takes place under the following scenarios. Enclosure B provides a synthesis of this decision narrative. Please contact DLCD's State-Federal Relations Coordinator for clarification of these scenarios:

NWP #6

(Survey Activities)

Individual Consistency Review is required for any project that utilizes NWP 6 that proposes the use of explosives for the desired project(s).

Rationale: In-water blasting may result in significant impacts to aquatic resources regulated by the Oregon Department of Fish and Wildlife. Coordination on projects will be necessary to verify consistency with applicable enforceable policies. DLCD requires an Individual Consistency Review. Policies: Statewide Planning Goal 19; ORS 468B, ORS 498, ORS 509.

NWP #29

(Residential Developments)

Individual Consistency Review is required for any project utilizing NWP 29 (Residential Developments) that requires a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendments, zoning changes, goal exceptions, discretionary decisions, or actions by a city or county council or commission.

Rationale: Changes to local land use laws and regulations have the potential to affect the federally approved enforceable policies of the OCMP. Policies: Statewide Planning Goals 1-18; ORS 196, ORS 197, NOAA-approved local comprehensive plans and ordinances.

NWP #39

(Commercial and Institutional Developments)

Individual Consistency Review is required for any project utilizing NWP 39 (Commercial and Institutional Developments) that requires a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendments, zoning changes, goal exceptions, discretionary decisions, or actions by a city or county council or commission.

Rationale: Changes to local land use laws and regulations have the potential to impact the federally approved enforceable policies of the OCMP. Policies: Statewide Planning Goals 1-18; ORS 196, ORS 197, NOAA-approved local comprehensive plans and ordinances.

NWP# 44

(Mining Activities)

Individual Consistency Review is required for any project that utilizes NWP 44 that proposes the use of explosives.

Rationale: In-water blasting may result in substantial impacts to aquatic resources, and as such, is regulated by the Oregon Department of Fish and Wildlife. Coordination on projects will be necessary to verify consistency. Policies: Statewide Planning Goal 19; ORS 468B, ORS 509, and ORS 498.

OBJECTION

DLCD does not extend advance concurrence to, and will require Individual Consistency Review for the following proposed Nationwide Permits:

NWP #12

(Oil or Natural Gas Pipeline Activities)

Individual Consistency Review is required for any project that utilizes NWP 12 (Oil or Natural Gas Pipeline Activities).

Rationale: These NWPs authorize a suite of activities that will likely impact aquatic resources including estuarine habitats, shellfish beds, and submerged aquatic vegetation. Pipelines and utility activities can cause considerable direct and indirect impacts to fish and wildlife habitat, as well as cause indirect impacts to water quality associated with the clearing of vegetation. Coordination on projects will be necessary to verify consistency with applicable enforceable policies. Policies: Oregon Territorial Sea Plan, Parts 4 and 5; ORS 496, ORS 498, ORS 506, ORS 509.

NWP #13

(Bank Stabilization)

Individual Consistency Review is required for any project that utilizes NWP 13 (Bank Stabilization).

Rationale: Bank stabilization activities have the potential to adversely impact living resources and sensitive habitats. The use of riprap can cause long-term or permanent alterations and damage to habitat. Bank stabilization activities require attention to Oregon's in-water work windows to minimize the effects on local species and habitats. Coordination on projects will be necessary to verify consistency with applicable enforceable policies. Policies: Statewide Planning Goals 16, 17, 18; ORS 197, ORS 496, ORS 506, ORS 509.

NWP 48

(Commercial Shellfish Aquaculture Activities)

Individual Consistency Review is required for any project that utilizes Nationwide Permit 48 (Commercial Shellfish Aquaculture Activities).

Rationale: Projects utilizing NWP 48 can result in a wide array of ecological effects to estuarine resources in the Pacific Northwest region, as well as impact other shellfish users, degrade estuary habitat unintentionally, or disrupt/impact other aquaculture activities including other native shellfish beds. Additionally, the wide diversity of commercial shellfish mariculture practices affirms the need to evaluate proposed projects on a case-by-case basis through Individual Consistency Review. Policies: Statewide Planning Goals 16, 19; Oregon Territorial Sea Plan, Part 2; ORS 196; ORS 496; ORS 498; ORS 506; ORS 509.

NWP #50

(Underground Coal Mining Activities)

Individual Consistency Review is required for any project that utilizes NWP 50 (Underground Coal Mining Activities).

