



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 13, 2020

Colonel Alexander Bullock
District Engineer
Seattle District, Corps of Engineers
PO Box 3755
Seattle, Washington 98124-3755

RE: State of Washington Clean Water Act Section 401 Water Quality Certification Decisions
on the Proposed Reissuance of the Nationwide Permit Program.

Dear Colonel Bullock:

The Department of Ecology (Ecology) has completed its review of the United States Department of the Army, Corps of Engineers (the Corps) proposed Nationwide Permit (NWP) rule as published in the *Federal Register* (85 FR 57298) on September 15, 2020. The Corps proposes to reissue 52 existing NWPs, general conditions, and definitions, with some modifications; and issue five new NWPs. The Corps is requesting certification prior to finalizing the NWP program, Ecology's review was therefore necessarily limited to the proposed NWPs as published in the federal register. Accordingly, any material changes in the language or scope of any NWP not detailed in the Federal Register shall not be considered authorized by this certification.

Additionally, Ecology received a request for Section 401 Water Quality Certification (Water Quality Certification) from the Corps Seattle District on October 14, 2020 for the proposed 2020 NWPs and draft regional conditions. A pre-filing meeting request was received 30 days prior on September 14, 2020. Ecology has completed its review of the draft regional conditions proposed by the Seattle District. The Seattle District proposes to eliminate several regional general conditions and NWP specific conditions from the 2017 NWP program. Ecology's review has accounted for the Seattle District's proposal to eliminate these conditions. However, because the Seattle District is requesting certification prior to finalizing the regional conditions, there is the possibility that additional conditions could be eliminated beyond what Ecology has reviewed and relied upon in making its certification decision. Accordingly, any material changes to the Seattle District's proposed conditions that were not included in the Special Public Notice shall not be considered authorized by this certification.

As the state water pollution control agency with jurisdictional authority of Washington's surface waters, Ecology is tasked, pursuant to Section 401 of the Clean Water Act (CWA), with the

review and issuance of Water Quality Certification of the NWP's, with the exception of those lands where EPA or a tribe has authority to give such Water Quality Certification. Ecology's Water Quality Certification of NWP's is based on input received during a public comment period, the review of the information provided by the Corps, and Ecology's determination as to whether the NWP's comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA, the state water quality standards, and other applicable provisions of state law. The state may grant, grant with conditions, deny, or waive certification.

Ecology has state general conditions that apply to all NWP's whether Water Quality Certification is granted or granted with conditions, and NWP specific state conditions that apply when Water Quality Certification is granted with conditions.

These state general conditions are as follows:

- Compliance with water quality standards for in-water construction activities.
- No further exceedance of specific listed parameter(s) in 303(d) listed waterbodies.
- Documentation required for review under the NWP program.
- Aquatic resources requiring special protection.
- Mitigation requirements.
- Approval of temporary fills in place for more than 90 days.
- Stormwater discharge pollution prevention.
- Impacts to more than 300 linear feet of stream.

Ecology's decisions for the proposed NWP's are summarized below and in Table 1. The detailed conditions, justifications, and citations are within the attached decision document:

Ecology grants Section 401 Water Quality Certification for:
NWP # 1, 2, 4, 7, 9, 10, 11, 18, 20, 22, 25, 30, and 31.

Ecology grants with conditions Section 401 Certification for:
NWP # 3, 5, 6, 13, 14, 15, 16, 19, 23, 27, 28, 29, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 45, 46, 48, C, and D.

Ecology denies Section 401 Certification for:
NWP # 8, 12, 17, 21, 37, 44, 49, 50, 51, 52, 53, 54, A, B, and E.

It should be noted that, because in the Seattle District opinion these NWP's would not result in a discharge into water of the United States, the Seattle District did not request Water Quality Certification for NWP's 1, 2, 8, 9, 10, 11, 24, 28, 35, A, and B. However, Ecology believes in some instances, these activities may result in a discharge into a water of the United States. Therefore, Ecology is providing Water Quality Certification for any activity authorized by these listed NWP's.

This letter and attachment constitutes Ecology's Programmatic Water Quality Certification for the reissuance of the NWP's. This Water Quality Certification applies to all NWP permits

authorized in Washington by the Seattle District or Portland District Corps that may result in a discharge into a water of the United States where Ecology is the certifying authority.

Ecology's Water Quality Certification decisions neither replace or supersede requirements set forth by other local, state, federal, and Tribal laws, nor eliminate the need to obtain additional permits, approvals, consultations, or authorizations as required by law before proposed activities may commence.

Please contact Loree' Randall (Loree.Randall@ecy.wa.gov) or Erin Hanlon Brown (Erin.HanlonBrown@ecy.wa.gov) if you have any questions or would like additional information.

Sincerely,



Joenne McGerr

Program Manager
Shorelands and Environmental Assistance Program
Washington State Department of Ecology

Attachment – State of Washington Section 401 Water Quality Certification Decisions and State Conditions for U.S Army Corps of Engineers Proposed 2020 Nationwide Permits. This document fully outlines Ecology's Section 401 Certification decisions for activities which may result in a discharge and are carried out under a NWP for either Corps Section 404 and/or Section 10 permits.

