



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

DEPARTMENT OF THE ARMY PERMIT
REGIONAL GENERAL PERMIT 40
Pacific Gas and Electric Bay Area Operations and Maintenance Program

PERMITTEE: Jon Wilcox, Pacific Gas and Electric Company (PG&E)

PERMIT NO.: SPN-2018-00490

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

This Regional General Permit (RGP) supersedes the initially executed permit of June 23, 2023, and will be used to authorize projects in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION:

RGP 40 will be used to authorize routine activities under PG&E's Bay Area Operation and Maintenance (O&M) Program to maintain safe and operable electrical and gas utility infrastructure, including maintenance and repair of PG&E's gas and electrical transmission and distribution systems. Activities include inspecting and testing valves, enclosures, and other components; repairing and replacing facilities, structures, and access roads; electrical transmission and distribution reconductoring projects; and gas pipeline replacement. All proposed activities shall be submitted to the U.S. Army Corps of Engineers (USACE) for authorization under this RGP. Individual O&M projects eligible for coverage under this RGP include a variety of maintenance and related activities that may result in minor temporary or permanent impacts to waters of the United States. Covered projects will generally fall within the following categories (letter codes correspond with activity categories described in the 401 certification):

Natural Gas Infrastructure

- A. Internal pipeline inspection and repair: Inspection of pipelines for anomalies in accordance with the Pipeline Safety Act. If an anomaly is found, vegetation will be removed, the pipeline will be excavated, repaired, and backfilled. Typical repairs include sleeve repairs involving sandblasting and welding.
- B. Valve recoating and replacement: Replacement or recoating of malfunctioning or worn valves. To coat the entire valve to the connection point, vegetation will be removed, the valve must be excavated to expose the pipe and then backfilled once work is complete.
- C. Pipeline cathodic protection: Installation of a type of anode (e.g., horizontal anode bed, flex anode, deep well anode) parallel and adjacent to the existing pipeline. The anode installation involves vegetation removal, trenching, backfilling, and recontouring upon completion.
- D. Pipeline lowering and replacement: Replacement of pipeline segments due to damage caused by construction projects, acts of nature, or aging and corrosion. Replacement involves clearing vegetation and grading the rights-of-way, trenching and excavating the existing pipeline, and installing the new pipeline parallel and adjacent to the existing pipeline. The minimum length of pipe replaced is typically 40 feet (for one joint of pipe), though up to 1 mile could be replaced.
- E. Pipeline recoating: Pipeline to be recoated is excavated (after any vegetation is removed) and old coating is removed from the pipeline by jetting, scraping, or sandblasting. The surface of the pipe is prepared for the new coating of epoxy by running a self-contained grit or shot-blasting machine over the area. Following repairs, the area is backfilled.
- I. Site-specific erosion solutions: Installation and maintenance of site-specific solutions such as biodegradable jute netting, riprap, or rock fill to remediate scouring and erosion within waterways resulting in pipe exposure and prevent further damage to the pipeline. Site preparation for site-specific erosion solutions may include vegetation

removal. **RGP 40 does not cover installation of riprap or other hardscape in waters with salmonids or their designated critical habitat listed under the Endangered Species Act (ESA).**

- J. Water diversion (limited to freshwater features with no ESA-listed fish): Installation of diversion structures (e.g., dam/weir, pump, or headgate) to divert water through a temporary ditch or pipe to convey the water around a section of pipeline to be repaired. These techniques are employed to repair pipeline crossings within water features that have flowing water to minimize impacts to water quality and create a safe work area. Site preparation for water diversion may include vegetation removal. **RGP 40 does not cover dewatering/diversion for gas line activities in waters where ESA listed salmonids or green sturgeon may be present** – gas line maintenance in these waters can only be covered if all work can be conducted when the site is naturally dry (e.g. in high marsh areas which are typically only inundated during extreme high tides, or in seasonal stream reaches which have no surface flow during the summer dry season).

