

LAKE TAHOE BASIN

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U.S. ARMY



US Army Corps
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ARMY CORPS OF ENGINEERS MISSION

The Regulatory Program is committed to protecting the Nation's aquatic resources and navigation capacity, while allowing reasonable development through fair and balanced permit decisions.

The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands.



The Engineers' Castle in Washington Park Zoo (Michigan City, Indiana) was dedicated on May 6, 1937. *Photo courtesy of Washington Park Zoo.*

<https://www.usace.army.mil/about/history/historical-vignettes/general-history/090-corps-castle/>
<https://www.spk.usace.army.mil/Missions/Regulatory/>



REGULATORY AUTHORITY

- **Section 10 of the Rivers and Harbors Act of 1899 (R&HA)**
 - Navigable Waters of the United States vs.. Navigable in Fact
 - Structures and Work

Examples of activities that may require permits include bank stabilization, dredging, excavation, construction of piers, docks, wharfs, bulkheads, marinas, boat ramps, water intake structures, and cable or pipeline crossings.

- **Section 404 of the Clean Water Act (CWA)**
 - Dredge and Fill Material

Examples of activities that may require permits include revetments, levees, dams, dikes, breakwaters, riprap, weirs, roadways, utility lines, developments for residential commercial or recreation



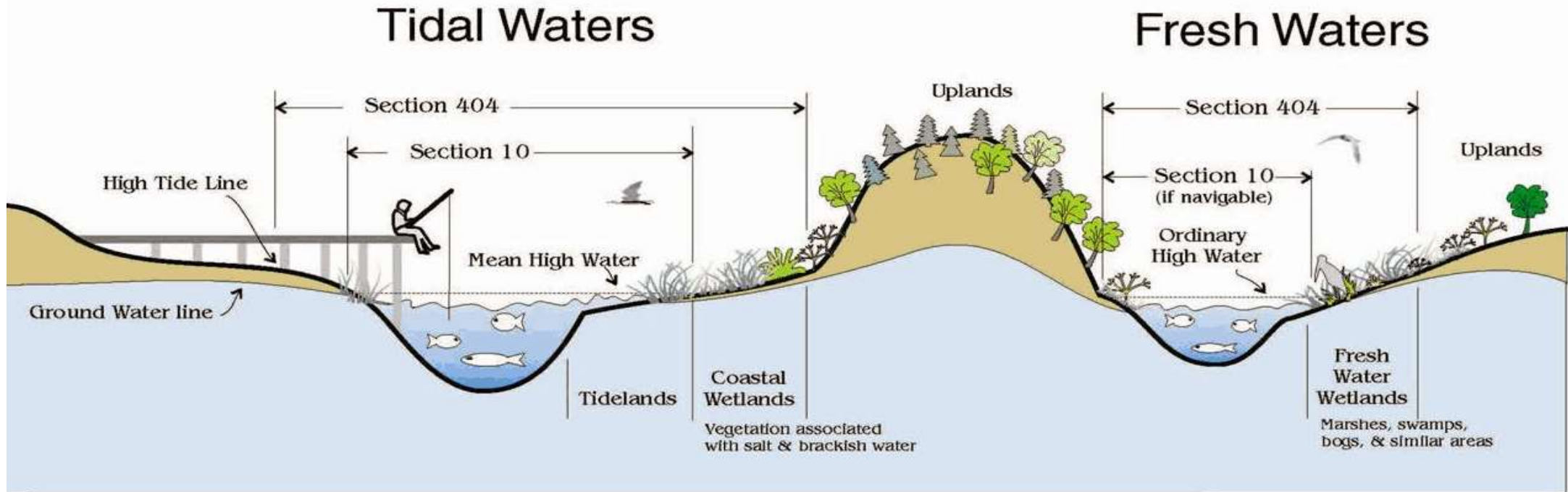
<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/>

<https://www.spk.usace.army.mil/Missions/Regulatory/Jurisdiction/Navigable-Waters-of-the-US/>



ARMY CORPS JURISDICTION

CORPS OF ENGINEERS REGULATORY JURISDICTION



Typical examples
of regulated activities

Section 103 Ocean Disposal of Dredged Material

Ocean discharges of
dredged material

Section 404 Discharge of Dredged or Fill Material (all waters of the U.S.)