Table 1 – Summary of State of Washington Section 401 Water Quality Certification Decisions for the U.S. Army Corps of Engineers Proposed 2020 Nationwide Permit Program.

NWP	Activity	401 Decision	Applicable Conditions
1	Aids to Navigation	Granted	State General Conditions
2	Structures in Artificial Canals	Granted	State General Conditions
3	Maintenance	Grant with Conditions	State General and Specific
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	Granted	State General Conditions
5	Scientific Measurement Devices	Grant with Conditions	State General and Specific
6	Survey Activities	Grant with Conditions	State General and Specific

7	Outfall Structures and Associated Intake Structures	Granted	State General Conditions
8	Oil and Gas Structures on the Outer Continental Shelf.	Denied. Individual 401 WQC required.	NA
9	Structures in Fleeting and Anchorage Areas	Granted	State General Conditions
10	Mooring Buoys	Granted	State General Conditions
11	Temporary Recreational Structures	Granted	State General Conditions
12	Oil or Natural Gas Pipeline Activities.	Denied. Individual 401 WQC required.	NA
13	Bank Stabilization	Grant with Conditions	State General and Specific
14	Linear Transportation Projects	Grant with Conditions	State General and Specific
15	U.S. Coast Guard Approved Bridges	Grant with Conditions	State General and Specific
16	Return Water from Upland Contained Disposal Areas	Grant with Conditions	State General and Specific
17	Hydropower Projects.	Denied. Individual 401 WQC required.	NA
18	Minor Discharges	Granted	State General Conditions
19	Minor Dredging	Grant with Conditions	State General and Specific
20	Response Operations for Oil and Hazardous Substances	Granted	State General Conditions
21	Surface Coal Mining Activities	Denied. Individual 401 WQC required.	NA
22	Removal of Vessels	Granted	State General Conditions
23	Approved Categorical Exclusions	Grant with Conditions	State General and Specific
25	Structural Discharges	Granted	State General Conditions
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities	Grant with Conditions	State General and Specific
28	Modifications of Existing Marinas	Grant with Conditions	State General and Specific
29	Residential Developments	Grant with Conditions	State General and Specific
30	Moist Soil Management for Wildlife	Granted	State General Conditions
31	Maintenance of Existing Flood Control Facilities	Granted	State General Conditions
32	Completed Enforcement Actions	Grant with Conditions	State General and Specific
33	Temporary Construction, Access, and Dewatering	Grant with Conditions	State General and Specific
34	Cranberry Production Activities	Grant with Conditions	State General and Specific
35	Maintenance Dredging of Existing Basins	Grant with Conditions	State General and Specific
36	Boat Ramps	Grant with Conditions	State General and Specific
37	Emergency Watershed Protection and Rehabilitation	Denied. Individual 401 WQC required.	NA
38	Cleanup of Hazardous and Toxic Waste	Grant with Conditions	State General and Specific
39	Commercial and Institutional Developments	Grant with Conditions	State General and Specific
40	Agricultural Activities	Grant with Conditions	State General and Specific

41	Reshaping Existing Drainage and Irrigation Ditches	Grant with Conditions	State General and Specific
42	Recreational Facilities	Grant with Conditions	State General and Specific
43	Stormwater Management Facilities	Grant with Conditions	State General and Specific
44	Mining Activities.	Denied. Individual 401 WQC required.	NA
45	Repair of Uplands Damaged by Discrete Events	Grant with Conditions	State General and Specific
46	Discharges in Ditches	Grant with Conditions	State General and Specific
48	Commercial Shellfish Mariculture Activities	Grant with Conditions	State General and Specific
49	Coal Remining Activities	Denied. Individual 401 WQC required.	NA
50	Underground Coal Mining Activities	Denied. Individual 401 WQC required.	NA
51	Land-Based Renewable Energy Generation Facilities	Denied. Individual 401 WQC required.	NA
52	Water-Based Renewable Energy Generation Pilot Projects	Denied. Individual 401 WQC required.	NA
53	Removal of Low-Head Dams	Denied. Individual 401 WQC required.	NA
54	Living Shorelines	Denied. Individual 401 WQC required.	NA
A	Seaweed Mariculture Activities	Denied. Individual 401 WQC required.	NA
B	Finfish Mariculture Activities	Denied. Individual 401 WQC required.	NA
C	Electric Utility Line and Telecommunications Activities	Grant with Conditions	State General and Specific
D	Utility Line Activities for Water and Other Substances	Grant with Conditions	State General and Specific
E	Water Reclamation and Reuse Facilities	Denied. Individual 401 WQC required.	NA

State of Washington Department of Ecology
Programmatic Section 401 Water Quality Certification
Decisions and Conditions for the U.S. Army Corps of Engineers
Proposed 2020 Nationwide Permit Program

As the state water pollution control agency with jurisdictional authority of Washington's surface waters, the Department of Ecology (Ecology) is tasked, pursuant to Section 401 of the Clean Water Act (CWA), with the review and issuance of Section 401 Water Quality Certification (Water Quality Certification) of the Nationwide Permits (NWP) in Washington, with the exception of those lands where EPA or a tribe has authority to give such Water Quality Certification. Ecology's Water Quality Certification decisions and conditions are based on information received during a public comment period, review of documentation provided by the Corps, and Ecology's determination as to whether the NWP comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA, state water quality standards, and other applicable provisions of state law. Ecology's Water Quality Certification decisions and conditions apply to projects or activities authorized under the Clean Water Act Section 404 and/or Section 10 of the River and Harbors Act, where Ecology is the certifying authority.

