

July 18, 2025

Lieutenant General William H. "Butch" Graham, Jr.
U.S. Army Corps of Engineers
Attn: CECW-CO-R
441 G Street NW
Washington, D.C. 20314

Submitted electronically via: <https://www.regulations.gov>

**RE: U.S. Army Corps of Engineers: Proposal To Reissue and Modify Nationwide Permits—
Docket No. COE-2025-0002**

Dear Lieutenant General Graham:

The Association of California Water Agencies (ACWA) respectfully submits comments regarding the U.S. Army Corps of Engineers (USACE) proposed rule regarding its Nationwide Permit (NWP) Program.¹ ACWA appreciates USACE's efforts to streamline permitting for water infrastructure projects and encourages these activities be regulated in manners that do not adversely impact water quality, supply, and affordability.

ACWA is the largest statewide coalition of public water agencies in the country. ACWA's more than 470 member agencies are responsible for delivering about 90 percent of the water to communities, farms, and businesses in California. ACWA represents water management entities in every sector of water supply including municipal and agricultural water, water recycling, water reuse, wastewater management, and stormwater management. For more than a century, ACWA and its members have been working to provide high quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

USACE is an important federal partner to ACWA member agencies and other water providers. Across America, 136 USACE reservoirs provide municipal and industrial water supply, and 46 reservoirs provide irrigation water supply.²

I. Support for NWPs Generally

ACWA recognizes the importance of USACE's NWPs as a tool for authorizing activities, including water infrastructure projects, in an efficient manner and without regulatory burdens. As stewards of water resources, ACWA member agencies often rely on NWPs to implement maintenance, construction, restoration, and resilience projects efficiently and in compliance with federal, state, and

¹ *Proposal To Reissue and Modify Nationwide Permits*, 90 Fed. Reg. 26100 (June 18, 2025) (codified at 33 C.F.R. pt. 330). <https://www.govinfo.gov/content/pkg/FR-2025-06-18/pdf/2025-11190.pdf>https://www.epa.gov/system/files/documents/2025-03/wotus_notice_march2025.pdf.

² U.S. Army Corps of Engineers Institute for Water Resources: 2014 Municipal, Industrial and Irrigation Water Supply Database Report. Aug. 2015. https://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/2015-R-02_Municipal_Industrial_and_Irrigation_Water_Supply_Database_Report.pdf.

local laws. As such, ACWA supports USACE efforts to streamline authorization for projects that serve critical public water supply and management functions.

Many different water landscapes and regional conditions exist, especially in California. This poses unique water-related challenges regarding drought, flooding, pollution, endangered species, and more. As such, ACWA supports USACE's NWP approach to allow its 8 division offices, with assistance from its 39 district offices, to impose regional conditions tailored to the needs of California and other states nationwide. This assists ACWA member agencies in implementing activities best tailored to water resources in California that do not pose significant negative impacts.

ACWA member agencies most often use NWPs for water conveyance systems, groundwater recharge and storage infrastructure, recycled water and potable reuse systems, stormwater and flood control projects, and habitat restoration and fish passage enhancements. These projects are essential to help achieve water supply and quality standards, mitigate drought resilience and weather variability impacts, and ensure compliance with regulations and other legal requirements.

Overall, ACWA supports the renewal of USACE NWPs. Specifically, ACWA supports the renewal of the following NWPs, which are among the most often used by water utilities:

- NWP 17 Hydropower Projects
- NWP 18 Minor Discharges
- NWP 31 Maintenance of Existing Flood Control Facilities
- NWP 37 Emergency Watershed Protection and Rehabilitation
- NWP 38 Cleanup of Hazardous and Toxic Waste
- NWP 40 Agricultural Activities
- NWP 46 Discharges in Ditches
- NWP 52 Water-Based Renewable Energy Generation Pilot Projects
- NWP 57 Electric Utility Line and Telecommunications Activities
- NWP 58 Utility Line Activities for Water and Other Substances
- NWP 59 Water Reclamation and Reuse Facilities

II. Support and Recommendations for New NWP A

ACWA supports USACE's proposal to issue a new NWP (NWP A) to improve the passage of fish and other aquatic organisms, as long as it does not adversely impact water quality, supply, reliability, and other water-related resources. ACWA believes increasing the activities authorized by NWP A would streamline permitting processes and reduce permitting burdens experienced by some ACWA member agencies and other public agencies, utilities, tribes, and organizations.

For example, NWP A can expedite water infrastructure activities that many ACWA member agencies and partners already actively work on. This includes projects across California that pertain to the passage of fish and other aquatic organisms like , installing fish ladders and fish screens, constructing bypass channels or nature-like fishways, and modifying infrastructure that restores natural stream functions. While many of these activities can take a few months to several years to compete (depending on the project's complexity and scale), NWP A can decrease project timelines.

As NWP A will be a newly established permit, ACWA encourages USACE to properly inform and equip interested parties with the tools and resources to utilize NWP A once finalized. Considerations

for USACE to consider include direct engagement with public water agencies—such as ACWA member agencies—and offering training workshops to ensure consistent application in USACE Divisions and Districts nationwide.

