Permitting Process Flow Chart

Color Legend

- Federal permitting pathway
- State permitting pathway
- Accelerated federal pathway
- Accelerated state pathway
- Traditional federal permitting
- Traditional state permitting
- Tips: essential info for success
- Tips: cross-permit dependencies

NEPA and CEQA

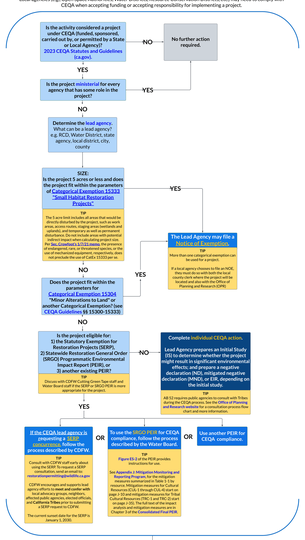
Joint NEPA/CEQA documents can be prepared. See the CEQA guidelines (**Section 15221** - NEPA Document Ready Before CEQA Document) and the **NEPA CEQA Handbook** for more information.

CA Environmental Quality Act (CEQA)

The **California Environmental Quality Act (CEQA)** generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects and to reduce those environmental impacts to the extent feasible.

A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a "**project**." A project is an activity undertaken by a public agency or a private activity which must receive some **discretionary approval** (meaning that the agency has the authority to deny the requested permit or approval, as distinguished from **ministerial projects**—which are those where the public agency or body has to determine only whether a project conforms with applicable statutes, ordinances or regulations) from a government agency which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

Local agencies (e.g., Open Space Authorities, Water Districts, Resource Conservation Districts, etc.) may need to comply with CEQA when accepting funding or accepting responsibility for implementing a project.



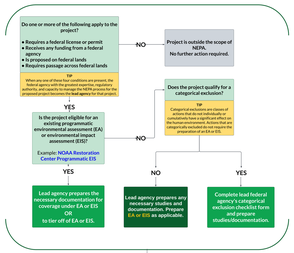
National Environmental Policy Act (NEPA)

The **National Environmental Policy Act (NEPA)** requires **federal agencies** (e.g., Army Corps, USFWS, NMFS) to assess the environmental effects of their proposed actions prior to making decisions. **NEPA is the responsibility of a federal agency**. State or local agencies can provide information to assist the federal agency with NEPA compliance as needed.

NEPA applies when a restoration project is proposed on federal lands, is funded in whole or in part by federal money, or will require authorization or another type of permission from a federal agency (e.g. Army Corps 404 permit).

There may be more than one federal agency involved in the proposed action. In that situation, a **lead agency** must be designated. Federal agencies, together with state, Tribal or local agencies, may act as joint lead agencies.

In some cases, when an efficient permitting pathways is used with a federal agency (e.g. Army Corps Regional General Permit or Nationwide Permit) it includes NEPA compliance for that agency, noted in some of the TIP boxes in this flow chart.



Permitting

Local Permits:

Permits from city and county departments for grading, building, land use, and other permits, may be needed.

Transportation and Infrastructure Related Permits:

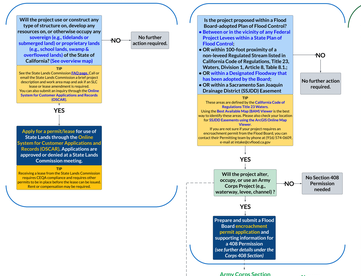
Encroachment permits may be needed from Caltrans, various utility companies, railroads, for local and county roads, etc.

State Lands Commission

The **State Lands Commission** manages 4 million acres of tide and submerged lands and the beds of natural navigable rivers, streams, lakes, bays, estuaries, inlets, and straits.

For example, a lease from the State Lands Commission is likely needed for projects that involve placing **salmon spawning gravel or in-river shelter** (woody debris attached to large boulders) to large rivers like the **Sacramento River**.

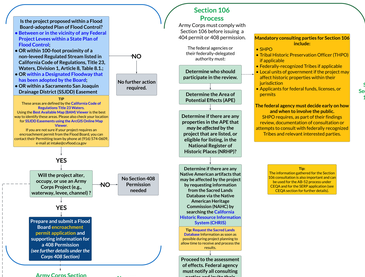
A lease from the State Lands Commission can be used to cover a multi-year program of restoration projects.