This Water Quality Certification does not:

- (a) authorize impacts or activities outside the scope of this certification;
- (b) authorize any injury to permittees or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
- (c) convey any property rights of any sort, or any exclusive privileges; or
- (d) preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities.

Ecology Section 401 Water Quality Certification for Nationwide Permits (NWP)

A. State General Conditions for all Nationwide Permits

In addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District's regional permit conditions, the following state general Water Quality Certification conditions apply to all NWP whether **granted or granted with conditions** in Washington.

Due to the lack of site specific information on the discharge types, quantities, and specific locations, as well as the condition of receiving waters and the quantity of waters (including wetlands) that maybe lost, Ecology may need to review the project if one of the following state general conditions is triggered. This case-by-case review may be required, and additional information regarding the project and associated discharges may be needed, to verify that the proposed project would comply with state water quality requirements.

1. **In-water construction activities.** Ecology Water Quality Certification review is required for projects or activities authorized under NWP where the project proponent has indicated on the Joint Aquatic Resource Permit Application (JARPA) question 9e, or it is determined by Ecology, that the project or activity will cause, or may be likely to cause

or contribute to an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

Note: In-water activities include any activity within a wetland and/or activities below the ordinary high water mark (OHWM).

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, the discharge of dredge or fill material and associated activities authorized by Corps NWPs can result in turbidity (e.g., total suspended and settleable solids) that can impair water quality. For example, concentrations of suspended solids above the criteria listed impair aquatic life uses by reducing the availability of food for fish and preventing the development of insect larvae, impeding fish migration and other aquatic life movement, preventing the development of fish eggs, and decreasing fish and other aquatic organisms' resistance to disease.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

2. **Projects or Activities Discharging to Impaired Waters.** Ecology Water Quality Certification review is required for projects or activities authorized under NWPs if the project or activity will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listed parameter.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visit Ecology's Water Quality Assessment webpage for maps and search tools.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, this condition is needed because the NWPs do not provide sufficient project and activity specific information to determine that discharges will comply with specific water quality requirements related to the limits on total suspended solids, temperature, dissolved oxygen, nutrients, or pH for which a specific waterbody could be listed as impaired. Site specific analysis is required to determine whether the discharges from the project or activities comply with state water quality requirements in the active channel of a waterbody identified as a section 303(d) or TMDL listed impaired waterbody. This is to ensure implementation efforts to restore and protect the state's aquatic resources; where the state's waters are assessed, restoration and protection objectives are prioritized, and TMDL and alternative approaches

are adaptively implemented to achieve state water quality goals with the collaboration of other state and federal agencies, tribes, stakeholders, and the public.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612 WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 - 350 WAC, 173-204-400 – 420 WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*

3. **Application.** For projects or activities that will require Ecology Water Quality Certification review, project proponents must provide Ecology with a JARPA or the equivalent information, along with the documentation provided to the Corps, as described in national general condition 32, Pre-Construction Notification (PCN), including, where applicable:

- (a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project discharge(s) would cause, best management practices (BMPs), and proposed means to monitor the discharge(s).
- (b) List of all federal, state or local agency authorizations required to be used for any part of the proposed project or any related activity.
- (c) Drawings indicating the OHWM, delineation of special aquatic sites, and other waters of the state. Wetland delineations must be prepared in accordance with the current method required by the Corps and shall include Ecology's Wetland Rating form. Wetland Rating forms are subject to review and verification by Ecology staff.

Guidance for determining the OHWM is available on Ecology's website.

- (d) A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See state general condition 5.
- (e) Other applicable requirements of Corps NWP general condition 32, Corps regional conditions, or notification conditions of the applicable NWP.
- (f) Within 180 calendar days, or the specific reasonable period of time established by the Corps from receipt of applicable documents noted above **and** a copy of the final authorization letter from the Corps providing coverage for a proposed

project or activity under the NWP Program, Ecology will provide the applicant notice of whether an individual Water Quality Certification will be required for the project. If Ecology fails to act within a year after receipt of **both** of these documents, Water Quality Certification is presumed waived.

This condition is necessary to provide Ecology with the minimum information to support a review of the project or activities to determine if the project qualifies for Ecology Water Quality Certification under the NWP program or if an individual Water Quality Certification review is required. Additionally, this condition is necessary because the proposed NWPs propose to remove the PCN requirement for federal applicants. With this condition, Ecology will receive the notice and information to allow for an efficient and effective review and provide any changes in the project design, scope, amount and location of discharges if needed, to ensure that the project or activities will comply with state water quality requirements and other applicable state laws as cited below.

Citation:

- *CWA Section 401 Certification Rule (40 CFR 121)*
- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612 WAC (Water Quality Standards for Surface Waters of the State of Washington)*

4. **Aquatic resources requiring special protection.** Certain aquatic resources are unique, difficult-to-replace components of the aquatic environment in Washington. Activities that would affect these resources must be avoided to the greatest extent possible. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscape settings.

