

# 2021 NATIONWIDE PERMITS, CONDITIONS, AND PCN REQUIREMENTS

Sara Hatch  
Regulatory Project Manager  
California South Section  
Date: 13 June 2024



U.S. ARMY



US Army Corps  
of Engineers®

# 2021 NATIONWIDE PERMIT OVERVIEW



U.S. ARMY



US Army Corps  
of Engineers®



# WHAT IS A NATIONWIDE PERMIT?

- 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.
- Unlike Individual Permits, the National Environmental Policy Act (NEPA) and public notice processes are completed for NWPs when they are issued. For permittees, NWPs are not “issued” but verified.
- The NWP verification may include additional case specific conditions (special conditions) to ensure no more than minimal individual and cumulative impacts.
- A NWP verification is valid until the NWP is re-issued, unless the NWP authorization is modified, suspended, or revoked.
- Per regulation, the NWPs must be re-issued every five years. The reissuance process involves a full interagency and public interest review.





# NWP BACKGROUND



For 2021, 57 NWPs were approved. The permits were issued on March 14, 2021, and December 27, 2021, and are set to expire on March 14, 2026.

Types of Activities: Residential, commercial and institutional developments; outfall structures; bank stabilization; renewable energy; scientific research and survey activities; transportation; recreation; maintenance; restoration; etc.

Many NWPs require the submittal of a pre-construction notification (PCN) prior to beginning work. PCN requirements are found in the terms of the NWP, in the General Conditions, and in the Regional Conditions.





# QUALIFYING FOR A NWP



In order to qualify for use under a NWP, the activity must:

1. Meet the terms of the NWP
2. Meet the General Conditions of the NWP
3. Meet the Regional Conditions of the NWP

If the activity does not meet all of these requirements, it does not qualify for authorization under a NWP.





# COMMONLY USED NWPS IN SPK

## **NWP 3 - Maintenance**

NWP 5 - Scientific Measurement Devices

NWP 6 - Survey Activities

## **NWP 7 - Outfall Structures and Associated Intake Structures**

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 17 - Hydropower Projects

NWP 18 - Minor Discharges

NWP 23 - Approved Categorical Exclusions

## **NWP 27 - Aquatic Habitat Restoration**

## **NWP 29 - Residential Developments**

NWP 31 - Maintenance of Existing Flood Control Facilities

NWP 33 - Temporary Construction, Access, and Dewatering

NWP 35 - Maintenance Dredging of Existing Basins

## **NWP 39 - Commercial and Institutional Developments**

## **NWP 58 - Utility Line Activity for Water or Other Substances**





# MORE INFORMATION ON NWPS

Can find more information on our website at:

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

Missions>  
Regulatory>  
Permitting>  
Nationwide Permits>  
2021 NWP

An official website of the United States government [Here's how you know](#)

US Army Corps of Engineers Sacramento District

Search Sacramento

Navigation Menu:

- About
- Business With Us
- Missions
  - Civil Works
  - Emergency Operations
  - Environmental Projects
  - Flood Risk Awareness
  - Military Projects
  - Recreation
  - Regulatory
    - Jurisdiction
    - Permitting
      - Nationwide Permits
        - 2017NWPs
        - 2021NWPs
        - NWP-CA-Summary-Table
        - NWP-NV-Summary-Table
        - NWP-UT-Summary-Table
      - Appeals
      - Mitigation
      - Enforcement
      - Final Actions
      - FAQ
      - References
      - Contacts
      - Delta Conveyance
      - Utah Lake Restoration Project
    - UAS
    - Water Control
  - Tribal Nations Program
- Locations
- Careers
- Media
- Library
- Contact
- Coronavirus

**Sacramento Levees Update**

We completed 1,150 linear feet of erosion protection improvements, continued cutoff wall construction for and completed 100% design for 2023 construction.

[Project Report \(Oct. 2022\)](#)

**Most Requested**

**In The News**

**BLUEPRINT**  
Your Guide to the Sacramento District

**PERMITS**

**CONTROL**

**COMMANDER**  
"PAPERWEIGHT"





# NON-NOTIFYING NWPS

- If the aspects of a project fall below the reporting thresholds it may qualify as a non-notifying NWP.
- The activity may proceed without a PCN or Corps processing, provided all general and regional conditions are met (e.g. tribal, historic properties, ESA).
- Look for a “Notification” section in each individual NWP.



# GENERAL CONDITIONS & PCN REQUIREMENTS



U.S. ARMY



US Army Corps  
of Engineers®



# GENERAL CONDITIONS



There is a total of 32 General Conditions (GCs):

- GC 17: Tribal Rights
  - No activity or its operation may impair reserved tribal rights. (I.E., Corps is required to consult with Federally-recognized Tribes).
- GC 18: Endangered Species
  - Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized.





# GENERAL CONDITIONS (CONTINUED)

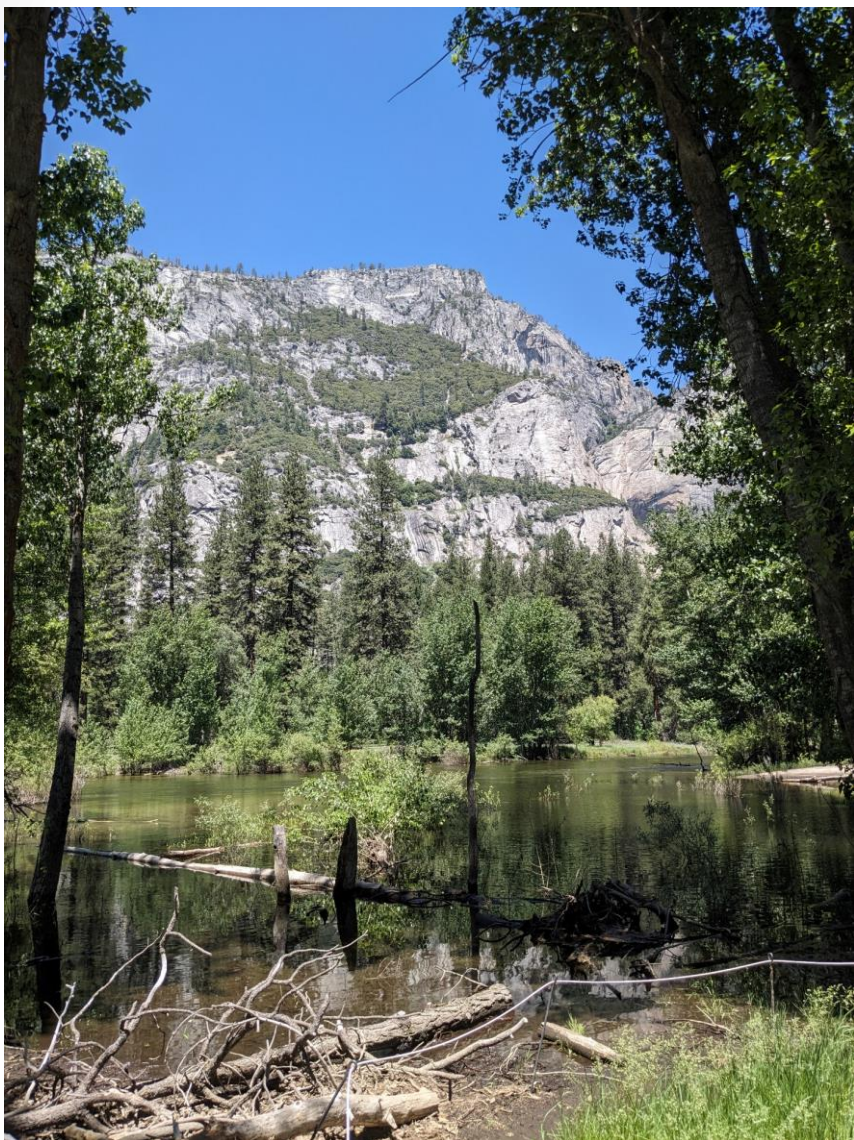
- GC 20: Historic Properties
  - Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties.
- GC 21: Discovery of Previously Unknown Remains and Artifacts
  - Permittees who discover previously unknown remains or artifacts must immediately notify the district engineer and avoid construction that will further affect the potential resource.