Central Valley Flood Protection Board

The **Central Valley Flood Protection Board (Flood Board)** is the State regulatory agency responsible for ensuring that State standards are met for the construction, maintenance, and protection of the flood control system that protects life, property, and wildlife habitat in California's vast and diverse Central Valley from the devastating effects of flooding.

Flood Board approval will be required for any proposed work that is located within a Flood Board-Adopted Plan of Flood Control, as defined by the California Code of Regulations Title 23 Waters (Title 23).



Section 106 and SHPO

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country. If a federal or federally assisted undertaking may affect historic properties, a Section 106 review will take place.

State Historic Preservation Offices (SHPO), created by the NHPA, exist in every state. In California, the **SHPO** is part of California State Parks. The SHPO is a **mandatory consulting party** in the Section 106 review process. The SHPO is required to respond, either with concurrence or nonconcurrence to a federal agency's adequately documented findings of effect.

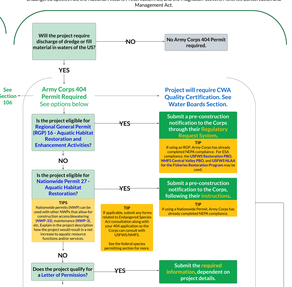
U.S. Army Corps of Engineers

The **U.S. Army Corps of Engineers (Army Corps)**, through the Regulatory Program, administers and enforces Section 10 of the Rivers and Harbors Act of 1899 (RHA) and Section 404 of the Clean Water Act (CWA).

Under **CWA Section 404**, a permit is required for the **discharge of dredged or fill material** into **waters of the United States**. Many waterbodies and wetlands in the nation are waters of the United States and are subject to the Corps' regulatory authority.

Submit any new requests for pre-application meetings through the new **Regulatory Request System**. Requests for authorization will continue to be accepted through the **Sacramento District** regulatory mailbox (SPKRegulatoryMailbox@usace.army.mil)

All Army Corps permit decisions are subject to various other Federal laws applicable to Federal actions, such as the Endangered Species Act, the National Historic Preservation Act, and the Magnuson-Stevens Fisheries Conservation and Management Act.



Section 408 Permissions

Section 408 authorizes the Army Corps to grant permission for the alteration or occupation or use of a Corps civil works project (e.g. levee, dam, or waterway) if it determines that the activity will not be injurious to the public in navigation or any way not impair the usefulness of the project. See these guidance documents for more information:

- **Section 408 & You**
- **Seven Questions for Section 408 Success**
- **Section 408 Pre-application Meeting Guide**
- **Section 408 Process Guide**

Species Permitting

Federal: NMFS and USFWS

The **National Marine Fisheries Service (NMFS)** and the **U.S. Fish and Wildlife Service (USFWS)** share responsibility for implementing the Endangered Species Act (ESA).

NMFS, also known as NOAA Fisheries, is responsible for endangered and threatened marine and anadromous species—from whales and seals to sharks, salmon, and corals.

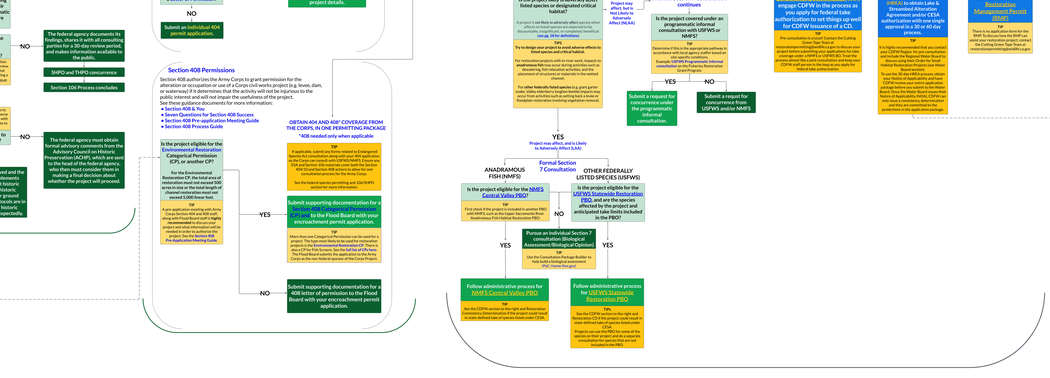
USFWS is responsible for most terrestrial and freshwater species but also has responsibility for several marine mammal species.