Ecology Water Quality Certification review is required for activities in or affecting the following aquatic resources (and not prohibited by Seattle District regional general conditions):

- (a) Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
 - Estuarine wetlands.
 - Wetlands of High Conservation Value.
 - Bogs.
 - Old-growth and mature forested wetlands.
 - Wetlands in coastal lagoons.
 - Interdunal wetlands.
 - Vernal pools.
 - Alkali wetlands.

- (b) Fens, aspen-dominated wetlands, camas prairie wetlands.
- (c) Marine water with eelgrass (*Zostera marina*) beds (except for NWP 48).
- (d) Category I wetlands.
- (e) Category II wetlands with a habitat score ≥ 6 points.

This state general condition does not apply to the following NWPs:

- NWP 20 – *Response Operations for Oil and Hazardous Substances*
- NWP 32 – *Completed Enforcement Actions*

This condition is necessary to ensure that any discharge authorized under the NWP program will comply with state water quality requirements and other applicable state laws as cited below. Additionally, the wetlands of Washington are fragile ecosystems that serve a number of important beneficial functions. Wetlands assist in reducing erosion, siltation, flooding, ground and surface water pollution, and provide wildlife, plant, and fisheries habitats. Wetlands destruction or impairment may result in increased public and private costs and property losses.

Wetland functions vary widely. When designating wetlands, science supports using a rating system that evaluates the existing wetland functions and values to determine what functions must be protected.

Estuarine wetlands, especially those that are larger, are relatively rare and provide unique natural resources that are considered to be valuable to society. These wetlands need a high level of protection to maintain their functions and the values society derives from them.

Camas prairies are included by scientists of the Washington Natural Heritage Program and Washington Department of Natural Resources (DNR) as high quality, relatively undisturbed wetlands, or wetlands that support state listed threatened or endangered plants. High quality, relatively undisturbed examples of wetlands are uncommon in Washington. The state is trying to provide a high level of protection to the undisturbed character of these remaining high quality wetlands. Examples of undisturbed wetlands help us to understand natural wetland processes.

Bogs and peatlands are extremely sensitive to disturbance and impossible to re-create through compensatory mitigation. Bogs are low nutrient, acidic wetlands that have organic soils. The chemistry of bogs is such that changes to the water regime or water quality of the wetland can easily alter its vegetation community. The plants and animals that grow in bogs and peatlands are specifically adapted to such conditions and do not tolerate changes well. Immediate changes in the composition of the plant community often occur after the water regime changes. Minor changes in the water regime or nutrient levels in these systems can have major adverse impacts on the plant and animal communities.

Coastal lagoons are shallow bodies of water, like a pond, partly or completely separated from the sea by a barrier beach. They may, or may not, be connected to the sea by an inlet, but they all receive periodic influxes of salt water. This can be either through storm surges overtopping the barrier beach, or by flow through the porous sediments of the beach. Wetlands in coastal lagoons probably cannot be reproduced through compensatory mitigation, and they are relatively rare in the landscape. No information has been found relating to attempts to create or restore coastal lagoons in Washington that would suggest this type of compensatory mitigation is possible. Any impacts to lagoons will, therefore, probably result in a net loss of their functions and values. In addition, coastal lagoons and their associated wetlands are proving to be very important habitat for salmonids.

Eelgrass serves a wide variety of ecological functions in nearshore ecosystems, and is critically linked to other valued ecosystem components. Eelgrass beds are highly productive, annually producing large amounts of carbon that fuel nearshore food webs, principally through detritus pathways. Eelgrass provides critical three-dimensional structure in otherwise two-dimensional environments, and many other marine organisms use this structure. Shellfish, such as crabs and bivalves, use eelgrass beds for habitat and nursery areas and feed indirectly on the carbon fixed by the plants. Fishes such as juvenile salmonids use eelgrass beds as migratory corridors as they pass through Puget Sound; the beds provide both protection from predators and abundant food, such as the small crustaceans associated with eelgrass.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

5. **Mitigation.** Project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resources wherever practicable. For projects requiring Ecology Water Quality Certification review with unavoidable impacts to aquatic resources, adequate compensatory mitigation must be provided.

- (a) Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at a minimum, include the following:
 - i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.
 - ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).

- iii. The rationale for the mitigation site that was selected.
- iv. The goals and objectives of the compensatory mitigation project.
- v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.
- vi. How it will be maintained and monitored to assess progress toward goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.
- vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, including credit/debit methodology, advance mitigation, and other programmatic approach such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

- (b) Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

This condition is necessary to ensure that unavoidable physical alterations are properly mitigated and that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, since a literal interpretation of the anti-degradation policy could result in preventing the issuance of any wetland fill permit under Section 401 of the Clean Water Act, it is logical to assume that Congress intended some such permits to be granted within the framework of the Act. This interpretation allows states to adopt a flexible approach to wetland management. For wetlands, allowing some alteration of water quality necessitates the use of mitigation as a method of "controlling pollution." Activities are allowed to occur because, once mitigation is provided, the impacts are not considered significant enough to harm the environment, at least

in the long-term. The water quality standards, along with mitigation, protect wetlands as well as allowing some level of degradation where unavoidable or necessary.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*

6. **Temporary Fills.** Ecology Water Quality Certification review is required for any project or activity with temporary fill in wetlands or other waters of the state for more than 90 days, unless the applicant has received written approval from Ecology.

