

STATE AND FEDERAL PERMITTING

THE PERMIT PLACE

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OVERVIEW OF STATE AND FEDERAL PERMITTING

THE PERMIT PLACE

THE PERMIT PLACE Binder emphasizes development permits and entitlements required by Mendocino County for development in the unincorporated County. However, many land development projects also require one or more State or Federal permits.

- *CalGOLD* assists businesses in identifying State, Federal, and local permits and regulations. Sponsored by the State of California, Environmental Protection Agency, *CalGOLD* can be accessed on the Internet at www.calgold.ca.gov. The interactive site is coupled with a system of Permit Assistance Centers¹ to help applicants understand and comply with business regulations.
- The *California Permit Handbook*¹ is also a valuable guide to the State and Federal environmental permit process. It is authored by the California Trade and Commerce Agency, California Office of Permit Assistance. It may be reviewed at the Mendocino County Planning and Building Services Department, or by contacting the California Office of Permit Assistance at (800) 353-2672. <http://commerce.ca.gov>
- Many State agencies may be contacted on the Internet at www.ca.gov.

The selections from the *California Permit Handbook*² listed below are commonly required for land use development in Mendocino County, and do not represent all the possible permits that may be required. The material selected is not a substitute for assistance from *CalGOLD*, the California Office of Permit Assistance, or State and Federal permitting agencies.

- * California Coastal Commission
Coastal Development Permit
- * California Department of Forestry (CalFire)
Fire Safe Regulations Clearances
- * North Coast Regional Water Quality Control Board (RWQCB)
*National Pollutant Discharge Elimination System (NPDES) (Stormwater) Permit
Waste Discharge Requirements*
- * Department of Fish & Game
Lake or Streambed Alteration Agreements (1601, 1603)
- * Department of Transportation (Caltrans)
Encroachment Permit
- * US Army Corps of Engineers
Section 404 Permit

¹ Refer to the State and Federal Agency Contact List.

² Reprinted by permission of the California Office of Permit Assistance, from the *1997 California Permit Handbook*, for selected permits, Part I- "Who needs a", excluding information for California Department of Forestry.

OVERVIEW OF THE CALIFORNIA ENVIRONMENTAL REVIEW AND PERMIT APPROVAL PROCESS³

STATE AND FEDERAL PERMITTING

Land use and planning in California is regulated by a set of environmental review requirements. Requirements, as stated in the California Environmental Quality Act (CEQA), are triggered by any project that will potentially effect the environment.

The permit process is independent yet integral to the CEQA process. The issuance of any permit must consider potential environmental consequences of activities to be conducted under the requested permit. CEQA, in turn, addresses those concerns in one document in which all permit agencies, the land use decision agency, the project proponent and the general public participate. The document, typically either an Environmental Impact Report (EIR) or a Negative Declaration, is the initial step upon which subsequent permit decisions are based.

To understand the CEQA permit issue, it is necessary to understand the roles of the various agencies that regulate development activities in California.

- **Cities and Counties Regulate Land Use by Way of Planning, Zoning, and Subdivision Controls.** There are currently 58 counties and approximately 468 incorporated cities in California, each with substantially the same authority for land use regulation. Local government authority is granted by State law, and cities and counties have legislative power to adopt local ordinances and rules consistent with State law. Some activities are permitted by right and others are permitted only by special use authorization - nearly all are subject to CEQA.
- **State Agencies Regulate The Private Use Of State Land And Resources And Certain Activities Of Statewide Significance.** The permit authority for each state agency is established by statute, usually with additional administrative rules promulgated by the agency.
- **Federal Agencies Have Permit Authority Over Activities On Federal Lands And Over Certain Resources** which have been the subject of congressional legislation, i.e., air and water quality, wildlife, and navigable waters. The U. S. Environmental Protection Agency generally oversees the federal agencies and has broad authority for regulating certain activities such as the disposal of toxic wastes and the use of pesticides. The responsibility for implementing some federal regulatory programs such as those for air and water quality and toxics management has been delegated to specific state agencies.

The Development Permit Process

In California, the development permit process is coordinated with the environmental review process under CEQA. Every development project which is not exempt from CEQA, must be analyzed by the lead agency to determine the potential environmental effects of the project. **This analysis, under state law, must be completed within set time periods concurrent with time periods in which an agency is required to approve or deny the project.**

³ Reprinted by permission, from the 1996/97 California Permit Handbook, pages 4-7.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies must consider the environmental document prepared by the lead agency but *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular development permit is governed by the particular law which establishes the permit authority and by the **California Permit Streamlining Act** (Gov't Code Sections 65920-65963.1).

