

Summary of the Proposed 2017 Nationwide Permits¹

Nationwide Permit	Statutory Authority	Limits	Pre-Construction Notification (PCN) Threshold	Delineation Required?	Applicable Waters	Proposed Changes	Other Information
NWP 1 – Aids to Navigation	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 2 – Structures in Artificial Canals	10	none	PCN not required	no	navigable waters of the U.S.	none	
NWP 3 – Maintenance	10/404						
(a) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills		authorizes only minor deviations for maintenance	PCN not required	no	all waters of the U.S.	Clarify that NWP authorizes removal of previously authorized structures and fills.	Does not authorize: maintenance dredging for the primary purpose of navigation; beach restoration; or new stream channelization or stream relocation projects. Limit stream channel modification to the minimum necessary for the maintenance activity.
(b) Discharges associated with removal of accumulated sediments and debris in the vicinity of existing structures, including intake and outfall structures and associated canals		200 feet from structure; minimum necessary to restore capacity intake or outfall or associated canal	all activities	yes	all waters of the U.S.		
(c) Temporary structures, fills, and work necessary to conduct maintenance activity			PCN not required	no	all waters of the U.S.	Clarify that NWP authorizes use of temporary mats, if they require Department of the Army authorization..	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations
NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	10/404	none	PCN not required	no	all waters of the U.S.	none	Does not authorize impoundments or artificial reefs. Does not authorize covered oyster trays or clam racks.
NWP 5 – Scientific Measurement Devices	10/404	25 cubic yards for small weirs and flumes	PCN not required	no	all waters of the U.S.	none	Devices and any associated structures or fills must be removed to maximum extent practicable upon completion of use, and the area restored to pre-construction elevations.
NWP 6 – Survey Activities	10/404	1/10-acre	PCN not required	no	all waters of the U.S.	none	Does not authorize fills for roads. Does not authorize permanent structures. Does not authorize fills or structures associated with recovery of historic properties. Backfilling of exploratory trenches must not drain a water of the U.S.

¹ This table is intended to provide **general** information on the proposed 2017 nationwide permits that will be published in the Federal Register in May 2016.

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NWP 7 – Outfall Structures and Associated Intake Structures	10/404	none	all activities	yes	all waters of the U.S.	none	Activity must comply with National Pollutant Discharge Elimination System Program.
NWP 8 – Oil and Gas Structures on the Outer Continental Shelf	10	none	all activities	no	navigable waters of the U.S.	none	Limited to facilities in areas leased by the Bureau of Ocean Energy Management of the Department of the Interior.
NWP 9 – Structures in Fleeting and Anchorage Areas	10	none	PCN not required	no	navigable waters of the U.S.	none	Applies to structures, buoys, and other devices placed in anchorage or fleeting areas established by the U.S. Coast Guard.
NWP 10 – Mooring Buoys	10	none	PCN not required	no	navigable waters of the U.S.	none	Non-commercial, single boat mooring buoys.
NWP 11 – Temporary Recreational Structures	10	none	PCN not required	no	navigable waters of the U.S.	none	Structures must be removed within 30 days after use discontinued.
NWP 12 – Utility Line Activities	10/404	1/2 acre	<ul style="list-style-type: none"> a section 10 permit is required mechanized land clearing in forested wetlands for the right-of-way discharges that result in the loss of >1/10 acre 	yes, if PCN required	see text of NWP	Authorize the use of temporary mats. Add note referencing definition of “single and complete linear project” and 33 CFR 330.6(d). Add note with reference to Corps regulations for required minimum clearances of overhead electric power transmission lines over navigable waters.	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.
utility lines			<ul style="list-style-type: none"> utility line exceeds 500 linear feet in waters of the U.S. utility line runs parallel to a stream bed within jurisdictional area 		all waters of the U.S.	Clarify that NWP only authorizes crossings of waters of the United States associated with the construction, maintenance, and repair of utility lines. In cases where Department of the Army authorization is required, NWP authorizes inadvertent returns of drilling muds through sub-soil fractures (frac-outs that might occur during directional drilling operations to install utility lines). Add note stating that NWP authorizes utility line maintenance and repair activities that do not qualify for the CWA Section 404(f) exemption for maintenance.	Must restore area to pre-construction contours. For overhead utility lines, district engineer provides copy of PCN and NWP verification to Department of Defense Siting Clearinghouse.
utility line substations					non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		
foundations for overhead utility line towers, poles, and anchors					all waters of the U.S.		Separate footings for each tower leg should be used where feasible.