Electrical Infrastructure

- G. Transmission tower maintenance: Conducting routine repair or replacement of towers and tower foundations located in waters of the U.S. Depending on the topography of the site, any of the following methods may be used to access the site and/or stage materials: vegetation removal, rubber mats placed at footings, temporary boardwalk constructed, barges or helicopter. Pile installation may be required, and temporary cofferdams may be used to dewater areas around foundation work in estuarine or lacustrine waters.
- H. Boardwalk maintenance: Repairs and maintenance related to boardwalks that service transmission facilities in the vegetated margins, mudflats, and open water around San Francisco Bay. All repair and replacement activities are completed manually and require the use of generators and handheld equipment. Access and staging to support boardwalk maintenance may require vegetation removal. Some work may be completed from barges and/or from the mudflat during low tide.
- K. Power pole maintenance: Reinforce poles by installing trusses to existing poles, or fiber-wrapping the pole with preservative material to reduce rate of deterioration. Steel trusses are driven to pre-define depths and secured with high-strength steel banding. Remove poles that cannot be repaired and replace with new wood poles or light-duty steel poles, which may require the installation of guy wires and anchors, which could consist of a screw or a concrete structure, and the removal of vegetation.
- L. Line reconductoring: Replacing existing conductors with new conductors along the line. This may require staging areas, work areas, temporary guard structures, and pull sites (temporary construction areas) within waters of the U.S. Reconductoring is typically completed in 2- to 3-mile sections with the use of pull sites. Vegetation mowing and minor grading may be required to prepare pull sites. Mats or gravel may also be used in wet locations. Guard structures are typically standard wood poles across which temporary netting is strung; in some cases, specifically equipped boom trucks are used instead of poles.

General Maintenance and Mitigation

- F. Substation maintenance: Accessing substations to perform maintenance tasks, which may require use of station property or adjacent property for construction staging and materials storage, which might require vegetation removal and/or fill to develop safe temporary work areas for equipment and crews, which may affect waters of the U.S.
- M. Site access development and maintenance: Routine operations and maintenance activities may require access road maintenance such as blading, moving or establishing berms, vegetation, or debris, clearing and making functional drain inlets to culverts, culvert repair or replacement, establishing waterbars, repairing over-side drains, and the repair or replacement of storm water diversion devices. Protective security fencing is sometimes installed around pipeline facilities, which requires digging holes to install fence posts using an auger. **RGP 40 does not cover dewatering for culvert repair/replacement in waters where ESA listed salmonids may be present** – culvert

maintenance in these waters can only be covered if all work can be conducted when the site is naturally dry, and the finished culvert meets the most current NMFS guidelines for fish passage at stream crossings.

- N. Minor New Construction: Construction adjacent to existing facilities and/or in utility or road rights-of-way would be limited to new gas pressure limiting stations (with an impact of up to 1 acre of natural vegetation), electrical substation minor expansions (with up to 3 acres of impacts on natural vegetation), or underground electric lines.
- O. Other Activities: Additional operation and maintenance activities include natural gas line and electrical patrols and inspections, compressor station upgrades and maintenance, pipeline electric test system installations, telecom site maintenance, insulator washing or replacement, outage repairs, facility installations, and others. In the course of conducting these other activities, vegetation impacts may occur.
- P. Restoration and Mitigation Activities: Implementing approved compensatory mitigation associated with this permit (creation, reestablishment, restoration, or enhancement), with impacts to waters of the U.S. This RGP will cover compensatory mitigation activities by PG&E or by independent land managers in jurisdictional waters associated with habitat management, monitoring, and enhancement activities. These activities shall be consistent with all measures included in this permit and site-specific mitigation plans as approved by USACE and other agencies.

PROJECT LOCATION: Projects to be authorized under this RGP may occur at any of PG&E's gas and electric transmission and distribution facilities, facility rights-of-way and access routes, and mitigation areas which intersect waters of the U.S. within the O&M Program Area, consisting of the nine Bay Area counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Sonoma, and Solano (enclosure 1). The O&M program area totals approximately 288,495 acres and coincides with the PG&E Bay Area Habitat Conservation Plan (HCP) established in 2017. Most of the nine-county program area is within the USACE San Francisco District. Portions of the program area in eastern Solano and Contra Costa Counties and northeastern Alameda County are within the USACE Sacramento District, but O&M projects in these areas may be authorized by San Francisco District under this RGP.

