

SACRAMENTO DISTRICT REGULATORY PROGRAM

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US Army Corps
of Engineers®



TYPES OF PERMITS



- **General Permits**
 - ▶ Nationwide
 - ▶ Regional
 - ▶ Programmatic
- **Individual Permits**
 - ▶ Standard
 - ▶ Letters of Permission



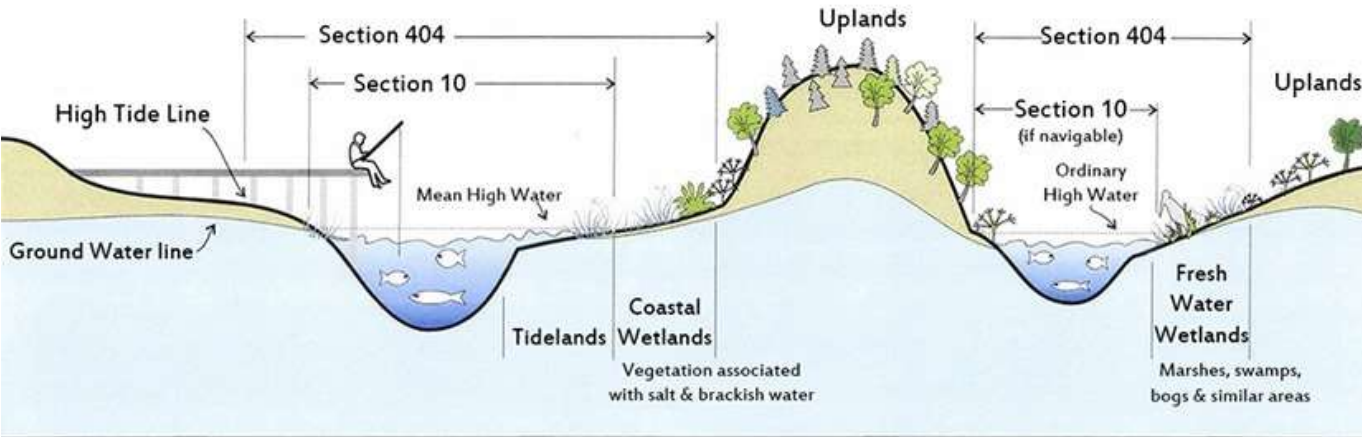
PERMIT AUTHORITIES



Corps of Engineers Regulatory Jurisdiction

Tidal Waters

Fresh Waters



Sacramento District's Regulatory program issues decisions mostly under two of the three primary statutory authorities.

Section 404 – Clean Water Act of 1970

Section 10 – Rivers and Harbors Act of 1899

Section 103 – Marine Protection Research and Sanctuaries Act of 1972

Typical examples of regulated activities

Section 103
 Ocean Discharge of Dredged Material
 Ocean discharges of dredged material.

Section 404
 Disposal of Dredged or Fill Material
 All filling activities, utility lines, outfall structures, 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.



TYPES OF PERMITS



- General Permits
 - For minimal adverse effects to the aquatic environment
 - Most common form are Nationwide Permits
 - NWP 3 (Maintenance), 14 (Linear Transportation Projects), 29 (Residential Developments) , and 39 (Commercial and Institutional Developments).
 - Issued 823 permit decisions in FY23; 95% were verified as GPs.
- Standard / Individual Permits
 - Activities with more than minimal impact
<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/>



THREE TYPES OF GENERAL PERMITS



- Nationwide: Issued by Corps HQ for specific activities for use nationwide.
- Programmatic: Founded on an existing state, local, or other federal agency program and designed to avoid duplication with that program. Issued by Corps district or division.
- Regional: Issued by Corps district or division after following standard permit processing procedures for a class or classes of activities in a region.



GENERAL PERMITS



- Established in advance for activities similar in nature that cause only minimal individual and cumulative environmental effects

- To be “verified” under a GP, the activity:
 - Has to meet specific terms/conditions
 - Requires notification to the Corps if proposed impacts to waters of the U.S. are over certain thresholds and/or trigger other requirements such as potentially affecting federally listed species

33 CFR 322.2(f), 325.2(e), 325.5; 40 CFR 230.11(g)



NATIONWIDE PERMITS



- Nationwide Permits – a majority of minimal impact activities are authorized under NWP.
- NWP covers Rivers and Harbors Act (RHA) Section 10 & Clean Water Act (CWA) Section 404 (see applicability at bottom of each NWP description (10/404/both))
- 57 NWP have been issued authorizing a variety of minimal impact activities in Waters of the United States.
- Issued by USACE HQ every 5 years
 - E.g. 2021 NWP expire in 2026



REGIONAL PERMITS



- Regional General Permit 3
Boat Docks and Associated Structures
- Regional General Permit 8
Emergency Repair and Protection Activities
- Regional General Permit 16
Aquatic Habitat Restoration and Enhancement Activities



PROGRAMMATIC PERMITS



- Programmatic General Permit 17
 - South Sacramento Habitat Conservation Plan (SSHCP)
 - Issued 2019; Reissued 2023

- Programmatic General Permit 18
 - Western Placer County Habitat Conservation Plan/Natural Community Conservation Plan
 - Issued 2021

- Programmatic General Permit 10
 - Utah State Engineer issues a Stream Alteration Permit
 - Issued 2021



COMPLIANCE WITH OTHER RELATED LAWS



- National Environmental Policy Act
- Section 7 of the Endangered Species Act
- Magnuson-Stevens Fishery Conservation Act
- Wild and Scenic Rivers Act
- Section 106 of the National Historic Preservation Act
- Section 401 of the Clean Water Act
- Section 408 (Section 14 of the Rivers and Harbors Act of 1899)



MITIGATION



- Mitigation is required for impacts to waters of the US (33 CFR Part 332 – Federal Mitigation Rule)

- Corps defines mitigation as avoidance, minimization and compensation
 - Avoidance – avoiding the impact
 - Minimization – minimizing impact through BMPs and other measures
 - Compensatory Mitigation – replacing unavoidable impacts through restoration or creation

- **Goal is No Net Loss of Wetlands**



PROCESS – (ABBREVIATED)



Permit Application Review Process



Avoidance



Minimization



No avoidance



- Are individual and cumulative environmental impacts minimal?
 - Is area of impact less than $\frac{1}{3}$ – $\frac{1}{2}$ acre?
 - Are Nationwide General Permit (NWP) criteria and conditions met?
 - Will compensatory mitigation be needed to reduce impacts?
- OR
- Are Regional General Permit (GP/RP) criteria and conditions met?



No Permit Required –
Life goes on ...



Application must be evaluated
as a Standard (Individual) Permit
(see next page)



No

Yes

- 401 WQ Certification
- SHPO concurrence
- ESA consultation
- Floodplain review
- et. al.*



Corps verifies
compliance with
NWP or RP



CONTACT INFORMATION



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