All filling activities, utility lines, outfall structures,
road crossings, beach nourishment, riprap,
jetties, some excavation activities, etc.

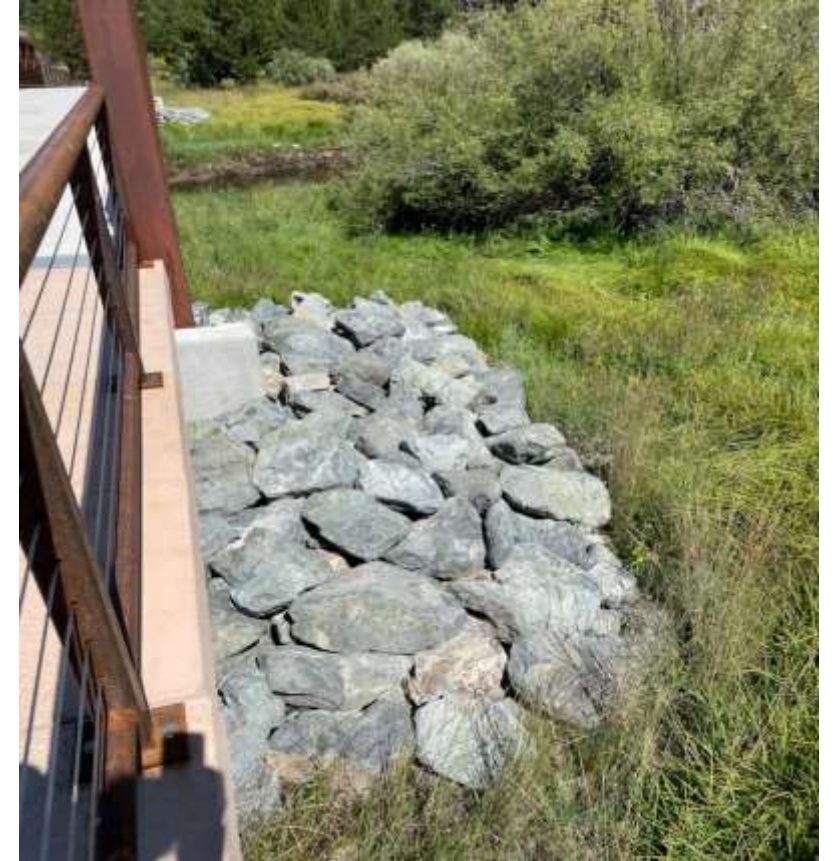
Section 10 All Structures and Work (navigable waters)

Dredging, marinas, piers, wharves,
floats, intake / outtake pipes,
pilings, bulkheads, ramps, fills,
overhead transmission lines, etc.



HOW DO I KNOW IF I NEED A PERMIT?

1. Is the activity in a jurisdictional water of the United States? (not all waters are WOTUS)
2. Is the activity a regulated activity in a jurisdictional water of the United States?



<https://www.ecfr.gov/current/title-33/chapter-II/part-323/section-323.3>



EXEMPT ACTIVITIES UNDER SECTION 404 OF THE CWA

1. Normal ongoing farming activities such as silviculture, ranching, plowing, seeding, cultivating, harvesting, and minor drainage
2. Maintenance activities including for emergencies (must be in kind)
3. Construction/maintenance of farm or stock ponds, irrigation ditches, or the maintenance of drainage ditches
4. Construction of temporary sedimentation basins
5. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment
6. Approved activities under 208(b)(4) of the CWA, for which the State has an approved program



NOTE: Even if an activity is exempt under section 404 of the CWA; this does not preclude the requirement for other authorizations from other agencies or under other laws.