Permit Streamlining Act

The Permit Streamlining Act (Gov't Code Sec. 65920-65963.1) mandates specific timeframes local and state governments must comply with when processing permits. The intent is to provide clarity and consistency to the permit process. A few major points on which the Office of Permit Assistance receives inquiries are outlined here. *However, please refer directly to the Act for a complete version.*

Article 3. Applications for Development Permits

65940. Each state and local agency shall compile one or more lists which shall specific in detail the information that will be required from any applicant for a development project.

65941. (b) If a public agency is a lead or responsible agency for purposes of CEQA, that criteria *shall not require the applicant to submit the information equivalent of an EIR as part of a complete application*, or otherwise require proof of compliance with that act as a prerequisite to a permit application being deemed complete.

65944. (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940.

Summary of the CEQA and Permit Application Process

There are three major phases in the development process as provided by CEQA:

- *The Pre-Application Phase,*
- *The Application Phase, and*
- *The Review Phase.*

I. Pre-Application Phase:

The pre-application phase begins when the developer-applicant has completed the conceptual and preliminary design work for a project and is ready to prepare a project proposal. At this point, there is enough information available to describe the scope of the project and to identify the proposed location. The primary objective of this phase is to identify appropriate permit agencies and to begin collecting as much background information as possible.

Many proposals (projects) will require special studies, either before or during the application's formal processing. Under the Permit Streamlining Act, **all** state and local agencies **are required** to list the types of information and the criteria they will use in evaluating a project application. These lists are available from each agency. Developer-Applicants may request pre-application consultation or "scoping" meetings with permit agencies to discuss how the agencies' specific rules will apply to the proposed project.

By the end of the pre-application phase, the developer-applicant should have a good understanding of detailed project information required, a list of probable permitting agencies, an indication of the level of environmental analysis which will be performed, timeframes, and fees.

In a project requiring approval from more than one permit agency, a lead agency must be determined. A lead agency is that permit agency that has the principal responsibility for carrying out or approving a project and preparing CEQA documents. Criteria for determining the lead agency are provided in the CEQA Guidelines at Section 15051. However, more often than not, the locality in whose jurisdiction a project is proposed will serve as the lead agency.

In the event of a "dispute" (two or more agencies claiming lead status or in the absence of an agency to claim lead status) over the lead agency status between or among agencies, the Office of Permit Assistance will designate the lead. The intervention of OPA will only occur after involved permit agencies exhaust efforts to determine lead status.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies must consider the environmental document prepared by the lead agency but do not, except in rare instances, prepare their own environmental documents.

II. The Application Phase:

The application phase begins with the developer-applicant filing the necessary permit application forms and/or a request for a land use decision, a detailed project description, minimum support documentation with the appropriate permit agency. In some cases, agencies will not accept an application until certain other permit approvals have been granted.

Unless otherwise specified, the sequence of filing applications is left up to the applicant. *However the failure of some agencies to accept an application until certain other permit approvals have been granted does not in any way impact on the time limits under which the agency must act.* In fact, the failure to concurrently process the permit application usually places an extreme burden upon the reviewing agency and may subject the agency to issuing the requested permit through default (failure to act within specified time periods, provided certain documentation and notice steps are taken by the project proponent, grants project approval by law).

During this phase, each receiving agency must review the application submitted to determine the completeness of the filing. The lead agency must make its determination *in writing* within 30 days. Should the agency fail to make its determination within the specified time period, the application will, by law, be deemed complete. If the application is determined to be incomplete, the agency *must* specify the deficiencies and ways to correct them. The developer-applicant may then re-file the corrected application. Upon re-filing, the agency has another 30 days to review for completeness. If the application is again determined to be incomplete, the agency must provide a process for an appeal of the determination and reach a decision within 60 days. Further dispute may be judicially resolved. **This step is critical to the process as a permit may not be subsequently denied for failure to provide information not requested.**

Under the Permit Streamlining Act, once an application is accepted as complete, the statutory time limit for the completion of the environmental review and approval or denial of the permit application begins. The lead agency then has one year in which to approve or disapprove a project for which an Environmental Impact Report (EIR) will be prepared. If a negative declaration is adopted or if the project is exempt, the project shall be approved within six months from the date

on which an application requesting approval has been accepted by that agency, unless the project proponent requests an extension of the time limit.

III. Review Phase:

The Review Process begins immediately when the application is deemed complete. In recognition of Section 65941 of Chapter 4.5 of the Permit Streamlining Act, the lead agency will simultaneously perform the review of the project and conduct the necessary environmental analysis.

