

Oh- I need a permit for that? But I'm doing restoration.....

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Some 'triggering actions' that result in needing a permit:

1. Working on land in:
 - CA (or funded by) (CEQA- CA Env Quality Act)
(some exceptions for work on own land)
 - Federal (or funded by) (NEPA- National Env Policy Act)
2. Working in wetlands:
 - CDFW- SAA 1600
 - ACOE- 404 (& RGP 41, Nationwide Permits)
 - SWCB/RWQCB 401- (NPDES)
3. Working in endangered species habitat:
 - USFWS, NMFS/NOAA, and/or CDFW
4. Working on property that is not yours:
 - Right of Entry Agreements (ROEs)

Tip: Work out approaches that meet all permitting requirements

1. Interact with all regulators at same time- completing one permit at a time can change scope of project, creating need to go back and change completed permits.

CEQA/NEPA



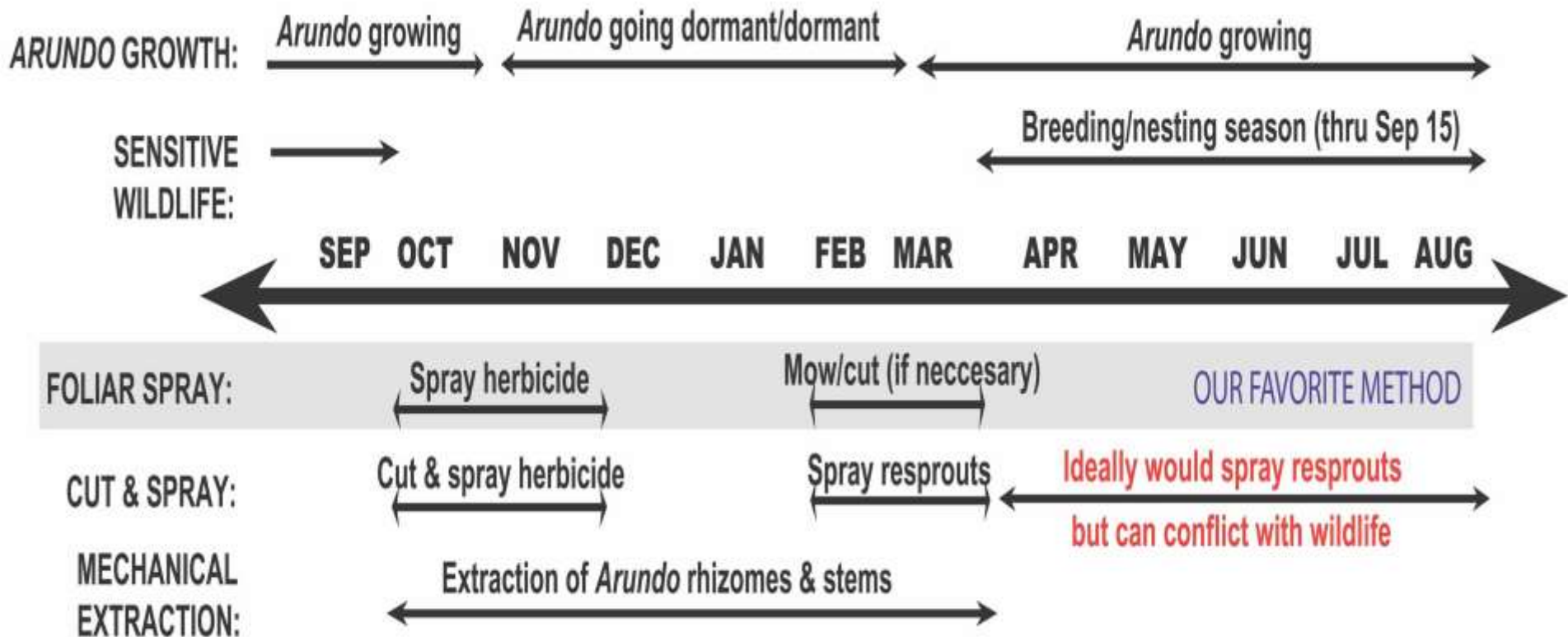
CADFW SAA1600

USFWS & ACOE

Use approaches that regulators are comfortable with.