Note: This State General Condition does not apply to projects or activities authorized under NWP 33, *Temporary Construction, Access, and Dewatering*

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, per joint interagency (EPA, Corps, Ecology) guidance, long-term temporary impacts affect functions that will eventually be restored over time, but not within a year or so. Long-term temporary impacts carry a risk of permanent loss, such as when soil structure is altered by deep excavation or compacted by equipment.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*

7. **Stormwater Pollution Prevention.** All projects involving land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoid discharge of pollutants in stormwater runoff to waters of the state.

- (a) For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.
- (b) Following construction, prevention or treatment of on-going stormwater runoff from impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permit information are available on Ecology's website.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, this condition reduces the negative water quality impacts of stormwater runoff from developed areas including sediment, oil, grease, and nutrients from entering into surface waters. Stormwater pollutants can impact streams, rivers, lakes, ponds, wetlands, and wells. This condition also ensures that the permit applicants meet the requirements of the National Pollutant Discharge Elimination System (NPDES) permits, if required.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*

- 8. Impacts to More than 300 Linear Feet of Streams.** All projects that involve impacts to more than 300 linear feet of stream, either individually or cumulatively, shall require Ecology Water Quality Certification review.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, per RCW 90.48, it is declared to be the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the state of Washington. Ecology Water Quality Certification review is required for projects or activities authorized under NWPs that will cause, or may be likely to cause or contribute to an exceedance of a state water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC). State water quality standards and sediment management standards are available on Ecology's website.

Note: In-water activities include any activity within a wetland and/or activities below the OHWM.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

B. Nationwide Permits where Ecology Grants Water Quality Certification

Ecology grants **Water Quality Certification** for the following NWPs provided that the project meets all of the state general conditions. Ecology has determined that the activities identified within the following NWPs will not violate applicable state water quality standards, provided the work is done in accordance with the NWPs national and regional conditions.

1	Aids to Navigation
2	Structures in Artificial Canals
4	Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
7	Outfall Structures and Associated Intake Structures
9	Structures in Fleeting and Anchorage Areas
10	Mooring Buoys
11	Temporary Recreational Structures
18	Minor Discharges
20	Response Operations for Oil and Hazardous Substances
22	Removal of Vessels
25	Structural Discharges
30	Moist Soil Management for Wildlife
31	Maintenance of Existing Flood Control Facilities

C. Nationwide Permits Where Ecology Granted with Conditions Water Quality Certification

Ecology grants **with conditions Water Quality Certification** for the NWPs identified in the table below. Ecology has determined that additional review is needed if any of the NWP specific conditions are not met in addition to Ecology state general conditions. These conditions are to ensure that the project or activities authorized by these NWPs will meet the state water quality laws.

An individual Water Quality Certification will be required for projects or activities authorized under the NWPs identified below if Ecology determines that the project or activities' discharges do not comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act (CWA) and our state water quality requirements or other applicable state law.

3	Maintenance
5	Scientific Measurement Devices
6	Survey Activities
13	Bank Stabilization
14	Linear Transportation Projects
15	U.S. Coast Guard Approved Bridges
16	Return Water from Upland Contained Disposal Areas
19	Minor Dredging
23	Approved Categorical Exclusions
27	Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28	Modifications of Existing Marinas
29	Residential Developments
32	Completed Enforcement Actions
33	Temporary Construction, Access, and Dewatering
34	Cranberry Production Activities
35	Maintenance Dredging of Existing Basins
36	Boat Ramps
38	Cleanup of Hazardous and Toxic Waste
39	Commercial and Institutional Developments
40	Agricultural Activities
41	Reshaping Existing Drainage and Irrigation Ditches
42	Recreational Facilities
43	Stormwater Management Facilities
45	Repair of Uplands Damaged by Discrete Events
46	Discharges in Ditches
48	Commercial Shellfish Mariculture Activities
C	Electric Utility Line and Telecommunications Activities
D	Utility Line Activities for Water and Other Substances

NWP 3 - Maintenance

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activities are below the OHWM with new work being proposed outside the original footprint; or
2. The proposed project or activity increases the original footprint of the structure by more than 1/10th acre in wetlands; or
3. The project or activity includes adding a new structure, such as a weir, flap gate/tide gate, or culvert to the site; or
4. The placement of rip rap results in the discharge of more than 25 cubic yards of

material.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, the Corps is proposing changes to allow fill to stabilize existing structures beyond the prior footprint with no specified limits. Due to the diverse types of projects authorized under this NWP and because there are other appropriate and practicable alternatives that better protect aquatic resources, not all projects or activities fit under this NWP. Some are best determined on a case-by-case basis to ensure projects will be constructed in a manner to avoid and minimize adverse impacts to beneficial and existing uses of surface waters.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)

5 - Scientific Measurement Devices

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. Any devices and or fills associated with the device will remain beyond 30 days of the completion of the measuring or recording of scientific data.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, the above condition is necessary to protect the biological integrity of the aquatic ecosystem from measurement devices being left unattended after the data has been collected.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)

6 – Survey Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity involves oil or natural gas exploration in waters of the state; or
2. The project or activity requires trenching in wetlands.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, these conditions are needed to ensure that all avoidance and minimization considerations have been implemented prior to impacting aquatic resources from oil or natural gas exploration and/or trenching in wetlands.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

13 – Bank Stabilization

Ecology Section 401 Certification – Granted with conditions.