Permit rules vary depending on the particular permit authority in question, but the process generally involves comparing the proposed project with existing agency standards or policies. The procedure usually leads to a public hearing which is followed by a written decision by the agency or its designated officer. Typically, a project is approved, denied, or approved subject to specified conditions.

The CEQA procedure involves a number of steps which culminate in an environmental document. The environmental document serves as part of the record which supports the permit decision by the lead agency as well as the responsible and/or trustee agencies. The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may prepare and file a **Notice of Exemption**.

If the project falls under CEQA, the lead agency must prepare an **Initial Study** to determine whether the project may have a significant impact on the environment. The initial study *must* be completed within 30 days after an application is accepted as complete.

The lead agency must:

- Prepare and circulate a Negative Declaration if it finds in the initial study that the project will not have a significant effect on the environment.
- Prepare a Negative Declaration for the project where the Initial Study determines potential significant effects, and the project is modified such that the effects are rendered insignificant, usually called a Mitigated Negative Declaration.

In either case, circulate the negative declaration for a 30 day review period and receive all comments for adoption by the lead agency within 105 days after a completed application is accepted.

If the Initial Study shows that the project *may* have one or more significant effects, the lead agency must circulate a **Notice of Preparation (NOP)** and must consult with responsible and trustee agencies as to the content of the environmental analysis. The NOP must be filed with the State Clearinghouse. (The State Clearinghouse is the single point of contact to serve as a clearinghouse to receive and distribute environmental documents prepared pursuant to the California Environmental Quality Act, or CEQA). Responsible agencies must respond to the NOP within 30 days. **If a responsible or trustee agency fails to respond, the lead agency may presume that the responsible agency has no response to make. Further, if a responsible agency fails to respond or responds incompletely, the responsible agency may not subsequently raise issues or objections regarding the adequacy of the environmental review.**

At the close of this period, the lead agency must prepare and circulate a **Draft Environmental Impact Report (DEIR)**. All concerned agencies and the public may review the DEIR. All comments on the DEIR must be made within the review period. At the close of the review and comment period' during

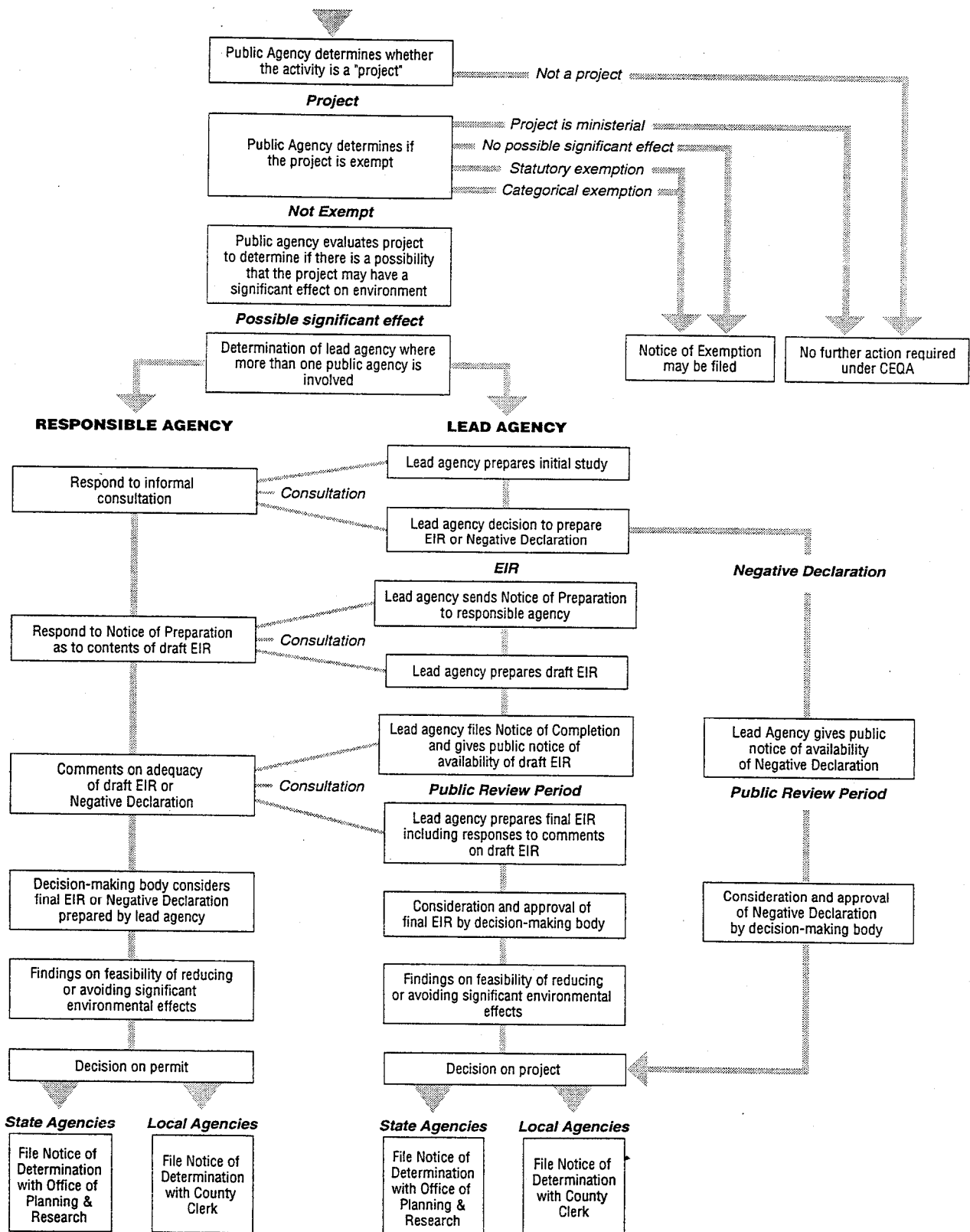
which a public hearing is required, the lead agency must respond to the comments received. Comments from responsible or trustee agencies *shall be limited* to those project activities which are within the agency's area of expertise, which are required to be carried out or approved by the agency, or which will be subject to the exercise of powers by the agency.