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Section-404-Exemptions/>

EXCEPTIONS TO EXEMPT ACTIVITIES

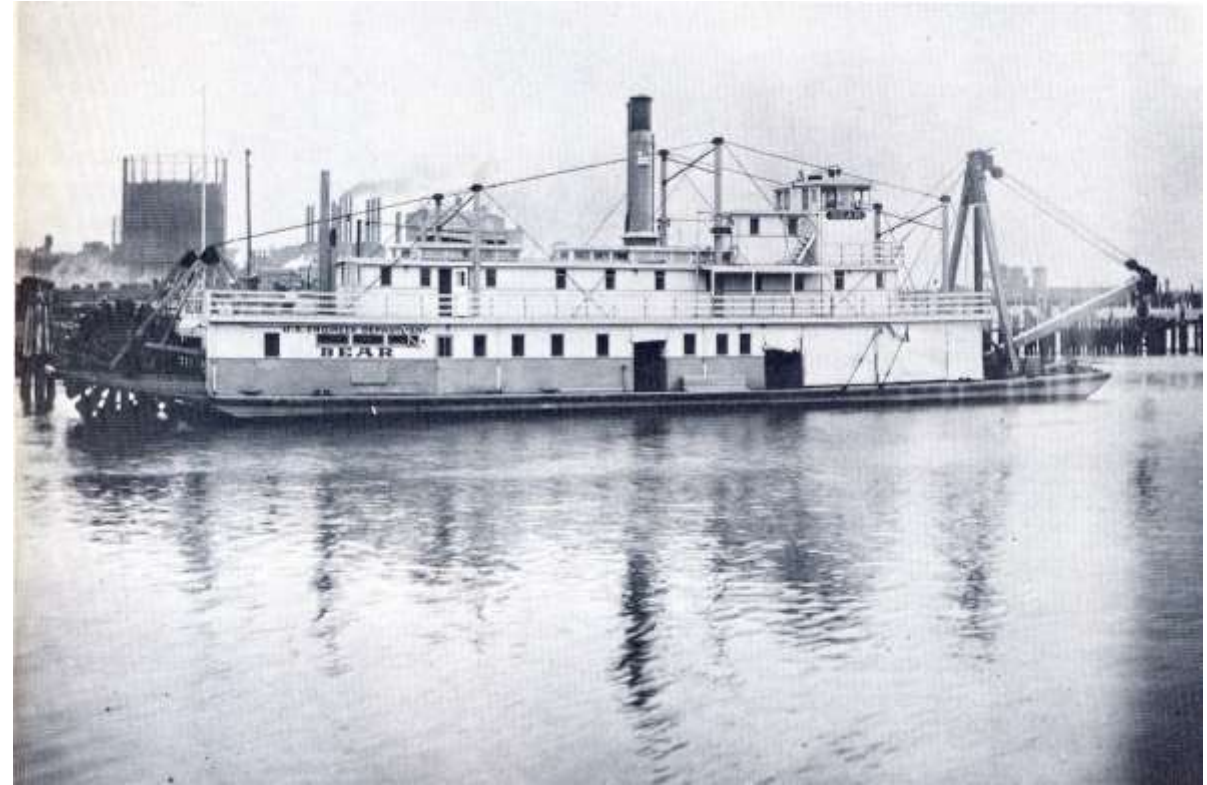
1. Toxic Pollutants – If any discharge of fill material resulting from an exempt activity has any toxic pollutant a permit may be required, and the activity may be subject to other regulations
2. Recapture Provision – If the exempt activity would result in an adverse effect to aquatic resources (2-part test)
 - Converts a water of the US to a use it was not previously subject to (i.e. wetland to upland or wetland to open water)
 - Flow or circulation of a jurisdictional water of the U.S. is impaired or the reach of that water is reduced





OTHER COMMON EXCEPTIONS IN LAKE TAHOE

1. Work or Structures before December 18, 1968, that do not interfere with navigation do not require specific authorization under Section 10 of R&HA because they were already authorized. (Buoys, Rock Crib Piers, etc.)
2. Activities subject to Section 404 CWA that were completed/phase in dates by July 1, 1977, were considered authorized and did not require specific authorization. (This was the start of the Nationwide Permit Program. 33 CFR 330.3 (a-b))
3. Specific caveats and exemptions for piles:
 - Piles are specifically regulated under Section 10 RHA (33CFR 323)
 - Piles are specifically exempt under Section 404 CWA (33CFR 323)