Rationale: Coal extraction is not a common industry in Oregon's coastal zone. The limited use of this NWP in prior years, and the lack of known coal deposits in Oregon's coastal zone suitable for extraction under this NWP means that OCMP must conduct Individual Consistency Review to verify consistency. Policies: Statewide Planning Goals 5, 16, 18, 19; Territorial Sea Plan, Part 2; ORS 196, ORS 496, ORS 498, ORS 506, ORS 509.

NWP #53

(Removal of Low-Head Dams)

Individual Consistency Review is required for any project that utilizes Nationwide Permit 53 (Removal of Low-Head Dams).

Rationale: The coastal effects of NWP 53 are still generally unknown due to its limited use in the coastal zone since its implementation. Removal of low-head dams is desirable; however, this action will trigger state enforceable policies like water quality and fish passage statutes. Coastal effects from short-term negative impacts to coastal resources from removal also need to be considered. Policies: Statewide Planning Goal 5; ORS 468, 509.

NWP #54

(Living Shorelines)

Individual Consistency Review is required for any project that utilizes Nationwide Permit 54 (Living Shorelines).

Rationale: It is unclear how NWP 54 will be implemented in areas where additional shoreline development is not allowed in Oregon. Statewide Planning Goals 16 and 18, Estuarine Resources and Beaches and Dunes, are enforceable policies of the OCMP and state that coastal shoreline and beach areas had to be developed by 1977 in order to be

eligible for shoreline protection structures now. Additionally, it is unclear how NWP 54 will address the potential impacts of invasive species, disturbance to threatened and endangered species, and effects on ecologically sensitive habitats. Policies: ORS 196, ORS 496, ORS 506.

NWP #55

(Seaweed Mariculture)

Individual Consistency Review is required for any project that utilizes NWP 55 (Seaweed Mariculture Activities).

Rationale: Seaweed mariculture is not an industry currently taking place in Oregon's coastal zone or adjacent Federal waters. Due to the wide diversity of potential effects, based on technology, spatial uses, ocean conditions, and sensitive natural resources, all mariculture projects utilizing NWP A or multi-trophic aqua/mariculture must be evaluated on a case-by-case basis, and undergo Individual Consistency Review. Policies: Statewide Planning Goal 16; Statewide Planning Goal 19; Territorial Sea Plan, Part 2; ORS 196, ORS 274, ORS 496, ORS 506, ORS 509.

NWP A

(Activities to Improve Passage of Fish and Other Aquatic Organisms)

Individual Consistency is required for any project that utilizes NWP (Activities to Improve Passage of Fish and Other Aquatic Organisms).

Rationale: The coastal effects of NWP A are unclear because it has not been implemented. The proposed NWP lacks design standards, which may create conflicts for permittees if they do not meet fish passage requirements. Coordination on projects will be necessary to verify consistency with applicable enforceable policies. Policies: ORS 196, ORS 274, ORS 496, ORS 506, ORS 509.

FEDERAL AGENCY APPLICANTS

Federal agencies undertaking a direct federal action requiring a Corps permit, Nationwide or otherwise, are required to submit a Consistency Determination containing all required information pursuant to 15 CFR §930 Subpart C. Required components include but are not limited to a comprehensive enforceable policy analysis and coastal effects analysis. Consistency Determinations must be submitted to DLCD a minimum of 90 days prior to initiating the proposed action. More information and guidance on the direct federal action consistency review pathway is available on the DLCD Federal Consistency website at - <https://www.oregon.gov/lcd/OCMP/Pages/Federal-Action.aspx>.

DECISION CONCLUSION

Enclosure B includes a summary table which provides guidance on CZMA review requirements associated with this decision. DLCD staff are also available to assist in the appropriate application of these exclusions and thresholds. Corps project managers are encouraged to contact DLCD's State-Federal Relations Coordinator with any questions relating to the CZMA federal consistency review requirements of this decision. If you have any questions or concerns regarding this federal consistency review or the coastal management program, please contact DLCD-OCMP's State-Federal Relations Coordinator, Anna Roller at 971-493-2894 or by e-mail at: anna.roller@dlcd.oregon.gov.