Tip: Minimize impacts and use timing to avoid impacts

- Passive work- when fauna/flora is present/reproducing
- Active work- fall/winter (migrants gone, fish runs not active)



1. California Environmental Quality Act: (CEQA) and NEPA (similar)

- a) CEQA allows agencies and the public to be notified and review a project.
- b) There are no CEQA 'regulators'- projects are described and groups (agencies/public) make comments. Project 'lead' responds to comments and/or modifies scope of project.
- c) The process is arbitrated/controlled by the courts. If someone disagrees with the determination they must file against the project.

Environmental, historic, and other impacts included.

See State Clearinghouse Handbook

1. Initiate CEQA process:

a) Find lead: State agencies can post directly at the State clearinghouse. Local projects typically post with County government (County clerk).

b) Make determination as to type of CEQA:

- * Not a project

- * Notice of Exemption (NOE)

- * Negative Declaration (ND or MND)

- * Environmental Impact Report (EIR).

SAA 1600: If CDFW is a 'responsible agency' - they will look over and adopt your CEQA

Grant funders (WCB, Coastal Conservancy, etc.) may also adopt the CEQA.

Notice of Exemption (NOE):

- Small Habitat Rest
project: 5 acres, ex: 15333

- Minor alterations to land:
no acreage limit, ex: 15304

1. Post NOE: County
Clerk- posting fee

• You can start work
immediately: (at your
own risk)

2. 35 day clock on
challenges

3. Completed

Project Title: _____

Project Location - Specific: _____

Project Location – City: _____ Project Location – County: _____

Description of Nature, Purpose and Beneficiaries of Project: _____

Name of Public Agency Approving Project: _____

Name of Person or Agency Carrying Out Project: _____

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: _____

Reasons why project is exempt: _____

Lead Agency
Contact Person: _____ Area Code/Telephone/Extension: _____

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

- Signed by Lead Agency
 - Signed by Applicant
- Date received for filing at OPR: _____

Negative Declaration (ND or MND): 6 months to 1 year

Steps:

1. Notice of Preparation (NOP)
2. Initial Study, Negative Declaration, Notice of Completion (NOC): posted 30 days
3. Review comments, make decision, adopt.....
4. File Notice of Determination (NOD)

Parts of ND/MND:

1. Initial Study - background, project description, summary of mitigation measures
2. Checklist - impact analysis, mitigation & minimization measures
3. Determination - ND, MND, or EIR required

1. CEQA

1. Once CEQA is done for a project it is done: unless the project changes in scope
 - Addendum: minor changes in project
2. Project area can be broad- consider landscape level project description
3. Consider working under another group's CEQA- check for approval for activities you are doing.
4. Cater your actions to avoid a more complicated CEQA process- minimize and avoid impacts (environmental, cultural, etc.).



2. Working in wetlands: DFG- 1600 SAA

CA DFG 1600 Streambed Alteration Agreement- required with any modification of riparian habitat.

- May be possible to avoid 1600 if not working during breeding season and not cutting/removing any biomass. If you are changing vegetation structure by removing plants then you will likely need the permit.
- Several page application detailing methods and location of work. Can be obtained for a broad 'program area'.

2. Working in wetlands: CADFW SAA- 1600

- Application: project description, maps, outline other permits
- Pay Fee
- Submit CEQA (or CADFW lead)
- 30-60 days

	STATE OF CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE		
NOTIFICATION OF LAKE OR STREAMBED ALTERATION			
<p>Complete EACH field, unless otherwise indicated, following the enclosed instructions and submit ALL required enclosures. Attach additional pages, if necessary.</p>			
1. APPLICANT PROPOSING PROJECT			
Name			
Business/Agency			
Street Address			
City, State, Zip			
Telephone		Fax	
Email			
2. CONTACT PERSON <i>(Complete only if different from applicant)</i>			
Name			
Street Address			
City, State, Zip			
Telephone		Fax	
Email			