The lead agency prepares a **Final Environmental Impact Report (FEIR)** and certifies that it is complete and that it has been considered by the decision makers. The lead agency must also find that each significant impact will be mitigated *below the level of significance* wherever feasible, or that overriding social or economic concerns justify the approval of the project.

With the CEQA and permit review process completed, the lead agency must approve or deny the permit and file a **Notice of Determination (NOD)**. Responsible agencies must then act within six months after the lead agency has acted or, if the developer-applicant has not already filed an application with a responsible agency, within six months from the time the application is filed (except as modified under Health and Safety Code Section 25199.6, Chapter 1504, Statutes of 1986, AB 2948, Tanner). Environmental documents for projects which involve one or more state agencies or which involve an issue of areawide or statewide significance must be sent to the State Clearinghouse for distribution to interested state agencies. State Clearinghouse interface links the lead agency with responsible state agencies.

CEQA PROCESS FLOW CHART Reprinted by permission from the 1996/97 California Permit Handbook

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TIME PERIODS FOR REVIEW OF ENVIRONMENTAL DOCUMENTS

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STATE AND FEDERAL PERMITTING

<i>Document or Action</i>	<i>Effect</i>	<i>Time Period</i>	<i>CEQA Guidelines</i>
Review of application for completeness	If no determination is made within this period, it will be deemed complete.	30 days	15101
Lead Agency acceptance of a project as complete	Begins one year period to complete environmental review for certain projects.	1 year	15060
Initial Study	Provides 30 days to determine whether an EIR or Negative Declaration will be required.	30 days	15102
Notice of Preparation	Provides 30 days from receipt of NOP for agencies to review and comment.	30 days	15103
Convening of Scope and Content meetings	Requires a meeting requested by an agency or by the applicant to be convened within 30 days of the request.	30 days	15104
Public Review	When an environmental document is submitted to the Clearinghouse, the public review period shall be at least as long as the review set by the Clearinghouse.	EIR: 30-90 days ND: 21 days to a "reasonable time"	15105
Review by State Agencies	Provides standard 45 days for EIRs and standard 30 days for NDs.	EIR: 45 days ND: 30 days	15106
Completion of negative declaration	For a private project, the Negative Declaration must be completed in 105 days.	105 days	15107
Completion and certification of EIR	For a private project, an EIR must be completed within one year. May be extended once for up to 90 days.	1 year	15108
Notice of Determination -- filing	Provides that the notice shall be filed with 5 days (local agencies only).	5 days	15094
Notice of Determination	Filing starts a 180-day statute of limitations to court challenges to the approval of the project.	180 days	15094
Suspension of time limits	Unreasonable delay of document preparation caused by the applicant allows suspension of time period in <i>Guidelines</i> , sections 15107 and 15108.	Varies	15109
Projects with federal involvement	Time limits may be waived or superseded by federal time requirements.		15110

NOTE: *Related time periods for project approval are contained in Chapter 4.5 of the Government Code beginning at Section 65920. These generally run concurrently with certain CEQA time periods.*

STATE AND FEDERAL AGENCY CONTACT LIST

STATE AND FEDERAL PERMITTING

The following is a list of state and federal agencies commonly consulted for development projects in Mendocino County. More information may be obtained from the California Office of Permit Assistance or CalGOLD.