<https://www.ecfr.gov/current/title-33/chapter-II/part-330/section-330.3>

<https://www.ecfr.gov/current/title-33/chapter-II/part-323>

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/>



NON-REPORTING, REPORTING, AND NO PERMIT REQUIRED

Ways Requests Can Be Processed

1. No Permit Required = The activity is either a non-regulated activity under Section 404 of the CWA/Section 10 R&HA, or is not in a jurisdictional water of the U.S.
2. Non-Reporting = The activity is regulated, can fall under a general permit, and the impacts are so negligible that the general conditions associated with the general permit are sufficient.
(i.e. NWP 10)
3. Reporting = The activity is a regulated activity in a jurisdictional water of the U.S. and has impacts that are greater than negligible. **(Impacts to: ESA, Civil Works Projects, NHPA, Tribal Nation Resources, Water Quality, EFH, if the general permit specifically says so, and if the impact to the aquatic resource are more than minimal greater than 1/10 acre)**

NOTE: Proposed activities that could be considered non-reporting under a general permit depend on the specific thresholds specified in the terms and conditions of that particular permit.

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/>



TYPES OF PERMITS

Individual Permits (IPs)

- Letters of Permission (LOP)
- Standard Permit (SP)

General Permits (GPs)

- Nationwide Permits (NWP)
- Regional General Permits (RGPs)
- Programmatic General Permits (PGPs)



[Home](#) / [Missions / Regulatory / Permitting](#)



Permit Applications are submitted paperless

All project related documents (permit applications, aquatic resource delineations, jurisdictional determinations, agency requests, etc.) should be submitted electronically to the following email address:

SPKRegulatoryMailbox@usace.army.mil

[Instructions for submitting requests electronically.](#)

General questions and inquiries about the Regulatory Program or 408 Program?

Call: (916) 557-5250

Email: SPKRegulatoryMailbox@usace.army.mil

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/>



General Permits

General permits are a type of permit issued on a regional or nationwide basis for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the general permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, state, or local agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minor. General Permits consist of Regional or Programmatic General Permits and Nationwide Permits.

Regional and Programmatic General Permits

Regional General Permits (RGP) are issued on a regional basis and may require case-by-case reporting.

Programmatic General Permits (PGP) are founded on an existing state, local or other federal program designed to avoid duplication of that program.

RGPs and PGPs may only be issued following the publishing of a public notice, and preparation of a decision document to ensure that the authorized activities cause only minimal individual and cumulative environmental impacts. In the majority of cases, RGPs and PGPs contain conditions to further ensure that environmental impacts are minimal, including conditions for the submittal of a permit application prior to activities occurring within waters of the U.S. To ensure compliance with the RGP or PGP, you must carefully read all of the terms and conditions of an RGP or PGP prior to initiating construction activities in waters of the U.S.

Nationwide Permits

Nationwide permits (NWP) are general permits issued on a nationwide basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. In order to qualify for the use of a NWP, prospective permittees must comply with all of the terms, general conditions (GCs), and regional conditions (RCs) of the NWP, including any requirements for the submittal of a pre-construction notification (PCN). Many of the NWPs, GCs and RCs require the submittal of a PCN before commencing the work, to ensure that the activities authorized by those NWPs have minimal individual and cumulative adverse impacts on the aquatic environment. In those cases, if the activity complies with the terms and conditions of the NWP, a NWP verification letter will be sent to the prospective permittee. The NWP verification may include additional case specific conditions (special conditions) to ensure no more than minimal individual and cumulative impacts, and will state that the verification is valid for a specific period of time (generally but no more than two years), unless the NWP authorization is modified, suspended, or revoked. Per regulation, the NWPs must be reissued every five years. The reissuance process involves a full interagency and public interest review.

Individual Permits

Individual permits are permits for activities that cannot be authorized under a general permit. These activities may have more than minimal individual or cumulative environmental impacts. Individual permits consist of Letters of Permission and Standard Permits.