1. Ecology has determined that an individual Ecology Water Quality Certification review is required for all new, or expansion of existing, bank stabilization measures in marine and estuarine waters of the Salish Sea.
2. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:
 - a. The project or activity has a total bank length greater than 500 feet; or
 - b. The project or activity has not been designed and stamped by a Professional Engineer or Engineering Geologist; or
 - c. The project or activity exceeds an average of one cubic yard per running foot below the OHWM or High Tide Line; or

- d. The project or activity involves discharges of dredged or fill material into special aquatic sites.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, replacement of existing hard armor bank stabilization with new hard armor extends impacts in time, perpetuating impacts to water quality and beneficial uses, including aquatic life and human recreation. Because of the diverse types of projects authorized under this NWP and because appropriate and practicable alternatives for shoreline stabilization that better protect aquatic resources are available, including more ecologically beneficial soft or bioengineering techniques, this condition is necessary to ensure projects will be designed and constructed in a manner to avoid and minimize adverse impacts to beneficial uses.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612 WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420 WAC, 173-204-500 - 590 WAC (Sediment Management Standards)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)

14 – Linear Transportation Projects

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity impacts more than more than 1/3 acre of waters of the state; or
2. The project includes fill related to a residential and/or commercial development; or
3. The project or activity is in or adjoining a known contaminated or cleanup site; or
4. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, these conditions are necessary to ensure that multiple crossings for the same project are not allowed without the necessary BMPs and mitigation. Without these conditions unlimited number of crossings resulting in more than minimal adverse environmental effects and degrade water quality could occur. Activities authorized by NWPs and other general

permits must be similar in nature, cause only minimal adverse environmental effects when performed separately, and have only minimal adverse effect on the environment.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

15 – U.S. Coast Guard Approved Bridges

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity triggers an individual U.S. Coast Guard bridge permit.

NOTE: An Advance Approval from the U.S. Coast Guard is not considered a bridge permit and would not trigger Ecology review.

This condition is necessary to ensure that project proponents obtain the appropriate authorization from the Coast Guard prior to any discharge authorized under this NWP. This will ensure that the project or activity complies with state water quality requirements and other applicable state laws as cited below.

Note: Per Section 401 of the CWA, Ecology will be required to issue an individual Water Quality Certification for an individual Coast Guard permit.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

16 – Return Water from Upland Contained Disposal Areas

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws. Specifically, return water from upland contained disposal areas could result in discharges of contaminants to waters of the state impacting beneficial and existing uses, therefore this condition is needed to prevent contaminants from being released into the waters.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)
- Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)
- Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)

19 – Minor Dredging

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Specifically, this condition is necessary to ensure that contaminated sediment and cleanup sites are not dredged in a manner which would result in resuspension and deposition of contaminated sediment in the water column, in order to protect beneficial and existing uses of surface waters from contaminants being released from the sediments.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

23 – Approved Categorical Exclusions

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity has fill impacts to waters of the state greater than ½ acre.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, this condition is needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill in tidal waters; or
2. The project or activity affects ½ acre or more of wetlands; or
3. The project or activity is a mitigation bank or an advanced mitigation site; or
4. The project or activity is in or adjoining a known contaminated or cleanup site.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are needed to protect beneficial and existing uses of surface waters and to ensure that unavoidable impacts are mitigated. Site specific review is needed for those projects and activities that trigger the conditions to ensure that the project meets the requirements for net-increase in beneficial uses and aquatic resource functions.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)
- Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)
- Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)

28 – Modifications to Existing Marinas

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP that have a potential to discharge to waters of the state and/or have a potential to re-suspend sediments if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Specifically, this condition is needed to protect beneficial and existing uses of surface waters from contaminants being release from the sediments.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC, 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

29 – Residential Developments

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The residential development has impacts to waters of the state greater than ¼ acre; or
2. The project is a subdivision. (NOTE: “Subdivision” is the division or redivision of land into lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership); or
3. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General*

Permit Program)

- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)
- Chapter 173-340-340 WAC, 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)

32 – Completed Enforcement Actions

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity has impacts to waters of the state greater than ¼ acre.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, this condition is needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612 WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420 WAC, 173-204-500 - 590 WAC (Sediment Management Standards)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)

33 – Temporary Construction, Access, and Dewatering

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. Temporary fills are placed in more than ½ acre of waters of the state and left in place for more than 90 days; or
2. Temporary fills are left in place for longer than six months.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, they are needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

34 – Cranberry Production Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. For new, or expansion of existing cranberry operations.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, Ecology Water Quality Certification review is required for projects or activities authorized under NWPs that will cause, or may be likely to cause or contribute to an exceedance of state water quality standard or sediment management standard. The primary means for protecting water quality in wetlands is through implementation of the antidegradation section of the water quality standards. The antidegradation policy establishes the bottom line for water quality protection in Washington's waters: "Existing beneficial uses shall be maintained and protected and no further degradation which would interfere with or become injurious to existing beneficial uses shall be allowed."

