

Final 2021 Nationwide Permit (NWP) Regional Conditions for the State of California

(Effective February 25, 2022 until March 14, 2026)

A. Regional Conditions for the State of California:

1. The permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities involving new bank stabilization that do not incorporate bioengineering techniques. Bioengineering techniques include using live plants alone or in combination with dead or inorganic materials, including rock, sand, or gravel;

b. Activities resulting in a discharge of dredged or fill material in waters of the U.S. on Tribal Lands;

c. Activities involving the permanent channelization, realignment, or relocation of streams; and,

d. Activities that have the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council. The PCN shall include an EFH assessment and analysis of effects of the action on EFH, in accordance with 50 C.F.R. § 600.920 (e). For Federal permittees, if a PCN is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with the Magnuson-Stevens Fishery Conservation and Management Act.

2. In the desert regions of Los Angeles District (USGS Hydrologic Unit Code accounting units: *Lower Colorado* - 150301, *Northern Mojave* - 180902, *Southern Mojave* - 181001, and *Salton Sea* - 181002), NPWs 3, 7, 12 – 15, 17 – 19, 21, 23, 25, 29, 35, 36, 39 – 46, 48 – 54, and 57 – 59, cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the loss of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45, in excess of 0.1 acre.

3. In the Los Angeles District, NWP 29, 39, 42 and 43, or NWP 14 combined with any of those NWP, cannot authorize a loss of waters of the United States greater than 0.25 acre within the Murrieta Creek and Temecula Creek watersheds in Riverside County.

4. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through discretionary authority has revoked the use of the following 26 selected NWP within these SAMP watersheds: 3, 7, 12 – 14, 16 – 19, 21, 25, 27, 29, 31, 33, 39 – 44, 46, 49, 50, 57, and 58. Consequently, these NWP are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority. Additional information is available here:

<https://www.spl.usace.army.mil/Missions/Regulatory/Established-LOP-Procedures>.

5. In the Los Angeles District, the permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, in the following circumstances:

a. Activities that would result in a loss of waters of the United States within the Murrieta and Temecula Creek watersheds in Riverside County, California;

b. Activities that would result in a loss of waters of the United States within Santa Clara River watershed in Los Angeles and Ventura County, California, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River;

c. Activities that would result in a loss of waters of the United States within all watersheds in the Santa Monica Mountains in Los Angeles and Ventura County, California, bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south; and,

d. Activities that would result in a loss of waters of the United States within all perennial waterbodies and special aquatic sites.

6. In the San Francisco District, the use of NWP 29 and 39 are prohibited within the San Francisco Bay diked baylands¹ (see figure 1).

7. In the San Francisco District, the permittee shall submit a pre-construction notification (PCN), in accordance with General Condition 32, for all NWP activities that will take place in waters or wetlands of the U.S. that are within the San Francisco Bay diked baylands¹ (see figure 1).

8. In the Sacramento District, the use of any NWP (except NWP 3, 6, 16, 20, 24, 27, 37, 38, 52, 53, and 59) authorizing the discharge of dredged or fill material in peatlands² containing histosols, including bogs and fens, is prohibited.

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¹The San Francisco Bay diked baylands are defined as undeveloped areas that are currently behind levees and are within the historic margin of the Bay. The historic margin of the Bay is defined as areas on the Nichols and Wright map (see figure 1) below the 5-foot contour line, National Geodetic Vertical Datum (NGVD) (Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map).

²A peatland is defined as a wetland with saturated organic soil (greater than or equal to 16 inches in thickness) that is classified as a histosol in the Natural Resources Conservation Service (NRCS) Field Indicators of Hydric Soils in the United States (Version 8.0, 2016). A copy of the document can be obtained from the NRCS at: http://www.nrcs.usda.gov/Internet/DOCUMENTS/nrcs142p2_053171.pdf

B. 401 Water Quality Certification (401 WQC) Regional Conditions for California:

1. For NWPs 1, 3(a), 4, 5, 6, 9, 10, 11, 14, 20, 22, 28, 32, 36, and 54, on **non-tribal lands within the State of California**, the permittee shall comply with all terms and conditions of the attached October 12, 2021, 401 WQC granted by the State of California, State Water Resources Control Board.