ACWA also notes that NWP A is issued for activities that have minimal adverse effects on the aquatic environment. However, NWP A involves activities related to fish passage and as such listed species or critical habitat under the Endangered Species Act (ESA) may be affected. USACE consultation with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) (also known as NOAA Fisheries) may therefore be required pursuant to ESA Section 7³. While ACWA supports federal interagency coordination to facilitate project approvals, ESA requirements may counter USACE intentions to accelerate activities related to NWP A. To avoid potential NWP A project delays due to ESA requirements, ACWA encourages USACE to specify examples of NWP A activities that will and may trigger ESA Section 7 requirements in the final rule, as well as issue relevant guidance. This can help inform NWP A applicants of potential timelines to plan and implement relevant projects.

III. Considerations to Improve USACE’s NWP Program

ACWA reemphasizes that NWPs can benefit water and water-related resources by expediting projects that may have been delayed due to other permitting process requirements. In implementing NWPs, ACWA urges USACE to do so in a manner that promotes clear and consistent permitting standards for ACWA member agencies and other water managers. Certainty throughout the NWP process can promote efficient water planning to effectively manage critical water infrastructure. This includes consistent interpretation and application of NWPs across all USACE districts and divisions. As mentioned above, California has a wide range of water landscapes within the state, but water landscapes differ nationwide. To avoid varying interpretations between USACE divisions and districts in NWP processing, USACE should issue guidance and provide training opportunities for agency staff regardless of geographic location.

When implementing NWPs, ACWA also urges USACE to ensure it does not add unnecessary costs to water infrastructure projects or unnecessarily delay the permitting process.

Regarding NWP 59 specifically, ACWA urges USACE to remove the ½ acre limitation for this NWP. ACWA member agencies utilize NWP 59 to improve water quality for the construction, expansion, and maintenance of water reclamation and reuse facilities and features. NWP 59 accelerates activities that allow water to be treated and reused for beneficial purposes such as agriculture and irrigation, potable water supplies, and groundwater replenishment. USACE’s proposed acreage limitation severely limits the practical use of NWP 59 since most eligible reuse and recharge projects are more than ½ acre to provide sufficient benefits. These beneficial projects are distinct from other land development focused NWPs that contain a ½ acre limitation (e.g., NWP 29 Residential Developments, NWP 39 Commercial and Institutional Developments, and NWP 40 Agricultural Activities). If USACE maintains an acreage limitation for NWP 59 in the final rule, ACWA requests that the limitation be expanded to one acre or more.

A strong and capable USACE workforce is the foundation of an effective Nationwide Permit Program. ACWA recognizes the importance of efficient federal operations. However, ACWA is concerned that the administration’s reduction of USACE personnel could create challenges for water providers and

³ U.S. Fish & Wildlife Service: *ESA Section 7 Consultation*. <https://www.fws.gov/service/esa-section-7-consultation>.

others in the regulated community. The loss of experienced USACE staff will undoubtedly diminish technical expertise, knowledge of ongoing projects, local conditions, and historical permitting precedents that will lead to inefficiencies for both applicants and remaining agency staff. Public water agencies like ACWA's members must still comply with water supply and quality, drought preparedness, and habitat restoration requirements, many of which depend on timely federal authorization. Additionally, ACWA member agencies are already susceptible to permitting delays that could worsen with USACE staffing cuts; a decrease in USACE personnel can result in longer NWP review times and uncertainty in project planning that undermine the NWP Program's purpose of a streamlined pathway for activities with minimal environmental impacts. As infrastructure projects to provide water resilience and restoration projects increase so will the demand on USACE staff. ACWA strongly encourages USACE to prioritize workforce retention and fill vacancies to limit backlogs and ensure timely processing of NWPs, especially in high-volume states like California.

IV. Extension Request for Public Comment Period

ACWA appreciates USACE providing an opportunity to comment on its NWPs. However, USACE provided a remarkably short time for the public to submit written comments. Due to the technical nature of this proposed rule and its large-scale implications on water resources nationwide, ACWA encourages USACE to extend this comment period by at least an additional 30 days. Extending the comment period to a minimum of 60 days will allow USACE to consider adequate responses from more impacted parties.

The current 30-day timeframe is a challenge for many small water utilities—including some ACWA member agencies—who have limited capacity and often lack the resources to develop sufficient comments within the imposed deadline. Nevertheless, those directly affected by activities authorized by NWPs have important real-world information to share that will likely be hindered by this short timeframe. Additionally, ACWA has noticed a 30-day comment period for most recent federal rulemakings, which is significantly shorter compared to standard public comment periods of 60 days. The flurry of proposed regulations has created numerous overlap between comment deadlines, oftentimes making it difficult for the regulated community to provide detailed input.

V. Conclusion

ACWA thanks USACE for its work to streamline permitting for water infrastructure projects. Please let us know if there are further opportunities for ACWA to collaborate on NWP efforts or if we can provide additional information and resources. If you have any questions or would like to follow up on this matter, please contact ACWA Federal Relations Representative, Caleb Raspler, at calebr@acwa.com or (202) 434 - 4762.

Respectfully,

A handwritten signature in black ink, appearing to read "Caleb Raspler", with a stylized flourish at the end.

Caleb Raspler
Federal Relations Representative
Association of California Water Agencies