State: CDFW

The mission of the **California Department of Fish and Wildlife (CDFW)** is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

CDFW's Environmental Review and Permitting Programs implement sections of the California Fish and Game Code, California Code of Regulations, and other statutes and regulations.

The California Endangered Species Act (CESA) authorizes CDFW to permit project proponents to "take" state-listed threatened, endangered, or candidate species if certain conditions are met. CDFW may authorize "take" of state fully protected species for restoration projects that are considered "efforts to recover fully protected, threatened, or endangered species pursuant to Fish and Game Code sections 2511, 4700, 5050, and 5515

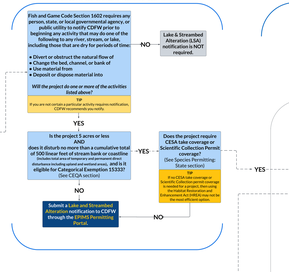


Lake & Streambed Alteration Agreement

Fish and Game Code section 1602 (**Lake and Streambed Alteration Program**) is administered by the **California Department of Fish and Wildlife (CDFW)**.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources.

The **Habitat Restoration and Enhancement Act (HREA)** established a process for CDFW to approve small-scale, voluntary habitat restoration projects that meet specific eligibility requirements. Projects approved by CDFW, pursuant to HREA, will not require additional permits from CDFW, such as an LSA agreement or CESA permit.

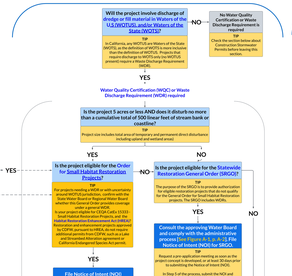


State Water Resources Control Board and Regional Water Quality Control Boards

The **State Water Resources Control Board** (State Water Board) and the nine **Regional Water Quality Control Boards** (Regional Water Boards), collectively known as the California Water Boards (Water Boards) protect water quality and allocate surface water rights in California.

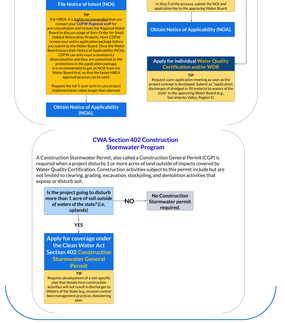
The **Water Quality Certification Program** is responsible for regulating discharges of dredged or fill material to waters of the State. The Water Boards have the authority to regulate these discharges under section 401 of the Clean Water Act (CWA) (i.e., Water Quality Certification) and the Porter-Cologne Water Quality Control Act (i.e., Waste Discharge Requirements).

The **Central Valley Regional Water Quality Control Board** (Region 5) covers the Sacramento Valley.

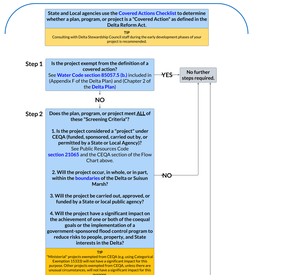


CWA Section 402 Construction Stormwater Program

A Construction Stormwater Permit, also called a Construction General Permit (CGP) is required when a project disturbs 1 or more acres of land outside of impacts covered by Water Quality Certification. Construction activities subject to this permit include but are not limited to clearing, grading, excavation, stockpiling, and demolition activities that expose or disturb soil.



Delta Stewardship Council

The **Delta Stewardship Council** is the California State agency tasked with creating and implementing a comprehensive management plan for the Delta in support of the state's coequal goals of providing a reliable water supply for California and protecting, restoring, and enhancing the Delta's ecosystem while protecting the Delta's unique and evolving character.

The **Sacramento-San Joaquin Delta Reform Act of 2009** (Delta Reform Act) established a certification process for **demonstrating consistency with the Delta Plan** (Wat. Code, § 85225). The Delta Reform Act requires any State or local agency proposing to undertake a qualifying action (**covered action**) must **submit to the Council a written certification of consistency** with detailed findings as to whether the covered action is consistent with the Delta Plan (Wat. Code, § 85225).