# GENERAL CONDITIONS (CONTINUED)



- GC 23: Mitigation
  - Requires avoidance, minimization, compensation.
  - Compensatory mitigation at a minimum of 1:1 will be required for all wetland losses that exceed 1/10th acre or streambed losses of over 3/100th acre that require a PCN.
  - The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.





# GENERAL CONDITIONS (CONTINUED)

- GC 23: Mitigation (Continued)
  - If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States
  - Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs.







# GENERAL CONDITIONS (CONTINUED)

- GC 25: Water Quality
  - Unless previously granted or covered by a general water quality certification, a 401 Certification by a state or regional water quality authority is required prior to NWP verification.
  - <https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/NWP-CA-Summary-Table/>
- GC 27: Regional and Case-by-Case Conditions
  - Activities must comply with Regional and Special Conditions
- GC 28: Use of Multiple NWPs
  - The use of more than one NWP for a single and complete project is authorized given the following restrictions:
    - If only one of the NWPs has a specified acreage limit, the total acreage loss of waters for the entire project cannot exceed the highest specified acreage limit.
    - If more than one NWP has specified acreage limits, each impact type cannot exceed their respective limits.



# GENERAL CONDITION 32: PRE-CONSTRUCTION NOTIFICATION

## GC 32: Pre-Construction Notification

### – Contents of a PCN:

- Name, address, contact info, and a PCN Form (ENG Form 6082; which includes entries for this information); location; identify NWP proposed; project description and mapping/plans including direct and indirect effects; aquatic resource delineation; mitigation statement; and project's effects on listed species and/or historic properties.

### – Timing: Corps has 30 days to determine if PCN is complete.

- Work can begin when you are notified by the Corps via NWP verification letter or **45 calendar days** have passed from the Corps' receipt of a complete PCN and you have not received written notification from the Corps. **However, this 45-day period does not apply if the PCN was triggered by GC 18 or 20 (ESA and Historic Properties Conditions). In that case, you must wait for Corps written confirmation that ESA and Section 106 requirements have been satisfied.**





# INFORMATION NOT REQUIRED FOR A COMPLETE PCN BUT...

- Information sufficient to initiate consultation for Section 7 ESA
- Cultural resources report/other information sufficient to initiate consultation for Section 106 NHPA
- Draft/Final mitigation/monitoring plan/long-term management plan for proposed permittee-responsible compensatory mitigation
- Section 401 CWA permits





# SACRAMENTO DISTRICT REGIONAL CONDITIONS



U.S. ARMY



US Army Corps  
of Engineers®



# SACRAMENTO DISTRICT REGIONAL CONDITIONS

- Can be found on our website at:  
<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/2021NWPs/> (See link for 2021 NWP Regional Conditions for your state).
- Part A(1) identifies four specific cases where a permittee must submit a PCN.
  - New bank stabilization without bioengineering techniques.
  - Discharge of dredge or fill material into water of the U.S. on Tribal lands.
  - Activities involving permanent channelization, realignment, or relocation of streams.
  - Activities with potential to adversely affect EFH (California only).
- Part A(2) identifies which NWPs can be used to discharge fill into peatlands containing histosols including bogs or fens (for all States) or below the ordinary high water mark of the Great Salt Lake containing bioherms (Nevada and Utah only).
- Part B and C (California document only has a Part B) identifies specific cases where General Order Water Quality Certifications have been granted.



# CONTACT INFORMATION

Sacramento District Regulatory Office:  
General Phone: 916-557-5250

Sara Hatch  
Regulatory Project Manager, California South Section  
Phone: 916-557-6101  
[sara.j.hatch@usace.army.mil](mailto:sara.j.hatch@usace.army.mil)

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





# QUESTIONS?



# REGIONAL GENERAL PERMITS AND LETTERS OF PERMISSION

Taylor Powell  
Project Manager, California South Section  
U.S. Army Corps of Engineers  
Sacramento District

13 June 2024  
Regulatory Program Workshop



U.S. ARMY



US Army Corps  
of Engineers®





# REGIONAL GENERAL PERMITS



U.S. ARMY



US Army Corps  
of Engineers®



U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMITS (RGPS)

- Issued by a Corps district or division after following standard permit processing procedures for a class or classes of activities in a region
- Cover substantially similar activities that cause minimal individual and cumulative environmental effects
- Valid for 5 years after issuance
- To be 'verified' under a RGP the activity:
  - Has to meet specific terms/conditions
  - Requires notification to the Corps if proposed impacts to waters of the U.S.
  - Must compensate for loss of waters are over certain thresholds/environmental triggers



# RGPS: WHERE TO FIND THEM

A list of all of our currently available RGPs can be found on the Army Corps.' Regulatory Website:

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



US Army Corps  
of Engineers®

The screenshot shows the US Army Corps of Engineers website. The top navigation bar includes links for Missions, About, Business With Us, Locations, Careers, Media, Library, Contact, and Coronavirus. The 'Missions' dropdown menu is open, showing options like Civil Works, Emergency Operations, Environmental Projects, Flood Risk Management Program, Military Projects, Recreation, Regulatory, Tribal Nations Program, UAS, and Water Control. The 'Regulatory' option is selected, leading to a page titled 'Regional and Programmatic General Permits'. This page lists various permit types and their descriptions, including Nationwide Permits, Regional and Programmatic General Permits, Letters of Permission, Standard Permits, Section 404 Exemptions, WRDA, Environmental Impact Statements, Water Quality Certifications, Endangered Species Agency Consultations, Cultural Resources Agency Consultation, Tribal Consultation, and Request for Public Notice Notification. A list of 'Current Regional General Permits' is also displayed, including RGP 1: Minimal Impact Activities Associated with the East Contra Costa HCP, RGP 2: Reservoir Maintenance Activities in California, RGP 3: Boat Docks and Associated Structures, RGP 6: NPS Actions in Glen Canyon and Lake Mead National Recreation Areas Categorically Excluded under NEPA, and RGP 7: Construction and Maintenance under the Clark County Regional Flood Control District Master Plan.