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on December 31, 2027. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. For your convenience, a copy of the water quality certification or waiver is attached (enclosure 2). If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
8. A post-construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain as-built drawings (if different from drawings submitted with application) and include before and after photos.
9. Annual reports shall be provided by March 31 each year documenting all projects undertaken and the individual and cumulative permanent and temporary fill quantities in waters of the U.S. The final annual report should document all project and project impacts for the five year period of this regional general permit.

SPECIAL CONDITIONS:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary terms and conditions for incidental take of federally-listed species shall be fully implemented as stipulated in the Biological Opinions from US Fish and Wildlife Service (USFWS) titled “*Final Programmatic Formal Consultation for the Pacific Gas and Electric Company’s (PG&E) Bay Area Operation and Maintenance (O&M) Program in Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma Counties, California*” (USFWS file # 08FBDT00-2020-F-0197), dated August 6, 2021 (enclosure 3), and from National Marine Fisheries Service (NMFS) titled “*Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Pacific Gas and Electric Company’s Bay Area Operation and Maintenance Program*” (NMFS file # WCRO-2021-028), dated April 6, 2023 (enclosure 4). Projects shall also follow all applicable provisions of the 2017 Habitat Conservation Plan (HCP) and associated Incidental Take Permit (ITP) for the PG&E Bay Area O&M Program. Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The USFWS and or NMFS are, however, the authoritative federal agency for determining compliance with their incidental take statements and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.
2. NMFS and USFWS concurred with the determination that the program is not likely to adversely affect federally listed South-Central California Coast steelhead (*Oncorhynchus mykiss*), California Coastal Chinook salmon (*O. tshawytscha*), Central California Coast coho salmon (*O. kisutch*), or designated critical habitat for these species or for the soft bird’s-beak (*Chloropyron molle* ssp. *molle*). Their concurrences were premised, in part, on avoidance and minimization measures, conservation measures, and proposed mitigation listed on pages 19-25 of the April 6, 2023 NMFS BO (enclosure 4), and on pages 13-17 of the August 6, 2021 USFWS BO (enclosure 3). A complete list of avoidance and minimization measures and conservation measures for NMFS species and critical habitat are included in PG&E’s September 2022 Biological Assessment (section 2.1 and attachment A), and revised and expanded in PG&E’s March 2023 Supplemental Biological Assessment (section 4). All the above measures are incorporated as special conditions to this RGP to ensure unauthorized incidental take of species and loss of critical habitat does not occur.