Attached Enclosures (Combined PDF Attachment)

- A. 2026 NWP Standard Coastal Zone Conditions (applicable to all advanced concurrences)
- B. 2026 NWP Summary of CZMA Review Requirements

Sincerely,



Lisa Phipps
Oregon Coastal Program Manager

Cc via email:

Joe Brock, U.S. Army Corps of Engineers
Delia Negru, Oregon Department of Environmental Quality
Haley Teach, Oregon Department of Environmental Quality
Greg Apke, Oregon Department of Fish and Wildlife
Arlene Merems, Oregon Department of Fish and Wildlife

Enclosure A
Oregon Coastal Management Program (OCMP)
Standard Coastal Zone Conditions

The federal Coastal Zone Management Act provides that federal actions affecting any use or resource of the coastal zone¹, including projects permitted by the U.S. Army Corps of Engineers (USACE), must be consistent with the enforceable policies of a State's federally approved coastal management program. Oregon's approved program, the Oregon Coastal Management Program (OCMP), is a "networked" program that integrates authorities of local governments and other state agencies. The coastal zone conditions contained in this document reflect the networked nature of the OCMP and reference the specific applicable enforceable policies.

In addition to all USACE national and regional permit conditions, permitted projects in Oregon's coastal zone must comply with the following coastal zone conditions.

If an applicant chooses not to follow one or more of the coastal zone conditions, DLCD will object to the permit issuance pursuant to 15 CFR § 930.63(e). In that instance, the permittee may appeal the state's objection by requesting that the Secretary of Commerce override the objection pursuant to 15 CFR 930, subpart H, within 30 days of receipt of the letter informing the applicant of the OCMP's objection. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security, and that either of these findings outweigh the adverse coastal effects of the proposed project. A copy of the request and supporting information must be sent to the OCMP and the USACE. The Secretary may collect fees from the permittee for administering and processing the override request.

CZ Condition 1. Local Comprehensive Plans

(1) Permitted projects must be consistent with or not subject to the applicable local comprehensive plan and implementing land use regulations, including the applicable estuary management plan, or the statewide land use planning goals where applicable. Permittee must obtain required permits or other authorizations from the applicable local government before initiating work under any USACE permit.

(2) Permittees are encouraged to provide USACE and the OCMP with verification of the local jurisdiction's approval in the form of a completed block eleven (11) of the Joint Permit

¹ *Oregon's coastal zone generally includes the area lying between the Oregon/Washington border on the north, to the Oregon/California border on the south, seaward to the extent of the state's jurisdiction as recognized by federal law, and inland to the crest of the Coast Range Mountains, excepting:

- (a) The Umpqua River basin, where the coastal zone extends to Scottsburg;
- (b) The Rogue River basin, where the coastal zone extends to Agness; and
- (c) The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island.

Application. All appeals of the local jurisdiction's decision(s) must be resolved before any regulated work may begin.

(3) All conditions placed on an authorization or permit by the local government are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 197, Comprehensive Land Use Planning Coordination]

CZ Condition 2. Removal-Fill Law

(1) Permitted projects must be consistent with or not subject to the state requirements governing removal-fill in waters of the state. Permittee must obtain required permits or other authorizations from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) Projects requiring a DSL Removal-Fill permit must compensate for reasonably expected adverse impacts by complying to the full extent with DSL's compensatory mitigation requirements.

(3) Where DSL finds a project not subject to the Removal/Fill Law, permittee must submit to DSL any changes in project design or implementation that may reasonably be expected to require application of the Removal/Fill Law.

(4) All conditions placed on a Removal-Fill permit by DSL are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 196, State Waters and Ocean Resources; Wetlands; Removal and Fill]

CZ Condition 3. Use of State Lands

(1) Permitted projects must be consistent with or not subject to state requirements governing use of state lands. Permittee must obtain any required lease, license, or other authorization for the use of state lands or waters from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) All conditions placed on a lease, license, or authorization by DSL are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 274, Submersible and Submerged Lands]

CZ Condition 4. Department of Environmental Quality

(1) Permitted projects must be consistent with or not subject to the state requirements governing water quality. Permittee must obtain certification, if required, from the Oregon Department of Environmental Quality (DEQ) through its 401 Water Quality Certification process before any regulated work may begin.

(2) All conditions placed on a license, permit, or authorization by DEQ are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 468B, Water Quality]

CZ Condition 5. Fish and Aquatic Life Passage

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish passage (<http://www.dfw.state.or.us/fish/passage/>). Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) No work shall be authorized that does not provide for adequate passage of “aquatic life.” Aquatic life shall be interpreted to include amphibians, reptiles, and mammals whose natural habitat includes waters of this state and which are generally present in or around, or pass through the project site.

(3) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 509, Additional Fishery Requirements]

CZ Condition 6. Fish Screening

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish screening and bypass devices. Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 498, Fish Screening]

CZ Condition 7. Ocean Shore

(1) Permitted projects must be consistent with or not subject to state requirements governing use of the ocean shore. Permittee must obtain, if required, an ocean shore permit from the Oregon Parks and Recreation Department (OPRD) before any regulated work may begin.