# BENEFITS OF AN RGP

- The bulk of the permit evaluation is done when the RGP is established, so permit review times for specific projects are faster
- Permit conditions are developed for the specific region and known ahead of time which helps with consistency and project planning
- Special conditions can be added, as needed, for specific projects
- Water quality certifying authorities can tailor water quality certifications specific to the RGP





# CURRENT RGPS

## Location-Based Permits

- RGP 1: Minimal Impact Activities Associated with the East Contra Costa HCP
- RGP 6: NPS Actions in Glen Canyon and Lake Mead National Recreation Areas Categorically Excluded under NEPA
- RGP 7: Construction and Maintenance under the Clark County Regional Flood Control District Master Plan
- RGP 9: Minor Discharges Associated with the SMUD Upper American River Project
- RGP 15: Minimal Impact Activities under the South Sacramento ILF Program
- RGP 19: Minimal Impact Activities By Placer County Water Agency (PWCA) under the Natural Community Conservation Plan (NCCP)
- RGP 20: Minimal Impact Activities Under the Western Placer County ILF Program
- RGP 23: California Middle-Mile Broadband Network

# CURRENT RGPS

## Activity-Based Permits

- RGP 2: Reservoir Maintenance Activities in California
- RGP 3: Boat Docks and Associated Structures
- RGP 8: Emergency Repair and Protection Activities
- RGP 10: Wildfire Mitigation Activities
- RGP 16: Anadromous Salmonid Fisheries Restoration



# REGIONAL GENERAL PERMIT 2: RESERVOIR MAINTENANCE ACTIVITIES

## Permit Overview

- Authorizes activities involving the discharge of dredged or fill material into waters of the United States (WOTUS), including wetlands, to maintain existing reservoirs within the Sacramento District boundary of the State of California.



For this RGP, a reservoir is defined as an enlarged natural or artificial lake, pond, or impoundment created by a dam to store water for the purpose of recreation, energy supply, water supply, and/or flood control.

- This does not include Lake Tahoe.

# REGIONAL GENERAL PERMIT 2: RESERVOIR MAINTENANCE ACTIVITIES

## Typical Activities

- Removal of accumulated vegetation, debris, and sediment
- Maintenance, including relocation of
  - Roads and utility lines; water supply intake and attendant features; recreational features and attendant features; structures and fills necessary to conduct inspections and provide work access
- Extension or relocation of existing structures or fills within the reservoir in response to low waters levels
- Construction of new structures or fills within the reservoir provided it does not convert WOTUS to non-WOTUS and does not increase the elevation of the reservoir.







U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 2

## Terms

- Avoidance and Minimization: Activities must be designed and constructed to minimize adverse effects to WOTUS to the maximum extent practicable
- Compensatory Mitigation: Compensatory mitigation may be required for permanent or temporary discharges of dredged or fill material that convert WOTUS to non-waters of the United States.
- Dewatering Activities: Discharges of dredged or fill material into WOTUS shall, to the extent practicable, be conducted when the work area is dewatered.



U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 3: BOAT DOCKS AND ASSOCIATED STRUCTURES

## Permit Overview

- Authorizes activities involving the discharge of dredged or fill material for structures or work pertaining to boat docks and associated structures within navigable waters under Section 10 of the Rivers and Harbors Act (RHA) within the Sacramento District boundaries of California, Colorado, Nevada, and Utah







U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 3: BOAT DOCKS AND ASSOCIATED STRUCTURES

## Typical Activities:

- Installation, repair, modification, or removal of pile-supported or floating boat docks associated with:
  - Dock access
  - Decks
  - Landings
  - Gangways
  - Ramps
  - Stairs
  - Etc.



# REGIONAL GENERAL PERMIT 3

## Terms

- The area of boat dock and associated deck and access combined cannot exceed 1,800 square feet from the plane of the Ordinary High Water Mark (OHWM)(non-tidal) or Mean High Water Mark (MHWM)(tidal)
- Total length of all segments/components cannot exceed 180 feet or 30% of the distance across the water way (does not include areas of uncovered open water used to moor a boat)
- The width of the dock cannot exceed 10 feet
- A minimum of 5-feet of clearance from the adjacent property boundaries to the footprint of the dock and associated structures
- A deck associated with the dock is allowable, provided that the area of the deck does not exceed 240 square feet below the OHWM or MHWM
- Only one dock is allowed per parcel





# REGIONAL GENERAL PERMIT 3

## Prohibited Activities

- Construction or placement of enclosed buildings, boathouses, fuel storage tanks, fuel dispensing facilities, sinks, toilets, showers, or sanitary pump out facilities
- Conversion of a boat dock into a recreation room, residence, or dwelling
- Permanent mooring of a recreation room, floating residence, or dwelling



U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 8: EMERGENCY REPAIR AND PROTECTION ACTIVITIES

## Permit Overview

- Authorizes structures or work in or affecting navigable WOTUS and the discharge of dredged or fill material into WOTUS including wetlands, for the necessary repair or protection measures associated with an emergency situation.
- What is an emergency situation?
  - A situation that would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. **The Corps must decide if it meets the definition of an emergency.**





U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 8: EMERGENCY REPAIR AND PROTECTION ACTIVITIES

## Typical Activities

- Bank stabilization
- Restoration of damaged areas
- Temporary fills for staging, access, and dewatering
- Repair, replacement, or rehabilitation of existing structures and/or fills (i.e. roads, bridges, utility pipelines)







U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 8

## Permit Overview cont.

- Work must be initiated within 14 calendar days of receiving authorization. Applicant has 180 calendar days to complete the work.
- If immediate action is required, the Corps may informally authorize the activities under the RGP via email, and subsequently complete agency coordination and formal authorization which may contain special conditions
- Following project completion, a post-project report must be submitted within 30 days



# REGIONAL GENERAL PERMIT 8

## Notification

- Applicant must contact the Corps in writing or by email
- Applicant must include all items/documents outlined in the RGP 8 under Notification Procedures
- Within 1 business day of receipt of complete notification, the Corps will send the notification package to consulting agencies and potentially interested Native American tribes with a request for comments.
- If any comments are received from the other agencies, the Corps will fully consider them and work with the applicant to address the comments.



U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 8

## Water Quality Certification (WQC)

- A Section 401 WQC has already been issued for emergency activities meeting the terms and conditions of the RGP 8 on non-tribal lands in CA
- See General Condition 8 for additional details on related WQCs in Utah, Nevada and on certain tribal lands in USEPA Regions 8 and 9.