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access roads			<ul style="list-style-type: none"> above-grade permanent access roads exceeding 500 feet; permanent access roads constructed with impervious materials 		non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters		Access roads must be constructed to minimize adverse effects to waters of the U.S.
NWP 13 – Bank Stabilization	10/404	<ul style="list-style-type: none"> 500 feet along the bank (unless waived by DE) 1 cubic yard per running foot (unless waived by DE) 	<ul style="list-style-type: none"> >500 linear feet in length >1 cubic yard per running foot along bank below OHWM or HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	Clarify that NWP 13 authorizes a variety of bank stabilization techniques, not just bulkheads and revetments. Cubic yard limit to be measured along the bank, to address in-stream fills for bank stabilization. Add provision requiring proper maintenance, and state that NWP also authorizes repair and maintenance of bank stabilization activities. State that native plants appropriate for the site must be used for bioengineering or vegetative stabilization.	Activity cannot impair surface water flow into or out of waters of the U.S. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Invasive plant species may not be used for bioengineering or vegetative bank stabilization.
NWP 14 – Linear Transportation Projects	10/404	<ul style="list-style-type: none"> 1/2 acre in non-tidal waters 1/3 acre in tidal waters 	<ul style="list-style-type: none"> >1/10 acre discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	Add note referencing definition of “single and complete linear project” and 33 CFR 330.6(d).	Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. Does not authorize storage buildings, parking lots, train stations, aircraft hangars, or other non-linear transportation features.
NWP 15 – U.S. Coast Guard Approved Bridges	10/404	none	PCN not required	no	navigable waters of the U.S.	none	Causeways and approach fills for bridges are not authorized by this NWP; those activities require separate section 404 authorization. Bridge structures can be authorized by Section 9 of the Rivers and Harbors Act or other applicable laws.
NWP 16 – Return Water From Upland Contained Disposal Areas	404	none	PCN not required	no	all waters of the U.S.	none	Water quality issues addressed through section 401 certification process.
NWP 17 – Hydropower Projects	404	none	all activities	yes	all waters of the U.S., except section 10 waters	none	Applies to activities licensed by the Federal Energy Regulatory Commission or activities exempt from licensing requirements.

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NWP 18 – Minor Discharges	10/404	<ul style="list-style-type: none"> 25 cubic yards discharged below plane of OHWM/HTL 1/10 acre of waters of the U.S. 	<ul style="list-style-type: none"> >10 cubic yards discharged below plane of OHWM/HTL discharges into special aquatic sites 	yes, if PCN required	all waters of the U.S.	none	Does not authorize discharges for stream diversions.
NWP 19 – Minor Dredging	10/404	25 cubic yards below plane of OHWM/MHWM	PCN not required	no	navigable waters of the U.S.	Add requirement that dredged material be deposited in an area that has no jurisdictional waters or wetlands, unless authorized by the Corps by a separate permit.	Does not authorize dredging or degradation through siltation of coral reefs, submerged aquatic vegetation beds, anadromous fish spawning areas, or wetlands.
NWP 20 – Response Operations for Oil or Hazardous Substances	10/404	none	PCN not required	no	all waters of the U.S.	Change “and” to “or” in title of NWP.	Authorizes activities subject to the National Oil and Hazardous Substances Pollution Contingency Plan. Authorizes activities required for cleanup of oil releases in waters of the U.S. Authorizes use of temporary structures and fills for spill response training exercises.
NWP 21 – Surface Coal Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed, but DE can waive for intermittent and ephemeral streams No valley fills 	All activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove paragraph that authorized surface coal mining activities that were previously authorized by the 2007 NWP 21. Clarify that any losses of stream bed are applied to the 1/2-acre limit.	Activities must be authorized or currently being processed by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977.
NWP 22 – Removal of Vessels	10/404	none	<ul style="list-style-type: none"> if vessel listed or eligible for National Register of Historic Places activities in special aquatic sites 	yes, if PCN required	all waters of the U.S.	Change Note 2 to refer to the possibility of shipwrecks being historic properties.	Does not authorize maintenance dredging, shoal removal, or river bank snagging. Disposal of removed vessel in waters of the U.S. may require separate authorizations from EPA and Corps.
NWP 23 – Approved Categorical Exclusions	10/404	none	PCN not required, except for certain activities stated in RGL 05-07	yes, if PCN required	all waters of the U.S.	Change “environmental documentation” to refer to an environmental impact statement or environmental assessment.	Categorical exclusions must be approved by the Office of the Chief of Engineers. See RGL 05-07 for list of agencies and their activities that are currently eligible for NWP 23.
NWP 24 – Indian Tribe or State Administered Section 404 Program	10	none	PCN not required	no	navigable waters of the U.S.	none	Does not authorize activities in navigable waters that require only a section 10 permit.
NWP 25 – Structural Discharges	404	none	PCN not required	no	waters of the U.S.	none	Structure may require section 10 permit if located in navigable waters of the U.S. Does not authorize structures that support buildings or similar structures.