(2) All conditions placed on an Ocean Shore permit by OPRD are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 390, Ocean Shores]

CZ Condition 8. Archaeological Sites

(1) Permitted projects must be consistent with or not subject to the state requirements governing archaeological objects and sites. Permittee must obtain, if required, an Archaeological Permit from the State Historic Preservation Office (SHPO) before any regulated work may begin. An Oregon Qualified Archaeologist is required to apply for an archaeological permit.

(2) Projects that will impact an archaeological site and projects proposing excavation or removal of archaeological or historical material must obtain the approval of the state agency or local governing body charged with management of the public land on which the excavation is to be made and the approval of the appropriate Indian tribe. The archaeological permit review process requires the land managing agency (or private landowner) and appropriate tribes to review the applications. After an Oregon Qualified Archaeologist submits an archaeological permit application the Legislative Commission on Indian Services will determine which tribes must be involved in the review.

(3) Any Archaeological Permit conditions are incorporated by reference into the OCMF coastal zone conditions.

[Enforceable Policy: ORS chapter 358, Archeological Objects and Sites and ORS 390.235, Permits and conditions for excavation or removal of archaeological or historical material]

ENCLOSURE B

2026 Nationwide Permit – CZMA Federal Consistency Requirements Summary

Nationwide Permit #	Individual CZMA Review Requirement	Specific Threshold (where applicable)
<p>Conditional Exclusions to Advanced Concurrence for ALL NWP's Except where noted.</p>	<p>Conditional Exclusion 1: Any project taking place in the territorial sea (0-3 nautical miles)</p> <ul style="list-style-type: none"> • Exception: Not applicable to NWP 1: Aids to Navigation <p>Conditional Exclusion 2: Any project taking place in Aquatic Areas of Special Concern as outlined in the Coastal Habitat Screening Tool https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=1b4a3202b66c4ab79b6907e7b4abf9db</p> <ul style="list-style-type: none"> • Exception: Not applicable to NWP 20, 22, 27, 32, and 38 <p>Conditional Exclusion 3: Any project within Oregon's Geographic Location Description starting from the seaward limit of Oregon state jurisdiction at 3 nautical miles (nm) from the shoreline, and extending seaward to a boundary line along the outer continental shelf which approximates the 500 fathom bathymetric contour, subject to the following thresholds:</p> <ul style="list-style-type: none"> • Any offshore wind or wave power generation facilities or structures(s), of a permanent nature, regardless of size or number; • Underwater cables to service power generating facilities; and • Research and monitoring devices such as LIDAR, Met towers or wave energy measurement instruments with a deployment window of 5 years or greater. <p>Conditional Exclusion 4: Any project proposing greater than 300 linear foot loss of stream bed.</p> <ul style="list-style-type: none"> • Exception: Not applicable to NWP 20, 22, 32, and 38 	
<p>NWP 6 (Survey Activities)</p>	<p>Required in specific situations</p>	<p>If the proposed project intends to use explosives.</p>
<p>NWP 12 (Oil or Natural Gas Pipeline Activities)</p>	<p>ICR Always Required</p>	<p>Not applicable.</p>
<p>NWP 29 (Residential Developments)</p>	<p>Required in specific situations</p>	<p>ICR is required anytime a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendment, zoning change, goal exception, discretionary decision, or action by a city or county council or commission.</p>

NWP 39 (Commercial and Institutional Developments)	Required in specific situations	ICR is required anytime a local action as denoted in the applications Land Use Affidavit (JPA, Block 11). Local actions include but are not limited to text amendment, zoning change, goal exception, discretionary decision, or action by a city or county council or commission.
NWP 44 (Mining Activities)	Required in specific situations	If the proposed project intends to use explosives.
NWP 48 (Commercial Shellfish Aquaculture Activities)	ICR Always Required	Not applicable.
NWP 50 (Underground Coal Mining Activities)	ICR Always Required	Not applicable.
NWP 53 (Removal of Low-Head Dams)	ICR Always Required	Not applicable.
NWP 54 (Living Shorelines)	ICR Always Required	Not applicable.
NWP 55 (Seaweed Mariculture Activities)	ICR Always Required	Not applicable.
NWP A (anticipated NWP 60) (Activities to Improve Passage of Fish and Other Aquatic Organisms)	ICR Always Required	Not applicable.