3. USACE initiated consultation with NMFS to address project related impacts to Essential Fish Habitat (EFH). The conservation recommendations listed on page 85 of the NMFS Biological Opinion (enclosure 4) shall be implemented as follows:
 - a. EFH recommendations 1 and 2 shall be fully implemented by following all non-discretionary terms and conditions for incidental take of federally-listed species, as required in special condition 1.
 - b. To be consistent with EFH recommendation 3, PG&E shall perform hydroacoustic monitoring at a minimum of 2 sites per calendar year, on a minimum of 8 total piles when an impact hammer is utilized on steel piles between 20 inches and 60 inches diameter in water depths greater than 3 feet at MLLW, and when a coffer dam is not used to dewater the site prior to piledriving. If PG&E uses an impact hammer to install 20-60 inch piles at only one site and/or less than 8 total piles in a calendar year, then all piles installed under these conditions shall be hydro-acoustically monitored. Monitoring results shall be included along with other required hydroacoustic monitoring results in PG&E's annual report to NMFS and USFWS.
4. For all projects proposed for authorization under this RGP, PG&E shall submit digital copies of project information to USACE at least 45 days prior to any planned project activities. The project submissions shall include copies of the pre-construction notification/notice of intent (PCN-NOI) form for the PG&E Bay Area O&M Program (enclosure 5), detailing the types of activities planned, anticipated dates of commencement and completion, locations and descriptions of the proposed projects, project drawings or design plans, and summary of impacts to streams, wetlands, or other waters including proposed dewatering, grading, or other temporary or permanent fill discharge for each project. The project information submitted to USACE shall also include the latest version of the USACE ORM Aquatic Resources and Consolidated Upload Spreadsheet, using the Aquatic Resources tab and Impacts tab to provide required information for all proposed projects, including details on the aquatic resources and proposed fill impacts for each project.
5. PG&E shall provide a summary of cultural resource information for each project area, including surrounding archaeological sensitivity, and any known or suspected historic property, tribal cultural property, or other cultural resource within project areas. For any proposed project with the potential to affect a historic property, PG&E shall include sufficient information for USACE to initiate consultation with the State Historic Preservation Officer under section 106 of the National Historic Preservation Act. In the event any previously unknown historic, cultural or archeological remains or artifacts are discovered while conducting an activity authorized by this RGP, PG&E must immediately notify USACE of the discovery and avoid further activities that may affect the resource until the required section 106 coordination has been completed.
6. Proposed projects within the coastal zone must comply with Coastal Zone Management Act (CZMA) requirements. PG&E shall submit appropriate documentation of CZMA compliance to USACE, including current copies of any required permits from the San Francisco Bay Conservation and Development Commission (BCDC) or California Coastal Commission (CCC).
7. Compensatory mitigation compliant with the 2008 mitigation rule shall be provided for the expansion of hardscape or armoring within waters of the U.S., increasing culvert length, converting waters of the U.S. to upland, or permanent impacts to wetland waters of the U.S. Compensatory mitigation would not be required by USACE for replacement of existing hardscape that does not increase the footprint of the existing hardscape within waters of the U.S.; vegetation and sediment removal activities that do not permanently impact wetland waters of the U.S.; or biotechnical bank stabilization activities that do not result in a loss of wetland or other waters of the U.S.
8. For purposes of compensatory mitigation required by USACE under this RGP, the program area is divided into 4 mitigation regions: North Bay (Marin, Sonoma, Napa, and Solano Counties); East Bay (Contra Costa and Alameda Counties); Peninsula (San Francisco and San Mateo Counties); and South Bay (Santa Clara County). If the overall permanent impacts within any one mitigation region exceeds 0.1 acre within the 5- year period of this RGP, compensatory mitigation shall be required for all permanent impacts to waters of the U.S. within that mitigation

region. Should the overall permanent impacts to waters of the U.S. within any mitigation region be anticipated to exceed 0.1 acre, a mitigation plan compliant with the 2008 mitigation rule shall be submitted for all impacts cumulatively greater than 0.1 acre in that mitigation region. Proposed compensatory mitigation shall ensure no overall net loss in quantity or quality of waters of the U.S., and shall occur within the same region as the impacts.

9. Compensatory mitigation for permanent impacts to waters of the U.S. may include enhancement, rehabilitation, establishment, or reestablishment of waters of the U.S. Preservation of particularly rare or threatened aquatic resources may only be considered if proposed in combination with other forms of mitigation. Compensatory mitigation for permanent impacts to waters of the U.S. shall be commensurate with the amount and type of impacts that have occurred/are proposed to occur under the O&M Program. Invasive plant removal and native plant establishment alone may not be considered acceptable mitigation for permanent impacts to waters of the U.S. but may be included as part of a larger mitigation plan.
10. PG&E shall be responsible for monitoring any permittee-responsible mitigation for a minimum of 5 years depending on the mitigation project. Mitigation sites involving revegetation shall be monitored by a qualified biologist or vegetation specialist to evaluate successful establishment and survival of plantings. Monitoring and reporting will be compliant with the 2008 mitigation rule. Any mitigation required by USACE will not be considered fulfilled until you have submitted documentation of final mitigation success, and have received written verification from USACE.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (x) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).
2. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- 5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

- 6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, USACE will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

_____	_____
(PERMITTEE)	(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

_____	_____
Katerina Galacatos South Branch Chief, Regulatory Division	(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)