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NWP 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities	10/404	none	all activities, except for those that require reporting (e.g., activities under a binding agreement between the landowner and an agency)	yes, if PCN required	all waters of the U.S.	none	Does not authorize stream channelization. Does not authorize relocation or conversion of tidal waters. Does not authorize conversion of natural wetlands or streams, except for relocation activities. Compensatory mitigation is not required for NWP 27 activities.
NWP 28 – Modifications of Existing Marinas	10	activities limited to authorized marina area	PCN not required	no	navigable waters of the U.S.	none	Does not authorize dredging, additional slips, dock spaces, or expansion in waters of the U.S.
NWP 29 – Residential Developments	10/404	<ul style="list-style-type: none"> • 1/2 acre • 300 linear feet of stream bed, but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit.	For residential subdivisions, the aggregate total loss of waters of the U.S. cannot exceed 1/2-acre.
NWP 30 – Moist Soil Management for Wildlife	404	none	PCN not required	no	non-tidal waters of the U.S.	none	Authorizes only on-going activities. Does not authorize construction of new dikes, roads, water control structures, etc. Does not authorize conversion of wetlands to uplands. Does not authorize impoundments. Does not authorize net loss of aquatic functions and services.
NWP 31 – Maintenance of Existing Flood Control Facilities	10/404	maintenance baseline approved by district engineer	all activities	yes	all waters of the U.S.	none	PCN must indicate location of dredged material disposal sites and baseline information. Authorizes the removal of vegetation from levees associated with a flood control project, in those cases where a Corps permit is required.
NWP 32 – Completed Enforcement Actions	10/404	<ul style="list-style-type: none"> • 5 acres of non-tidal waters • 1 acre of tidal waters • also see text of NWP 	PCN not required	no	all waters of the U.S.	Modify paragraph (i)(a) to clarify that activities authorized by this NWP cannot adversely affect more than 5 acres of non-tidal waters or 1 acre of tidal waters.	
NWP 33 – Temporary Construction, Access, and Dewatering	10/404	none	all activities in section 10 waters	yes	all waters of the U.S.	Require PCNs only for activities in section 10 waters.	Associated primary activity must be authorized by Corps or U.S. Coast Guard, or be exempt from permit requirements. PCN must include restoration plan.
NWP 34 – Cranberry Production Activities	404	10 acres, but activity cannot result in net loss of wetland acreage	all activities	yes	section 404 waters only	none	Does not authorize discharges in waters of the U.S. for attendant features, such as warehouses, processing facilities, or parking areas.