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-*

204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)

35 – Maintenance Dredging of Existing Basins

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP that have a potential to discharge to waters of the state and/or have a potential to re-suspend sediments if:

1. The project or activity is in or adjoining a known contaminated or cleanup site.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Specifically, this condition is needed to protect beneficial and existing uses of surface waters from contaminants being release from the sediments.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

36 – Boat Ramps

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity results in a discharge greater than 50 cubic yards into waters of the state; or
2. The project or activity involves poured- in- place concrete; or
3. The boat ramp exceeds 20 feet in width; or

4. The project or activity is in or adjoining a known contaminated or cleanup site.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are necessary to ensure that projects and activities authorized by this NWP results in no more than a minimal adverse impacts on an individual or cumulative basis, and to ensure that concrete contaminants are not discharged and that contaminated sediments are not disturbed and result in resuspension and deposition of contaminated sediment in the water column that could impact beneficial and existing uses of surface waters.

Citation:

- **RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)**
- **RCW 90.54.140 (Water Resources Protection Act)**
- **RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)**
- **Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)**
- **Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)**
- **Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)**
- **Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)**
- **Chapter 173-340-340 WAC173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)**

38 – Cleanup of Hazardous and Toxic Waste

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity affects more than ½ acre of waters of the state; or
2. The project or activity is not authorized though a Model Toxics Control Act (MTCA) order or a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) order.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality requirements and other applicable state laws as cited below. Additionally, they are necessary to ensure that projects and activities authorized by this NWP do not release addition pollution or contaminated sediment into the environment as a result of the cleanup.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

39 – Commercial and Institutional Developments

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity affects ¼ acre or more of waters of the state; or
2. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*

40 – Agricultural Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill or mechanized clearing impacting more than ¼ acre of waters of the state.

This condition is necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, this condition is needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)

41 – Reshaping Existing Drainage and Irrigation Ditches

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity discharges dredged or fill material into a ditch that receives water from or discharges water to a water of the state within ½ mile of project site; or
2. The project or activity occurs within a wetland; or
3. The project will leave exposed slopes and channel banks after completion of the project or activity.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are necessary to ensure that projects and activities involving reshaping existing jurisdictional drainage ditches implement all methods and measures to avoid and minimize adverse impacts during and after the work completed, in

order to ensure minimal individual and cumulative environmental impacts, as required by the CWA.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

42 – Recreational Facilities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity affects ¼ acre or more of waters of the state; or
2. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are necessary to ensure that projects and activities involving recreational facilities implement all methods and measures to avoid and minimize adverse impacts during and after the work completed in order to ensure minimal individual and cumulative environmental impacts, as required by the CWA.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

43 – Stormwater Management Facilities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity includes a Category I or Category II, wetland as part of a stormwater or flow control system. Including a Category I or Category II wetland in a stormwater treatment or flow control system is considered an impact and will need to be mitigated; or
2. The project or activity includes a Category III (with a habitat score of ≥ 6) wetland as part of a stormwater or flow control system.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, review is needed to ensure that the operations phases of the project or activities minimize the impact of sediment to the receiving waterbodies and that the erosion and sediment control measures will be implemented using an appropriate order of construction (sequencing) relative to the land-disturbing activities and meet Ecology's Stormwater management manual. This is necessary to protect the wetlands and/or waterbodies that are adjacent to the stormwater facility or will be receiving the discharge from the stormwater facility.

Citation:

- RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)
- RCW 90.54.140 (Water Resources Protection Act)
- RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)
- Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)
- Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)
- Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)
- Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)
- Chapter 173-340-340 WAC 173-340-310 WAC; 173-340-350 WAC; 173-340-360

45 – Repair of Uplands Damaged by Discrete Events

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity will involve the placement of more than 25 cubic yards of dredged or fill material into waters of the state; or
2. The project or activity involves impacts to waters of the state greater than ½ acre.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are needed to allow Ecology's review of the projects and

activities under this NWP to evaluate the significance of the damage and impacts of the event along with any potential impacts of the repairs. Review allows Ecology to gain an understanding of the pre- and post- disaster landscape to assist in the measurement, analysis, and modeling of disaster recovery outcomes.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

46 – Discharge in Ditches

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity will involve the placement of more than 25 cubic yards of dredged or fill material into waters of the state; or
2. The project or activity involves impacts to waters of the state greater than ½ acre.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are necessary to ensure that discharges into ditches implement all methods and measures to avoid and minimize adverse impacts during construction and that the ongoing discharge does not physically alter or impact receiving waters or wetlands.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*

- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

48 – Commercial Shellfish Mariculture Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project is a new operation, or an expansion of an existing operation, within 25 horizontal feet of native eelgrass (*Zostera marina*) beds in marine waters; or
2. The project is a new operation, or an expansion of an existing operation where shellfish culturing (e.g. culturing by rack and bag, raft, long line, ground methods) will occur above the tidal elevation of +5 feet mean lower low water; or
3. The project is a new operation, or expansion of an existing operation, and the project description or application materials do not include a management strategy for Pacific herring spawn.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, these conditions are necessary to maintain beneficial uses, and provide review necessary to maintain the integrity of habitat that provides essential functions, including the development of priority fish species.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*

Proposed NWP C – Electric Utility Line and Telecommunication Activities

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity impacts more than 1/3rd acre of waters of the state; or

2. The project or activity is in or adjoining a known contaminated or cleanup site; or
3. The project or activity requires a Federal Energy Regulatory Commission (FERC) license; or
4. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, they are needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated. And they are needed to protect beneficial and existing uses from being contaminated by the release of the sediments from any discharges.