Letters of Permission

A **Letter of Permission (LOP)** is a type of individual permit issued through an abbreviated processing procedure which includes coordination with Federal and state fish and wildlife agencies, and a public interest evaluation, but without the publishing of an individual public notice. The LOP cannot be used to authorize the transportation of dredged material for the purpose of dumping it in ocean waters. A Letter of Permission (LOP) may be authorized for certain activities subject to Section 10 of the Rivers and Harbors Act of 1899, or may be authorized for activities subject to Section 404 of the Clean Water Act within the States of California, Nevada or Utah, provided the applicants follow the LOP process for the appropriate state. For the use of an LOP under Section 404 of the Clean Water Act, you must schedule a pre-application (California/Utah) meeting with the appropriate **Sacramento District Office**.

Standard Permits

A **Standard Permit (SP)** is one which has been processed through the public interest review procedure, including public notice and receipt of comments. Review through the SP process is only done for activities that do not qualify for authorization under a Regional General Permit, Programmatic General Permit, Nationwide Permit, or Letter of Permission. The SP process is the most time consuming and stringent process utilized by the Corps. You will be required to submit more information during the SP process than during any other permit process. For any activities requiring processing under an SP, you should anticipate that a decision will not be made for a minimum of 120 days from submittal of a completed **permit application**. If the project is controversial, has significant impacts to the environment, is not the least environmentally damaging practicable alternative, or if the project may impact Federally listed threatened and/or endangered species or cultural resources, or requires a Section 401 Water Quality Certification, the permit process will likely take substantially longer than 120 days. For larger projects, it is recommended that you schedule a pre-application (California/Utah) meeting with the appropriate **Sacramento District Office**.



GENERAL PERMITS (NWP, RGP, AND PGP)

- Abbreviated process for permitting
- All general permits go out for public comments
- NWPs issued once every 5 years from HQ (Current NWPs expire on March 14, 2026)
- Have a set of general conditions for common types of projects that we see often
- Have minimal impacts to aquatic resources
- 60-day review time provided the application is complete when we have received a complete PCN
- Pre-Construction Notification (PCN) which is form 6082 may be required
- Some general permits have water quality certifications
- One of the defining characteristics of a GP is that the impacts of the proposed action to aquatic resources must be considered no more than minimal
- **NOTE: The Corps only verifies use of a General Permit.**

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Regional-and-Programmatic-General-Permits/>
<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/2021NWPs/>



HOW DO I KNOW IF I NEED TO SUBMIT A PCN?

If the activity is a regulated activity in a water of the U.S. what is my next step?

1. Determine if the activity falls under a GP and if it is a non-reporting general permit. The Nationwide Permits are a good place to start. There are 57 available to choose from.

The screenshot shows the US Army Corps of Engineers website. The main navigation menu includes: About, Business With Us, Missions, Locations, Careers, Media, Library, Contact, and Coronavirus. The page title is "2021 Nationwide Permits".

2021 Nationwide Permits

On January 13, 2021, the U.S. Army Corps of Engineers (Corps) published a notice in the Federal Register (86 FR 2744) announcing the reissuance of 12 existing nationwide permits (NWP) and issuance of 4 new NWP. In that final rule, the Corps also reissued the NWP general conditions and definitions. Those 16 NWP and the NWP general conditions and definitions went into effect on March 15, 2021. On December 27, 2021, the Corps published a notice in the Federal Register (86 FR 73522) announcing the reissuance of the remaining 40 existing NWP and issuance of 1 new NWP. Those 41 NWP went into effect on February 25, 2022. The NWP general conditions and definitions in the January 13, 2021, final rule apply to all 57 NWP. All 57 NWP will expire on March 14, 2026.

Further information on USACE NWP is available on the USACE Headquarters (HQ) website at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>.