2. For NWPs 3, 5 – 7, 13, 14, 18 – 20, 23, 25, 27, 31 – 33, 36 – 38, 41, 45, 46 and 59, on **tribal lands within U.S. Environmental Protection Agency (EPA) Region 9³ boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached October 12, 2021, 401 WQC granted by the U.S. EPA.

3. For NWP 43, on **tribal lands within U.S. Environmental Protection Agency (EPA) Region 9⁴ boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached December 11, 2020, 401 WQC granted by the U.S. EPA.

4. For NWPs 4, 5, 7, 14 – 17, 19, 20, 22, 23, 25, 27, 30 – 34, 36, 37, 41, 45, 46, 49, 53, 54, and 59, on the **Kletsel Dehe Winton Nation within the Sacramento District boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached October 11, 2021, 401 WQC granted by the Kletsel Dehe Winton Nation.

5. For NWPs 3 - 7, 13 - 23, 25, 27, 29 - 34, 36 - 46, 48 - 54, and 59, on the **Morongo Reservation within the Los Angeles District boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached December 11, 2020, 401 WQC granted by the Morongo Band of Mission Indians.

6. For all NWP activities on the **Pala Reservation within the Los Angeles District boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached December 14, 2020, 401 WQC granted by the Pala Band of Mission Indians.

7. For NWPs 3, 4, 7, 14, 16, 18, 19, 23, 25, 31, 33, 34, 41, 45, 46, and 49, on the **Dry Creek Rancheria Band of Pomo Indians within the San Francisco District boundaries in the State of California**, the permittee shall comply with all terms and conditions of the attached December 15, 2020, 401 WQC granted by the Dry Creek Rancheria Band of Pomo Indians.

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³The EPA 401 WQC does not apply to activities proceeding in the territories of the 25 tribes in Region 9 that have been approved as Section 401 certifying authorities – the Navajo Nation, Paiute-Shoshone of the Bishop Community, Big Pine Paiute-Shoshone Tribe, Twenty-Nine Palms Band of Mission Indians, Hoopa Valley Tribe, Hopi Tribe, Pyramid Lake Paiute Tribe, Dry Creek Rancheria of Pomo Indians, Pala Band of Mission Indians, Cortina Band of Wintun Indians, Walker River Paiute Tribe, Yerington Paiute, Duck Valley, Confederated Tribes of the Goshute Reservation, Gila River Indian Community, San Carlos Apache, Morongo Band of Mission Indians, Big Pine Paiute Tribe of Owen Valley, Rincon Band of Luiseno Indians, Cabazon, Quartz Valley, Karuk, White Mountain Apache Tribe, Table Mountain Rancheria, Resighini Rancheria, La Posta Band of Diegueno Mission Indians. In limited circumstances some lands within tribal boundaries fall outside a tribe's Section 401 certifying authority and are subject to this certification

⁴The EPA 401 WQC does not apply to activities proceeding in the territories of the 23 tribes in Region 9 that have been approved as Section 401 certifying authorities —the Navajo Nation, Hualapai Tribe, Paiute-Shoshone of the Bishop Community, Big Pine Paiute-Shoshone Tribe, Twenty-Nine Palms Band of Mission Indians, Hoopa Valley Tribe, Hopi Tribe, Pyramid Lake Paiute Tribe, Dry Creek Rancheria of Pomo Indians, Pala Band of Mission Indians, Cortina Band of Wintun Indians, Walker River Paiute Tribe, Yerington Paiute, Duck Valley, Confederated Tribes of the Goshute Reservation, Gila River Indian Community, San Carlos Apache, Morongo Band of Mission Indians, Big Pine Paiute Tribe of the Owen Valley, Rincon Band of Luiseno Indians, Cabazon, Quartz Valley, Karuk and White Mountain Apache Tribe. In limited circumstances some lands within tribal boundaries fall outside a tribe's Section 401 certifying authority and are subject to this certification.