U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 10: WILDFIRE MITIGATION ACTIVITIES

## Permanent Overview

- Authorizes activities involving discharge of dredged/fill material into WOTUS for the purpose of wildfire mitigation (e.g., prevention, protection, response, clean-up, and recovery) from wildfires in the State of California





U.S. ARMY

US Army Corps  
of Engineers®

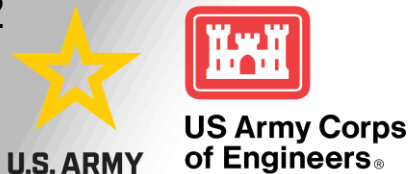
# REGIONAL GENERAL PERMIT 10: WILDFIRE MITIGATION ACTIVITIES

## Typical Activities

➤ Construction, maintenance, improvement, repair, replacement, or removal of:

- Utility lines and associated infrastructure
- Access areas
- Temporary dewatering
- Sediment/debris management
- Damaged uplands
- Fire/fuel breaks
- Development structures





# REGIONAL GENERAL PERMIT 10

## Terms

- Does not provide special procedures for emergency conditions if an emergency notification is not first provided to the Corps
- May not be used to authorize stream channelization/relocation, reclamation of lands lost to normal erosion processes, or construction of permanent debris retention structures or basins in waters of the U.S.
- Loss of waters shall not exceed 0.5 acre or 300-linear feet of streambed for each single and complete project
- Linear loss of streambed shall be included in the 0.5-acre threshold for loss of waters of the U.S. for each single and complete project





U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 10

## Terms Cont.

- Material resulting from trench excavation may be temporarily side cast into waters of the U.S. for no more than 180 days, provided the material is not placed in such a manner that it is dispersed by currents or other forces, and shall be removed within 30 days following the activity
- Where utility lines are constructed, installed, or maintained in navigable waters of the US. A copy of the RGP verification must be sent to the National Oceanic Atmospheric Administration (NOAA) for charging the electric utility line to protect navigation



U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 16: ANADROMOUS SALMONID FISHERIES RESTORATION

## Permit Overview

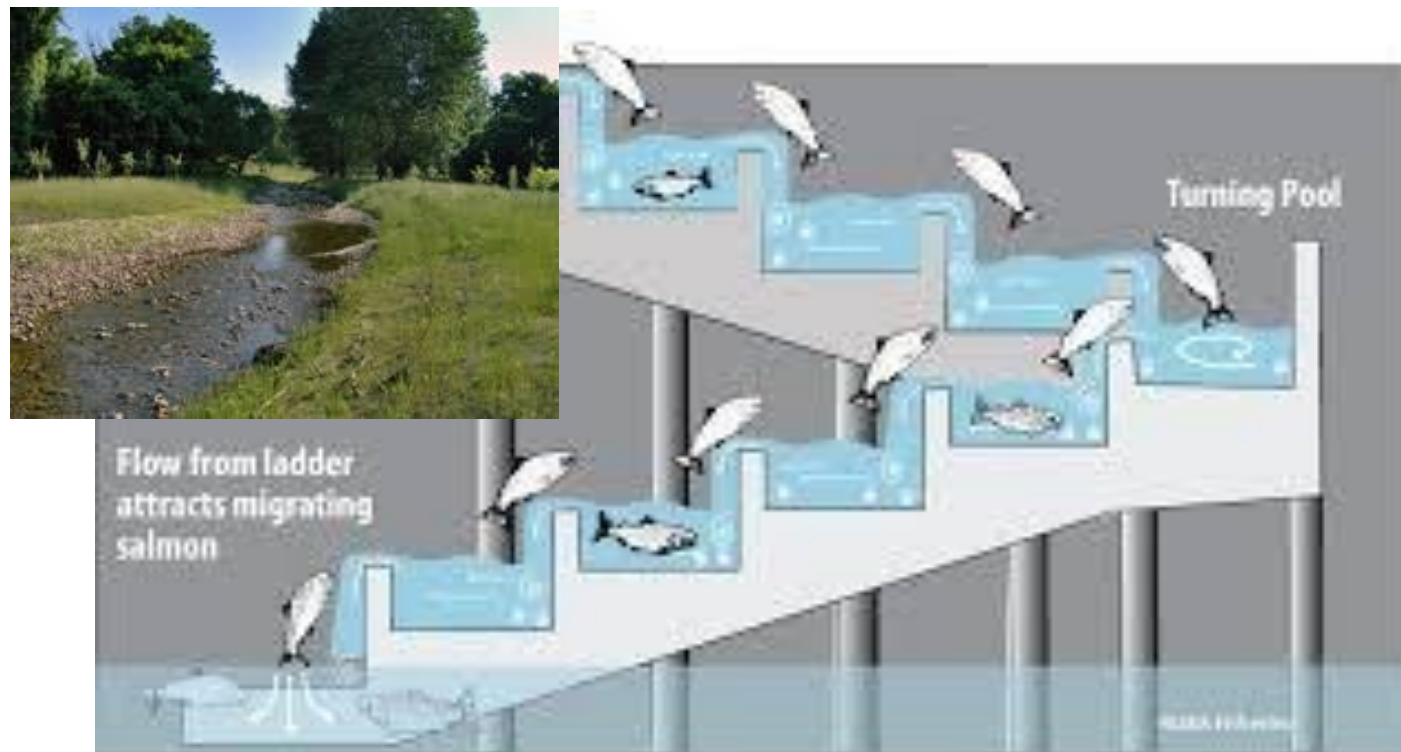
- Authorizes work within navigable WOTUS or the permanent or temporary discharge of fill material into WOTUS associated with salmonid habitat restoration activities funded by the California Department of Fish and Wildlife (CDFW) Fisheries Restoration Grant Program (FRGP) or similar activities, regardless of the funding source that meet the terms and conditions of this RGP
- Compensatory mitigation is not required for these activities since they must be restoration or enhancement in nature, resulting in an overall net increase in aquatic resource functions and services.
- Conversion of waters from one type to another is authorized as long as there is an overall net increase.



# REGIONAL GENERAL PERMIT 16

Impacts to WOTUS must be related to the 7 following activities:

1. Fish Passage Improvements at Stream Crossings
2. Instream Barrier Modification for Fish Passage
3. Instream Habitat Restoration
4. Riparian Restoration
5. Instream Bank Stabilization
6. Fish Screening Diversions
7. Water Conservation Measures







U.S. ARMY

US Army Corps  
of Engineers®

# REGIONAL GENERAL PERMIT 16

## Terms

- Avoidance of Waters of the United States: Temporary construction related impacts (access roads and staging areas) must be designed to avoid and minimize impacts to seasonal wetlands and other aquatic resources.
- Avoidance of Vernal Pools: This RGP does not authorize direct or indirect impacts to habitat for federally-listed vernal pool species.
- Beneficial effects: All activities authorized under this RGP must be restoration or enhancement in nature, resulting in an overall increase of aquatic functions and services.