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NWP 35 – Maintenance Dredging of Existing Basins	10	dredging to previously authorized depths or controlling depths, whichever are less	PCN not required	no	navigable waters of the U.S.	Require that dredged material be deposited in an area with no waters of the United States, unless authorized by the Corps by a separate permit.	
NWP 36 – Boat Ramps	10/404	<ul style="list-style-type: none"> 50 cubic yards, unless waived by DE 20 foot width, unless waived by DE 	<ul style="list-style-type: none"> >50 cubic yards >20 feet wide 	yes, if PCN required	all waters of the U.S., except special aquatic sites	none	Section 10 permit required if dredging navigable waters is necessary for access to boat ramp. No material may be placed in special aquatic sites.
NWP 37 – Emergency Watershed Protection and Rehabilitation	10/404	none	all activities	yes	all waters of the U.S.	none	Prospective permittee should wait 45 calendar days before proceeding with the activity if the district engineer has not yet issued a verification letter, but may proceed immediately if there is an unacceptable hazard to life or significant loss of property or economic hardship will occur.
NWP 38 – Cleanup of Hazardous and Toxic Waste	10/404	none	all activities	yes	all waters of the U.S.	none	Does not authorize the establishment of new disposal sites or the expansion of existing disposal sites.
NWP 39 – Commercial and Institutional Developments	10/404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit. Add wastewater treatment facilities to the list of examples of attendant features.	Does not authorize construction of new golf courses or new ski areas. Authorizes the construction of oil or gas wells. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer provides copy of PCN and NWP verification to Department of Defense Siting Clearinghouse.
NWP 40 – Agricultural Activities	404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed, but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit.	NWP can be used for agricultural activities, regardless of whether applicant is USDA participant. Does not authorize aquaculture ponds.
NWP 41 – Reshaping Existing Drainage Ditches	404	none	reshape greater than 500 linear feet of drainage ditch	no	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Remove PCN requirement.	Reshaping drainage ditch cannot increase capacity of ditch or drain additional waters of the U.S. Does not authorize relocation of drainage ditches constructed in waters of the U.S.
NWP 42 – Recreational Facilities	404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit.	Authorizes variety of recreational facilities, except for hotels, restaurants, racetracks, stadiums, arenas, or similar facilities (these may be authorized by NWP 39).

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NWP 43 – Stormwater Management Facilities	404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities involving expansion or construction of SWM facilities	yes, if PCN required	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Stormwater or wastewater management facilities that meet the criteria at 33 CFR 328.3(b)(6) are not waters of the United States, and maintenance does not require a section 404 permit. Clarify that any losses of stream bed are applied to the 1/2-acre limit.	Does not authorize construction of new stormwater management facilities in perennial streams. Maintenance does not require PCN if limited to restoring original design capacities. Also authorizes low impact development integrated management features.
NWP 44 – Mining Activities	10/404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	For mining activities in non-tidal open waters, the 1/2-acre limit applies to the mining area. The loss of non-tidal wetlands plus the mining area in non-tidal open waters cannot exceed 1/2-acre. Clarify that any losses of stream bed are applied to the 1/2-acre limit. Final reclamation plan required for PCN, if reclamation is required.	PCN must include reclamation plan if reclamation is required by other statutes.
NWP 45 – Repair of Uplands Damaged by Discrete Events	10/404	Restore uplands to pre-event ordinary high water mark	all activities	yes	all waters of the U.S.	Provide district engineer with authority to waive 12-month limit for submitting PCN if permittee can demonstrate funding, contract, or similar delays.	PCN must be submitted to district engineer within one year of date of damage; work must start or be under contract within two years of date of damage, unless waived in writing by district engineer.
NWP 46 – Discharges in Ditches	404	1 acre	all activities	yes	certain types of non-tidal ditches constructed in uplands and determined to be waters of the U.S.	none	NWP does not authorize discharges into ditches constructed in streams or other waters of the U.S., or in streams that have been relocated in uplands.

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NWP 48 – Existing Commercial Shellfish Aquaculture Activities	10/404	none	<ul style="list-style-type: none"> Activity includes species that has never been cultivated in waterbody. Activity occurs in an area that has not been used for commercial shellfish aquaculture during the past 100 years 	yes, if PCN required	navigable waters of the U.S.	Project areas include lands where other legally binding agreements establish enforceable property interests. Define “new commercial shellfish aquaculture operation” as operating in an area where such activities have not occurred during the past 100 years. Remove the PCN threshold for dredge harvesting, tilling, or harrowing in areas inhabited by submerged aquatic vegetation. Does not authorize activities that directly affect more than 1/2-acre of submerged aquatic vegetation beds in an area that has not been used for commercial shellfish aquaculture during the past 100 years. PCN must include all species that are planned to be cultivated during the period the NWP is in effect. PCN must specify whether suspended cultivation techniques will be used and indicate the general water depths in the project area.	Does not authorize nonindigenous species not previously cultivated in the waterbody, aquatic nuisance species, or attendant features such as docks or staging areas. Does not authorize the deposition of shell material back into waters of the U.S. as waste. Project area defined as area identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator.
NWP 49 – Coal Remining Activities	10/404	limited to sites that were previously mined for coal, but new mining may be conducted in adjacent areas if the newly mined area is less than 40 percent of the area being remined plus any unmined area needed for reclamation	all activities	yes	non-tidal waters of the U.S.	none	Permittee must demonstrate net increase in aquatic resource functions through reclamation. Activities must be authorized by the Department of Interior, Office of Surface Mining, or by states with approved programs under Title IV and V of the Surface Mining Control and Reclamation Act of 1977 or are currently being processed as part of an integrated permit processing procedure; prospective permittee must receive written authorization prior to commencing the activity. Corps will review the SMCRA determination regarding the amount of previously unmined area necessary for the reclamation and make an independent determination of the amount needed. Prospective permittee must receive written authorization prior to commencing the activity.