These 57 NWP will expire on March 14, 2026:

- NWP 1 – Aids to Navigation
- NWP 2 – Structures in Artificial Canals
- NWP 3 – Maintenance
- NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- NWP 5 – Scientific Measurement Devices
- NWP 6 – Survey Activities
- NWP 7 – Outfall Structures and Associated Intake Structures
- NWP 8 – Oil and Gas Structures on the Outer Continental Shelf
- NWP 9 – Structures in Fleet and Anchorage Areas
- NWP 10 – Mooring Buoys
- NWP 11 – Temporary Recreational Structures
- NWP 12 – Oil or Natural Gas Pipeline Activities
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 15 – U.S. Coast Guard Approved Bridges

Useful Links

- Public Notices
- Regulatory Program Workshops
- Sanctions
- Aquatic Resource Delineation
- General Permits
- Nationwide Permits**
- Letters of Permission
- Standard Permits
- Navigation
- Permit Strategies for HCPs
- Endangered Species
- Cultural Resources
- Tribal Consultation
- Environmental Impact Statements
- Clean Water Act (CWA) Exemptions
- Section 214 of RCRA
- Final Permit Actions
- Freedom of Information Act
- Documents Released Under FOIA
- Consultants
- References

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/2021NWP/>

<https://www.spk.usace.army.mil/Missions/Regulatory/>



EXAMPLES: IDENTIFYING NON-REPORTING GENERAL PERMITS



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2021 Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits – February 25, 2022

10. Mooring Buoys. Non-commercial, single-boat, mooring buoys. (Authority: Section 10)

A. Regional Conditions

1. [Regional Conditions for California](#)
2. [Regional Conditions for Nevada and Utah](#)



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Sacramento District

2021 Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits – February 25, 2022

18. Minor Discharges. Minor discharges of dredged or fill material into all waters of the United States, provided the activity meets all of the following criteria:

- (a) The quantity of discharged dredged or fill material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line;
- (b) The discharge of dredged or fill material will not cause the loss of more than 1/10 acre of waters of the United States; and
- (c) The discharge of dredged or fill material is not placed for the purpose of a stream diversion.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if:

- (1) The discharge of dredged or fill material or the volume of area excavated exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line, or
- (2) the discharge of dredged or fill material is in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404).

A. Regional Conditions

1. [Regional Conditions for California](#)
2. [Regional Conditions for Nevada and Utah](#)

B. Nationwide Permit General Conditions



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Sacramento District

2021 Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits – February 25, 2022

59. Water reclamation and reuse facilities. Discharges of dredged or fill material into non-tidal waters of the United States for the construction, expansion, and maintenance of water reclamation and reuse facilities, including vegetated areas enhanced to improve water infiltration and constructed wetlands to improve water quality.

The discharge of dredged or fill material must not cause the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

This NWP also authorizes temporary fills, including the use of temporary mats, necessary to construct the water reuse project and attendant features. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404).

A. Regional Conditions

1. [Regional Conditions for California](#)
2. [Regional Conditions for Nevada and Utah](#)



NATIONWIDE PERMIT VERIFICATION PROCESS

1. Pre-Construction Notification (PCN) form 6082 - 30-day completeness determination – If the PCN is not complete we will request that additional information (usually a 30-day response window).
2. If the PCN is complete we coordinate with other agencies for historical/cultural resources, endangered species (respective agencies usually have 30 days to respond).
3. Once the required coordination are complete, we can move to the next stage in the review process. Depending on the NWP we may require a water quality certification (WQC). At this point we set a Reasonable Period of Time (RPOT) and send a provisional notification if a WQC is required. (Standard RPOTs are 180 days under the new 2023 Rule for WQC as of November 27, 2023.)
4. Once we have the WQC we send EPA a request to determine if the project has a neighboring jurisdiction (30-day response window).
5. Final review and verification of use of the General Permit

NOTE: The verification process for RGPs, PGP is similar to the verification process under NWPs.

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/>



INDIVIDUAL PERMITS (LOP)

- 1 Receive an Application (Must be [form 4345](#))
2. 15-day completeness review
3. Request public comments from other agencies ([15-day comment window](#))
4. Coordinate and consult with the other regulatory agencies. Usually [30-day response windows](#) (SHPO, FWS, Tribal Nations, Waterboards, Section 408 Operations and Civil Works)
LOPs review time is usually [120-days](#) provided the application is complete when received.
5. Requires an individual [water quality certification](#) (Pre-filing, Apply, 180-day RPOT, 30-day response window for EPA Neighboring jurisdiction determination)
6. Final review and issuance construction window is authorized for 5 years from date of issuance
 - Pre-application meeting are not required but recommended
 - Only used an LOP if GPs cannot be used (If the proposed project doesn't fit under a GP but would still have minimal impacts to aquatic resources).
 - LOPs have general conditions associated with them