# REGIONAL GENERAL PERMIT 16

## Notification

- For California Department of Fish and Wildlife (CDFW) projects funded by the Fisheries Restoration Grant Program, CDFW shall submit an annual notification per the PCN Procedures included in the RGP 16.
- For all other activities, a PCN must be submitted to the Corps, per the PCN Procedures included in the RGP 16

# LETTERS OF PERMISSION





# LETTERS OF PERMISSION (LOPS)

- A type of individual permit (covers activities with more than minimal impacts)
  - More restrictions than General Permits but more lenient than Standard Permits
- Issued by a district for a specific activity through an abbreviated processing procedure (abbreviated in relation to Standard Permits)





U.S. ARMY

US Army Corps  
of Engineers®

# INDIVIDUAL PERMITS: STANDARD VS LOP

## Standard Permit

- Projects with more than minimal impacts to aquatic resources
- Longer permitting process
- Permit may be valid up to 5 years – extensions can be requested (case by case basis)

## Letters of Permission

- Projects unqualified for a general permit but with less than significant impacts on human environment
- Abbreviated permitting process

Permit Requirements	
• 30-day Public Notice period	• No Public Notice
• Public Interest Review	• Public Interest Review
• Review under the National Environmental Policy Act (NEPA)	• Categorically excluded under NEPA
• A Section 404 Clean Water Act (CWA) Alternatives Analysis	• Coordination with Federal and State Agencies

# LOPS: WHERE TO FIND THEM

Links to our LOP processes can be found on the Regulatory Website.

<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Letters-of-Permission/>

The LOP process you should pursue depends on whether your project is covered under A Habitat Conservation Plan or a Natural Community Conservation Plan.



US Army Corps  
of Engineers®

The screenshot shows the US Army Corps of Engineers website. The top navigation bar includes links for MISSIONS, ABOUT, Business With Us, Locations, Careers, Media, Library, Contact, and Coronavirus. The left sidebar contains a home icon, 'Missions', 'Letters of Permission', 'Information', and a description of a Letter of Permission. The main content area is titled 'Letters of Permission' and includes a description of the process. A dropdown menu is open under 'Missions', showing a list of categories: Civil Works, Emergency Operations, Environmental Projects, Flood Risk Management Program, Military Projects, Recreation, Regulatory, Tribal Nations Program, UAS, and Water Control. The 'Regulatory' category is selected, and a sub-menu is open showing: Jurisdiction, Permitting, Appeals, Mitigation, Enforcement, Final Actions, FAQ, References, Contacts, and Delta Conveyance. The 'Permitting' sub-category is selected, and a further sub-menu is open showing: Nationwide Permits, Regional and Programmatic General Permits, Letters of Permission (highlighted with a hand cursor), Standard Permits, Section 404 Exemptions, WRDA, Environmental Impact Statements, Water Quality Certifications, Endangered Species Agency Consultations, Cultural Resources Agency Consultation, Tribal Consultation, and Request for Public Notice Notification. The 'Letters of Permission' page content includes a description of the process and a list of links for LOP processes in California, Nevada, and Utah; the South Sacramento HCP; and Western Placer County HCP/NCCP.

MISSIONS ▾ ABOUT ▾ Business With Us ▾ Locations ▾ Careers ▾ Media ▾ Library Contact ▾ Coronavirus

Home / Missions

**Letters of Permission**

Information

A Letter of Permission (LOP) is a permit issued through an abbreviated processing procedure which includes coordination with the relevant agencies. LOP cannot be used to authorize the transportation of dredged material.

LOPs may be used for:

- (1) In the environment, dredging, and other activities.
- Or,
- (2) In those cases subject to section 404 of the Clean Water Act.

(A) The district engineer, through consultation with the appropriate state Coastal Zone Management Agency, may authorize a project under a LOP if the project is:

- (B) The district engineer issues a public notice of intent to issue a LOP.
- (C) A 401 certification has been issued or is being issued by the state.

**Section 404 LOP:**

The Sacramento District has developed LOP procedures for activities within the jurisdiction of the District. The following information is required for a complete application:

- [LOP Process for California, Nevada, and Utah](#)
- [LOP Process for the South Sacramento HCP](#)
- [LOP Process for Western Placer County HCP/NCCP](#)



# PROPOSED CATEGORIES OF ACTIVITIES

Permittable activities must result in the loss of no more than one (1) acre of waters of the U.S. or 500 linear feet of streambed and must have an overall minimal impact, individually and cumulatively, on aquatic resources and the human environment.

Authorized Activities	Unauthorized Activities
<ul style="list-style-type: none"> <li>• Development (residential, commercial, recreational, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>• Bridges and pipelines over Section 10 waters (requires coordination with U.S. Coast Guard)</li> </ul>
<ul style="list-style-type: none"> <li>• Renewable energy</li> </ul>	<ul style="list-style-type: none"> <li>• Transportation of dredge material for dumping in ocean waters</li> </ul>
<ul style="list-style-type: none"> <li>• Transportation, infrastructure, and utility lines</li> </ul>	
<ul style="list-style-type: none"> <li>• Mining</li> </ul>	
<ul style="list-style-type: none"> <li>• Flood control and storm-water management</li> </ul>	
<ul style="list-style-type: none"> <li>• Environmental Remediation, restoration, and enhancement</li> </ul>	
<ul style="list-style-type: none"> <li>• Repair, rehabilitation, and maintenance</li> </ul>	
<ul style="list-style-type: none"> <li>• Hydropower reclamation and reuse facilities</li> </ul>	

# LOP PROCEDURE

LOPs may be used when:

- In cases subject to Section 10 of the RHA: when the Corps has determined the proposed work would be minor, would not have significant individual or cumulative environmental impacts, and would encounter no appreciable opposition

Or

- In cases subject to Section 404 of the CWA: when the district engineer, in coordination with other consulting federal agencies, develops a list of categories of activities proposed for authorization under LOP procedures
- The district engineer issues a public notice advertising the proposed list and the LOP procedures, requesting comments and offering an opportunity for public hearing; and
- A CWA 401 water quality certification has been issued or waived.

# LOP PROCEDURE

- The Sacramento District has developed Section 404 LOP procedures for activities in the Sierra Nevada, Central Valley and Delta of California, and the States of Nevada and Utah which may also be used to authorize 404-associated Section 10 activities.
- In order to apply for a Section 10-only LOP, the applicant must complete and submit a signed Department of the Army ENG Form 4345.







U.S. ARMY



US Army Corps  
of Engineers®

# 404 LOP APPLICATION PROCESS

- For an activity to be considered for a 404 LOP the applicant must submit an application for a department of an Army Permit with the following documents:
  - A cover letter requesting an LOP providing contact information of applicant and designated agents
  - A completed and signed Department of the Army Engineering Form 4345
  - A delineation of aquatic resources following this office's minimum standards
  - Site location maps
  - Plan and profile view of the proposed work, relative to potential or approved waters of the U.S.
  - The total area (acreage) and length (feet) for linear features for each type of waters of the U.S. proposed to be filled and the volume (in cubic yards) and type of material to be discharged into each type of aquatic resources

# SECTION 404 LOP PROCEDURE

- Upon receipt of complete application documents, the Corps will notify the applicable state and federal permitting agencies of the proposed application for a LOP by email and request comments within fifteen (15) calendar days of a receipt of the email notice and initiate consultation(s) as necessary with permitting agencies and/or tribes.
- The comment period can be extended by request of a reviewing agency by no more than seven (7) calendar days
- The Corps will make an LOP decision within 30 days of completing the necessary consultation or, if no consultation is necessary, within 30 days of the end of the agency comment period