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NWP 50 – Underground Coal Mining Activities	10/404	<ul style="list-style-type: none"> • 1/2 acre • 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities	yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit.	Activities must be authorized by the Department of Interior, Office of Surface Mining, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977 or are currently being processed as part of an integrated permit processing procedure. If reclamation required, a copy of the plan must be submitted with PCN. Does not authorize coal preparation and processing activities outside of the mine site. Prospective permittee must receive written authorization prior to commencing the activity.
NWP 51 – Land-Based Renewable Energy Generation Facilities	10/404	<ul style="list-style-type: none"> • 1/2 acre • 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams 	all activities	Yes	non-tidal waters of the U.S., except non-tidal wetlands adjacent to tidal waters	Clarify that any losses of stream bed are applied to the 1/2-acre limit. Revise Note 2 to include NWP 14 activities.	Authorizes construction, expansion, or modification of land-based renewable energy production facilities, including attendant features. If only activity requiring Department of the Army authorization is utility line, then NWP 12 shall be used. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate single and complete linear projects. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer provides copy of PCN and NWP verification to Department of Defense Siting Clearinghouse.

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NWP 52 – Water-Based Renewable Energy Generation Pilot Projects	10/404	<ul style="list-style-type: none"> 1/2 acre 300 linear feet of stream bed but DE can waive for intermittent and ephemeral streams No more than 10 generation units Floating solar panels in section 10 waters limited to 1/2-acre in size 	all activities	Yes	all waters of the U.S. except coral reefs	Add floating solar panels in section 10 waters to the list of activities authorized by this NWP, with 1/2-acre limit. Clarify that any losses of stream bed are applied to the 1/2-acre limit. Add note stating that hydrokinetic renewable energy generation projects authorized by the Federal Energy Regulatory Commission under the Federal Power Act of 1920 do not require separate authorization under Section 10 of the Rivers and Harbors Act of 1899.	Authorizes construction, expansion, modification, or removal of water-based wind or hydrokinetic renewable energy generation pilot projects and their attendant features. Limited to “pilot projects.” Placement of a transmission line on bed of a navigable water of U.S. from generation unit to land-based collection facility is considered a structure under Section 10 and is not considered a loss of waters of the U.S. Prohibits activities in coral reefs. Structures in anchorage areas must comply with U.S. Coast Guard requirements. Does not authorize structures in established danger zones, restricted areas, etc. Upon completion of pilot project, associated structures and/or fills must be removed unless authorized by separate DA permit. Utility lines transferring energy to a distribution system, regional grid, or other facility are generally considered to be separate and complete linear projects. An activity located on an existing maintained Corps project requires separate 408 permission under 33 USC 408. For wind energy generating structures, solar towers, or overhead transmission lines, district engineer provides copy of PCN and NWP verification to Department of Defense Siting Clearinghouse.
NWP A – Removal of Low-Head Dams	10/404	none	all activities	Yes	all waters of the U.S.	new NWP	Authorize removal of low-head dams for river restoration and public safety. Low-head dam defined as a dam built to pass upstream flows over the entire width of the dam crest on an uncontrolled basis.
NWP B – Living Shorelines	10/404	<ul style="list-style-type: none"> 30 feet from mean high water (unless waived by DE) 500 feet along the bank (unless waived by DE) 	all activities	Yes	all waters of the U.S.	new NWP	Authorize construction and maintenance of living shorelines for shore erosion control. Living shorelines consist of natural and man-made materials to establish and maintain marsh fringes or other living elements to reduce erosion while retaining or enhancing ecological processes. May include stone or reef structures to protect the shoreline from low to moderate waves. Does not authorize beach nourishment or land reclamation activities.