2. Working in wetlands: CADFW SAA- 1600

Habitat Restoration and Enhancement Act

- Applies to voluntary restoration projects up to 5 acres in size and 500 cumulative linear feet of streambank or shoreline

2. Working in wetlands: ACOE- 404

Army Corps of Engineers: 404 waters of US

- Typically needed if moving dirt (removing structures, grading, modifying slopes, creating temporary roads) or there is 'discharge' but may also be needed if using large equipment where soil is disturbed.
- Initiation of 404 process creates a federal nexus between ACOE and FWS (can be important if Section 7 is needed).

2. Working in wetlands: ACOE- 404

Regional General permit #41: designed for invasives work.

- San Diego to Santa Barbara
- Fast, low cost process for completing 404 and 401. \$60 fee for SWCB certification.

Process: Application and notification of other agencies, and once file open: pre-construction notification. Annual reporting.

Nationwide Permit 27: Stream and Wetland Restoration:

- No SWCB certification built in.

2. Working in wetlands: SWCB 401

State or regional board discharge permit if there is 'discharge' related to your project.

General 401 certification for Small Habitat Restoration Projects (<5 ac in size)

- NOI: 8 page form
- Monitoring plan
- Reporting plan
- NPDES is still required if herbicides entering water

2. Working in wetlands: SWCB 401

NPDES: National Pollutant Discharge Elimination System

- NOI (3 pages)
- Application- including:
 - Aquatic Pesticide Application Plan (APAP): Monitoring plan (with water quality testing), Reporting plan
- 30 day public posting
- Annual fee (>\$2K)

3. US Fish and Wildlife and/or CDFW: Endangered species habitat.

Are you are working in habitat with Federally listed species?

Talk with USFWS- possible outcomes will be:

a) No need for formal action

b) Letter stating adverse impact unlikely (no Section 7/10): 1 month to 2 years, if they will do it.....

‘Technical assistance letter’ or ‘Non-Federal No Take Request’

c) Formal consultation (Section 7: Federal or Section 10: non-fed): possible take authorization (3 months to over a year)

3. US Fish and Wildlife

- 1) Consultation Required- can you work under a federal agency so you can do a Section 7 (establish a federal nexus)?
 - Trigger ACOE permit (404, RGP 41)- then ACOE works with FWS.
 - NRCS- Funder, have staff that will assist with Sec7.
 - USFWS- Funder, have staff that will assist with Sec7.
 - USFS- Would need to be on FS lands
- 2) You still will likely need to prepare a Biological Study that the ACOE then gives to FWS.
- 3) Then FWS issues Biological Opinion (BO) to ACOE. 'Take' may be issued under this.
- 4) Project will not proceed if it jeopardizes listed species.

3. NMFS/NOAA

Typically needed if you are working on river or creek with steelhead or chinook

- **Programs often get 'Technical Assistance Letter' outlining avoidance measures to assure no impacts.**

4. Right of Entry Agreements (ROEs)

If you are working on other peoples property- you will need Right Entry Agreements (ROE). Funders typically require these.

- Make ROE time frame as long as possible (some funders require 10 or 20 years).
- Exclude yourself from liability (fire and flood).
- Outline benefits: lowering of fire and flood risk, free work, free permit compliance. (Be cautious about stating habitat benefits).
- ROE content varies greatly- find what works for your situation

5. Ways to shorten these processes

Build broad permits that last a long time

Program not project: Entire watershed, region

- Increases efficiency by doing it once, saves application fees, and makes your program attractive to funders.
- No 'end date' CEQA or ROEs.
- DFW: SAA 5 yr or 10 yr

5. Ways to shorten these processes

Structure your program to minimize or avoid impacts:

- a) Work outside wildlife breeding season.
- b) Use methods that avoid direct impacts.
- c) Use monitors to assure that sensitive species are not present and the avoidance/minimization measures are being followed.
- d) Fit under other groups permits or re-use approved approaches.