INDIVIDUAL PERMITS (SP)

1. Pre-Application meeting recommended
2. Submit an application ([application form 4345](#))
3. Completeness determination
4. A formal [public notice is sent out within 15](#) days of receiving a complete application.
5. The public has a [minimum of 15 days](#) to comment but the comment window can be extended. (We have to consider the public interest review factors and public/resources agency comments [404 (b)(1) Guidelines].)
6. Once we complete coordination with SHPO, FWS/NMFS and the 401 Certifying Authorities we can make a permit decision. (An individual water quality certification is [required](#).)



<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Standard-Permits/>



COMPLETE PCN NOTIFICATIONS

For GPs

1. PCN Notification: Doesn't have to be the form 6082, but it does need to have all the information that the form 6082 would have. Note: A PCN is not always required for every GP.
2. Applicants' contact information: (Name, Mailing Address, Phone Number, E-Mail if available). The agent's contact information should not be substituted for the applicant's contact information. We must have signed expressed permission to coordinate with an agent acting on the applicant's behalf.
3. Delineation for Section 404 CWA activities, (OHWM clearly indicated).
4. Mitigation proposal or statement
5. If the project may affect a federal civil works project (33 U.S.C. 408)
6. Project drawings or plans with the OHWM clearly indicated (profile and plan view)

7. Clear project description

Note: All the information required for a complete PCN notification is not always the only information that is required to complete the review process. As a result, we may ask for cultural resource information, endangered species information, and or a water quality certification through a suspense letter.



CLEAR PROJECT DESCRIPTION

- Who is doing the work?
- What type of work or project is being proposed and what equipment would be used?
- Why is the project being proposed?
- What is the purpose of the project?
- Where is the proposed project located *and* how big is the project area? (address if available, and /or latitude and longitude coordinates)
- How would the work be done *and* how much fill is proposed?
- When are they doing the work?





COMPLETE PERMIT APPLICATIONS

Individual Permits: SPs and LOPs

- 1. Application – Must be form 4345, must be signed, and must be completely filled out**
2. Must have a clear project purpose and description. All the questions from slide 18 must be clearly answered **(i.e. Who, What Where, When, Why, and How)**
3. Drawings must have cross section drawing and aerial project drawings
4. Mitigation statement or proposal
- 5. Baseline information (What are the current conditions?)**
- 6. List of other agencies that also require approvals**

NOTE: If these things are missing, we will request more information in an application incomplete letter. If we have all 6 of these things, but we still need additional information for compliance with the ESA, NHPA, or water quality we will request additional information in a suspense letter (30-day response window).

CUSTOMER RESOURCES

Regulatory Program Workshops:

- <https://www.spk.usace.army.mil/Missions/Regulatory/References/Regulatory-Program-Workshop/>

Sacramento District Website: <https://www.spk.usace.army.mil>

- Submission of jurisdiction requests and permit applications
- Pre-application Meeting Information
- Public Notices - sign up!
- Latest News

HQUSACE Website: <https://www.usace.army.mil/>

- Final and pending permit actions; Approved Jurisdictional Determinations
- National Customer Service Survey link
- National program information

Code of Federal Regulations Home Page: <https://www.ecfr.gov/>



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LAKE TAHOE PERMITTING SUMMARY

- Army Corps Mission & Authority (Section 10 R&HA and Section 404 CWA)
- Regulated activities in WOTUS (Dredge and Fill, and/or Work or Structures)
- Exemptions, No Permit Required, and Non-Reporting NWP
- Types of Permits (IPs and GPs)
- Complete Applications (Suspense & PCN/Application Incomplete Letters)
- Customer Resources and Useful Web Links
- Q&A



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TAHOE PERMITTING QUESTIONS & ANSWERS

NOTE: THERE WILL BE AN ADDITIONAL Q&A SECTION AT THE END OF THE PRESENTATION TOO



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THANK YOU



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Many of the photos from this presentation are available on our public web page at:
<https://www.spk.usace.army.mil/Media/Images/>