U.S. ARMY



US Army Corps  
of Engineers®

# PERMIT TRANSFERS

- If the permittee sells the property associated with an LOP, the permittee may transfer the LOP to the new owner by submitting a letter to this office to validate the transfer.
- A copy of the LOP must be attached to the letter and include the contact information of the new owner
- The letter must contain the following statement and signature:
  - *“When the structures or work authorized by this LOP are still in existence at the time the property is transferred, the terms and conditions of this LOP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this LOP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below”*

THANK YOU FOR YOUR TIME



U.S. ARMY



US Army Corps  
of Engineers®

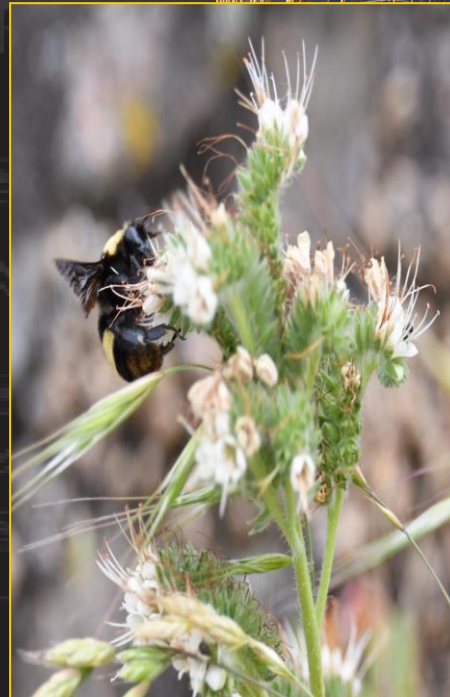
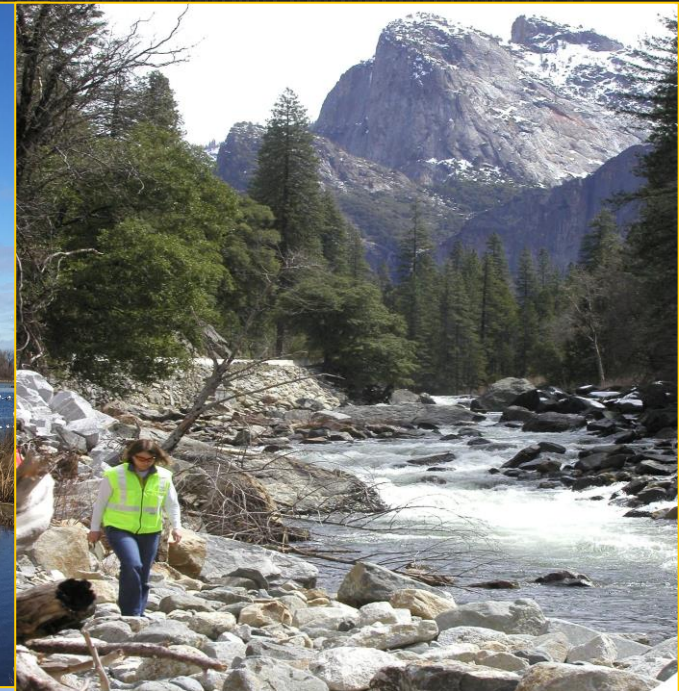


# STANDARD PERMITS

Kathy Norton  
Biologist/Sr. Project Manager  
California South Section  
Regulatory Division  
June 13, 2024  
[kathy.norton@usace.army.mil](mailto:kathy.norton@usace.army.mil)



US Army Corps  
of Engineers®







U.S. ARMY

# STANDARD PERMITS



**Permit Authority:**

**Section 404 of the Clean Water Act**

**Section 10 of the Rivers and Harbors**





U.S. ARMY

# STANDARD PERMITS

3



- Avoid: Can you design the project to avoid putting fill into waters of the United States? Is there a better alternative?
- Minimize: Can the project be built with a different design that has less fill proposed to be placed into waters of the United States?
- Compensate: Mitigate for the impacts that occurred in waters of the United States.



U.S. ARMY

# STANDARD PERMITS



## Standard or Individual Permits

- Activities with more than minimal impacts to waters of the United States.
- Greater than 1/2 acre of fill impacts into waters of the United States.