Citation:

- **RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48.160 – 906, (Water Pollution Control Act)**
- **RCW 90.54.140 (Water Resources Protection Act)**
- **RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)**
- **Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)**
- **Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)**
- **Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)**
- **Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)**

Proposed NWP D - Utility Line Activities for Water and Other Substances

Ecology Section 401 Certification – Granted with conditions. Ecology Water Quality Certification review is required for projects or activities authorized under this NWP if:

1. The project or activity impacts more than 1/3rd acre of waters of the state; or
2. The project or activity is in or adjoining a known contaminated or cleanup site; or
3. The project or activity requires a Federal Energy Regulatory Commission (FERC) license; or
4. This NWP is authorized in conjunction with any other NWP.

These conditions are necessary to ensure that any discharge authorized under this NWP will comply with state water quality and sediment quality requirements and other applicable state laws as cited below. Additionally, these condition are needed to protect beneficial and existing uses of wetland and surface waters to ensure that unavoidable impacts are minimized and/or mitigated. And they are needed to protect beneficial and existing uses from being contaminated by the release of the sediments for any discharges.

Citation:

- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC; 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC; 173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act – Cleanup)*

D. Nationwide Permits where Ecology Denies Water Quality Certification

Ecology is denying Water Quality Certification for the NWPs identified in the table below.

8	Oil and Gas Structures on the Outer Continental Shelf.
12	Oil or Natural Gas Pipeline Activities.
17	Hydropower Projects.
21	Surface Coal Mining Activities
37	Emergency Watershed Protection and Rehabilitation
44	Mining Activities.
49	Coal Remining Activities
50	Underground Coal Mining Activities
51	Land-Based Renewable Energy Generation Facilities
52	Water-Based Renewable Energy Generation Pilot Projects
53	Removal of Low-Head Dams
54	Living Shorelines
A	Seaweed Mariculture Activities
B	Finfish Mariculture Activities
E	Water Reclamation and Reuse Facilities

Ecology's denial of these NWPs is based on our inability to determine if projects and activities that the Corps would authorize under these NWPs will comply with the state water quality requirements and other applicable state laws. It is unclear if the projects or activities under these NWPs would have potential significant alteration in physical, chemical, and biological integrity, and adverse impacts to water quality. Additionally, the Corps has not provided Ecology adequate information regarding the discharge types, quantities, and specific locations, number of discharges expected to be authorized, as well as the conditions of receiving waters and the quantities of waters (including wetlands) that may be lost from authorizing projects and activities under these NWPs. For these reasons, Ecology is denying Water Quality Certification for the NWPs listed in the table above and an individual Water Quality Certification is required for those projects and activities the Corps authorized with these NWPs.

The following project specific water quality data or information would be needed for all projects or activities authorized by the NWPs listed above to ensure that the range of discharges from potential projects or activities will comply with water quality requirements and other applicable state laws:

- 1) the name or segment identifier of the receiving water(s) and/or wetland(s);*
- 2) the specific location(s) of the project's activities and discharges;*
- 3) the type and amount of the discharge(s);*
- 4) the area of impact to the receiving water(s) and/or wetland(s) from the discharges;*
- 5) available baseline condition assessment or monitoring data for the waterbody and/or wetlands receiving the discharge(s);*
- 6) proposed methods and means for monitoring the discharge(s) into the receiving water(s) and/or wetland(s); and*
- 7) any measures the project or activity will implement to reduce and/or offset the effects of the discharge(s), including any compensatory mitigation for unavoidable impacts.*

Citation:

- *CWA Sections 301, 302, 303, 306, and 307*
- *CWA Section 401 Certification Rule (40 CFR 121)*
- *RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.120, RCW 90.48. 160 – 906, (Water Pollution Control Act)*
- *RCW 90.54.140 (Water Resources Protection Act)*
- *RCW 90.74, RCW 90.74.005-040 (Aquatic Resources Mitigation)*
- *Chapter 173-201A WAC, 173-201A-010 – 030 WQC, 173-201A-200 – 260 WAC, 173-201A-300 – 330 WAC, 173-201A-500 – 530 WAC, 173-201A-600 – 612WAC (Water Quality Standards for Surface Waters of the State of Washington)*
- *Chapter 173-204 WAC, 173-204-110 – 130 WAC, 173-204-300 -350 WAC, 173-204-400 – 420WAC, 173-204-500 - 590 WAC (Sediment Management Standards)*
- *Chapter 173-226 WAC, 173-226-020 – 250 WAC (Waste Discharge General Permit Program)*
- *Chapter 220-660 WAC, 220-660-080 - 450 WAC (Hydraulic Code Rules)*
- *Chapter 173-340-340 WAC 173-340-310 WAC; 173-340-350 WAC; 173-340-360 WAC;*

*173-340-400 WAC; 173-340-410 WAC; 173-340-440 WAC (Model Toxics Control Act
– Cleanup)*