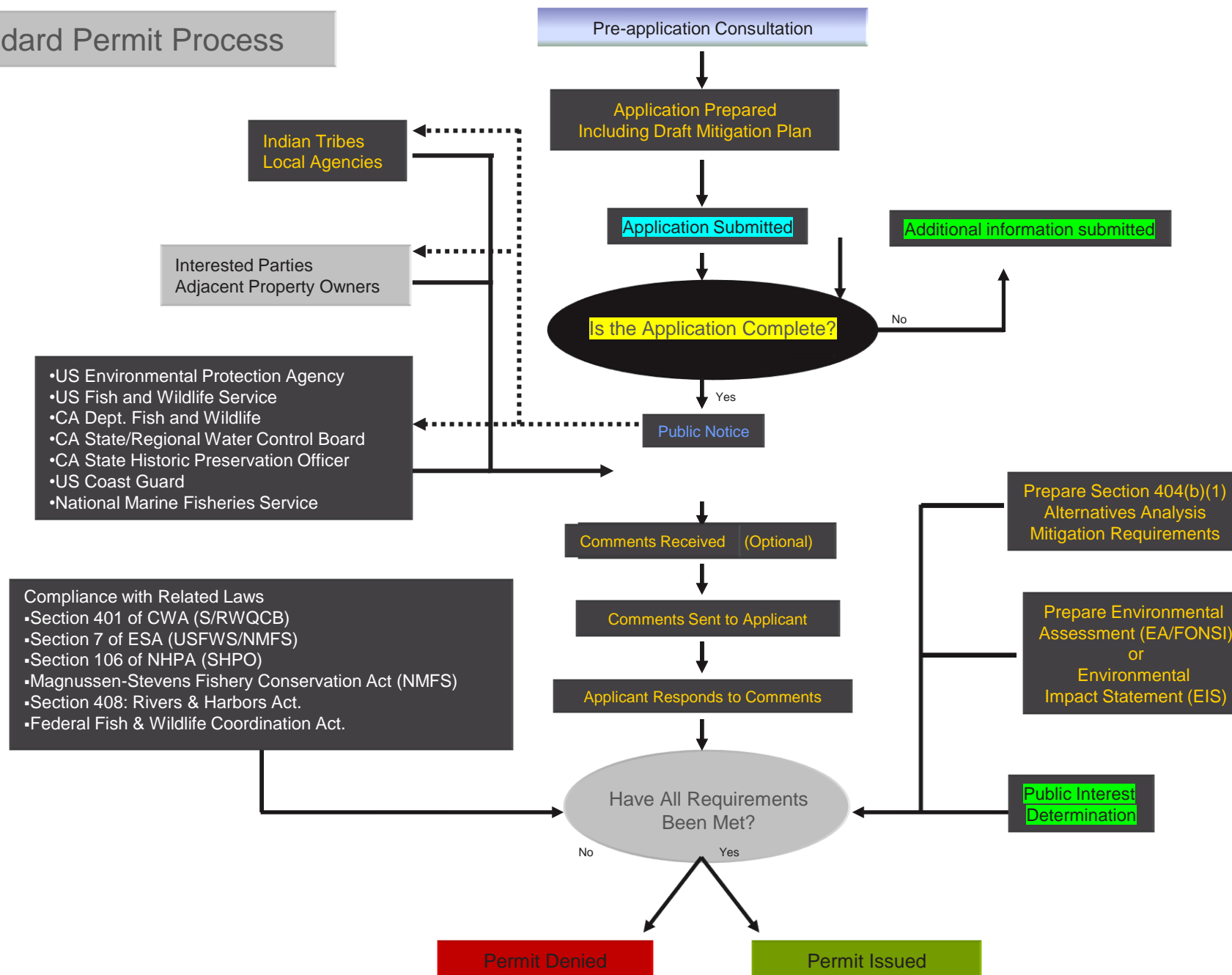






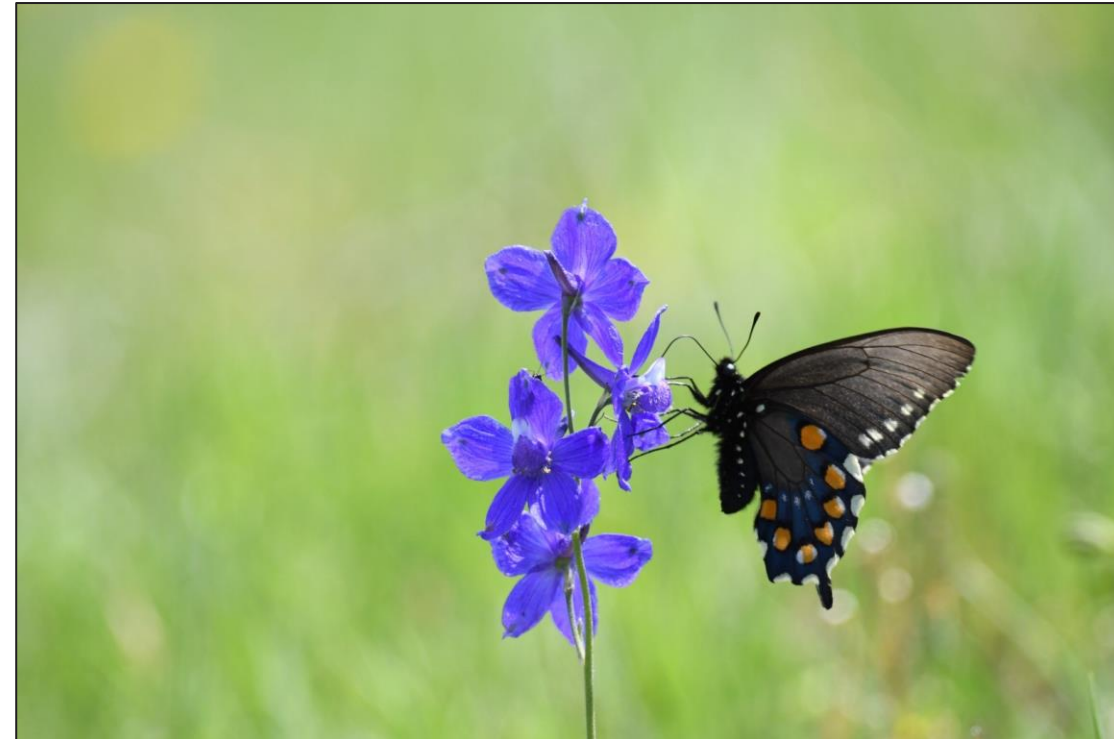
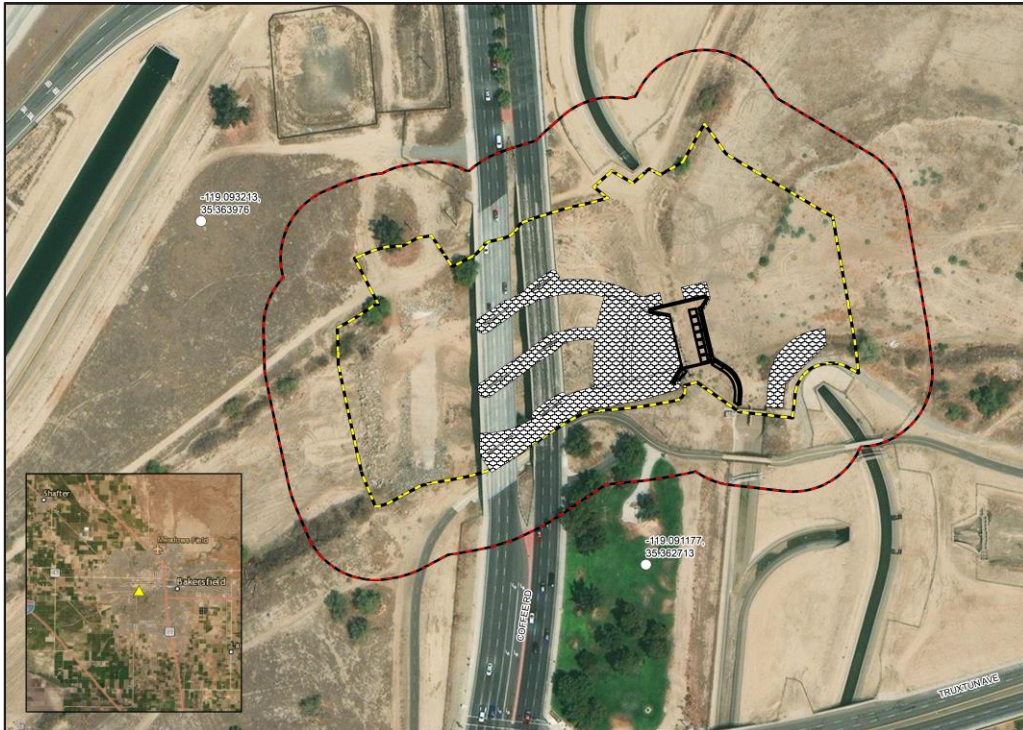
U.S. ARMY

## Standard Permit Process



# STANDARD PERMITS

## Pre-application Meeting





U.S. ARMY

# STANDARD PERMITS



## Application Submittal:

- Use Form 4345
  - Best to have attachments to this form.
  - Complete project description.
  - Have project diagrams properly labeled and dated.







U.S. ARMY



# STANDARD PERMITS

8



## Project Purpose:

- Used to evaluate the alternatives of the project.
- Determined by the Corps, but considers the applicant's concerns.
- Applies to all waters of the United States.
- Specific enough to define applicant's needs but not too restrictive so other alternatives may be considered.





U.S. ARMY

# STANDARD PERMITS



- Public Notice Is Required.
- Submit neighboring landowners' name, physical address, and email address.
- Once application is determined complete a **public notice** will be published within 15 days.





U.S. ARMY

10



# STANDARD PERMITS

- Public Notice: Project description announcement will be posted for 15 or 30 days on our webpage.
- Public is encouraged to comment on the public notice.

1 2 3 4 5 6 7 8 9 10 125

21  
MAY 2024

## Announcement of Next Regulatory Program Workshop, 13 June 2024 Subject: Regulatory Request System (RRS) Notice, Permit Types and Submittal Requirements, Aquatic Resources Delineation Minimum Standards.

Expiration date: 6/13/2024

The U.S. Army Corps of Engineers, Sacramento District, will hold a virtual Regulatory Program Workshop on Thursday, June 13, 2024, from 1:30 pm to 4:00 pm. A draft agenda is attached. There is no charge for the workshop, but virtual space is limited to 100 people, with no more than two people attending per organization. Register for the workshop by emailing [SPKRegulatoryMailbox@usace.army.mil](mailto:SPKRegulatoryMailbox@usace.army.mil) with the subject line reading "Regulatory Program Workshop" and your name, organization name, email, and telephone number in the body of the message. Your email should be received by June 6, 2024.

[RPW Agenda - June 13, 2024](#)







U.S. ARMY

# STANDARD PERMITS

11



- Comments received on the public notice will be shared with the applicant.
- Applicant will be given a chance to respond to the comments.







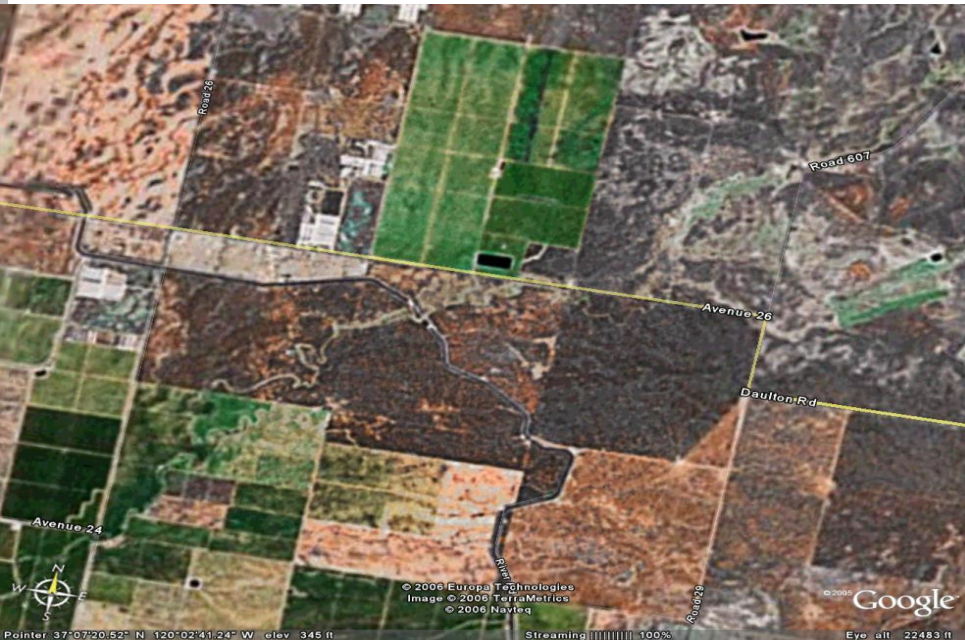
U.S. ARMY

# STANDARD PERMITS

12



- 404(b)(1): Provide Project Alternatives
- Mitigation Proposal







U.S. ARMY

# STANDARD PERMITS

13



Corps must comply with other federal laws:

- Federal Endangered Species Act.
- National Historic Preservation Act.
- Magnuson-Stevens Fishery Conservation & Management Act. (Essential Fish Habitat)
- Federal Fish & Wildlife Coordination Act.





U.S. ARMY

# STANDARD PERMITS

14



- Corps must follow National Environmental Policy Act (NEPA) for permit review.
- Compliance with Federal Endangered Species Act, Section 7: A report on the biology of the site/project may be required.
- Compliance with the National Historic Preservation Act, Section 106: A cultural resource assessment report may be required.







U.S. ARMY

# STANDARD PERMITS

15



**401** Water Quality Certification is required. Issued by the State or Regional Water Quality Control Board, or U.S. Environmental Protection Agency.

Fees may apply.







U.S. ARMY

# STANDARD PERMITS

16



Compliance with **Section 408**- Section 14 of the Rivers and Harbors Appropriation Act of 1899.

If Section 408 approval is necessary, that process has its own timeline.





U.S. ARMY

# STANDARD PERMITS

17



For Standard Permits - Processing time is 120 days after we have received a **complete application** or within 30 days of receiving the last needed piece of information.

- Other information beyond the application submittal may be needed from the applicant before a permit decision is made.





# STANDARD PERMITS

## Mitigation Requirements:

- Mitigation Bank** where compensatory mitigation is conducted up-front by bank sponsor and, in general, permittees purchase credits from the sponsor.
- In-Lieu Fee Program** involves compensatory mitigation through funds paid to a government or non-profit natural resources management entity to satisfy compensatory mitigation requirements.





U.S. ARMY

# STANDARD PERMITS

19



## Mitigation Requirements:

**-Permittee Responsible** is compensatory mitigation undertaken by the permittee:

- Under a watershed approach.
- On-site and in/out-kind.
- Off-site and in/out-of-kind.





U.S. ARMY

# STANDARD PERMITS

20



**To be authorized, Corps must find the activity:**

Is not contrary to the public interest.

Is the least environmentally damaging practicable alternative (compliance with 404(b)(1)s).

Complies with NEPA.

Complies with other related laws.







U.S. ARMY

# STANDARD PERMITS

21



Permits are valid for 5 years.

Permits are allowed to be extended if a request is made before the permit expires.







U.S. ARMY

# STANDARD PERMITS

22



## Permit Fees:

- \$0.00 to \$10.00 Municipalities and other agencies.
- \$100.00 Rest/Businesses.





U.S. ARMY

# STANDARD PERMITS

23



## More Information:

- **In-Lieu Fee Program:** National Fish and Wildlife Foundation:  
<https://www.nfwf.org/>
- **RIBITS:**  
<https://ribits.ops.usace.army.mil/ords/f?p=107:201:6907681551699::NO>
- **Sacramento Regulatory Home Page:**  
<https://www.spk.usace.army.mil/Missions/Regulatory/>

### Standard Permits Link:

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





U.S. ARMY

# STANDARD PERMITS

24



**For large document  
exchange:**

Use Department of Defense  
SAFE Website:

<https://safe.apps.mil/>

Send reports/applications to:

[SPKRegulatoryMailbox@usace.army.mil](mailto:SPKRegulatoryMailbox@usace.army.mil)







U.S. ARMY

# STANDARD PERMITS

25



Questions?

Thank You!

POC: [kathy.norton@usace.army.mil](mailto:kathy.norton@usace.army.mil)