CalGOLD Internet: www.calgold.ca.gov
(Service provided by the California Environmental Protection Agency):
Office: North Bay Permit Assistance Center (707) 527-2481 E-mail: nbaypac@pac.calepa.ca.gov
2550 Ventura Avenue, Santa Rosa, CA 95403
Services: Information for business permits; assists in identifying state, federal, and local permits

State of California Internet Homepage: www.ca.gov

California Office of Permit Assistance

Phone: (800) 353-2672 or (916) 322-4245 , *Fax:* (916) 323-2887
Office: 801 K St., Suite 1700, Sacramento, CA 95814
Services: State and federal permit assistance

California Department of Forestry: CalFire

Phone: (707) 459-7414, *Fax:* (707) 459-3041
Office: Mendocino Unit, 17501 N. Highway 101, Willits, CA 95490
Internet: <http://www.fire.ca.gov>
Services: Fire safe standards and clearances for building & use permits, subdivisions, etc.

California Department of Transportation: District 1

Phone: (707) 445-6230, *Fax:* (707) 445-6314
Office: 1656 Union Street, Eureka, CA 95501
Mail: P.O. Box 3700, Eureka, CA 95502
Internet: <http://www.dot.ca.gov/dist1/>
Services: Encroachment permits (including signs) on state highways & rights of way

North Coast Regional Water Quality Control Board

Phone: (707) 576-2220, *Fax:* (707) 523-0135
Office: 5550 Skylane Road, Suite A, Santa Rosa, CA 95403
Internet: <http://www.swrcb.ca.gov/rwqcb1/>
Services: Stormwater runoff (NPDES) permits, waste discharge requirements

California Department of Fish and Game: Northern Region

Phone: (530) 225-2300, *Fax:* (530) 225-2381
Office: 601 Locust Street, Redding, CA 96001
Internet: <http://www.dfg.ca.gov>
Services: Streambed alteration agreements, impacts on biological resources

California Coastal Commission: North Coast District

Phone: (707) 445-7833 or (707) 445-7834 , *Fax:* (707) 445-7877
Office: 710 E Street, Suite 200, Eureka, CA 95501
Internet: <http://www.coastal.ca.gov/>
Services: Coastal development permits (contact the County first to determine who is the lead agency)

U S Army Corps of Engineers: San Francisco District

Phone: (415) 977-8462
Office: San Francisco District, 333 Market Street, Room 812, San Francisco, CA 94105-2197
Internet: <http://www.spn.usace.army.mil/>
Services: Section 404 Permit

STATE & FEDERAL PERMIT CHECKLIST FOR COMMON PERMITS

STATE AND FEDERAL PERMITTING

This inventory was adapted from the *1997 California Permit Handbook* to assist the applicant in identifying the more common State and Federal permits that may be required for land use development in Mendocino County. *CalGOLD* and the *California Office of Permit Assistance* may also assist the applicant in identifying other required permits and regulations.

DEVELOPMENT ACTIVITY OR IMPACT	AGENCY	PERMIT
Dams or reservoirs- activities affecting new or existing facilities	Division of Dam Safety- Department of Water Resources	<ul style="list-style-type: none"> • Approval of Plans
Dredging, filling, docks, groins, jetties, activities affecting tide or submerged lands	<ul style="list-style-type: none"> • Department of Fish and Game • US Army Corps of Engineers • State Lands Commission 	<ul style="list-style-type: none"> • Standard for Special Suction • Dredging Permit • Permit for dredging & filling • Dredging permit
Film making (commercial)	California Film Commission	<ul style="list-style-type: none"> • Film Permit
Fire protection- activities in all nonurban areas	California Department of Forestry	<ul style="list-style-type: none"> • Fire Safe Clearances
Federal lands- land use or resource use, road development	US Forest Service or Bureau of land Management	<ul style="list-style-type: none"> • Refer to California Permit Handbook
Mobilehome park or trailer court construction	Department of Housing & Community Development	<ul style="list-style-type: none"> • Permit to Construct
Hazardous waste storage, treatment or disposal	Toxic Substances Control Division California EPA	<ul style="list-style-type: none"> • Hazardous Waste Facilities Permit
Oil, gas or geothermal well	Division of Oil & Gas- Department of Conservation	<ul style="list-style-type: none"> • Oil, gas or geothermal well permit
Power plants/transmission lines	<ul style="list-style-type: none"> • California Energy Commission • Public Utilities Commission 	<ul style="list-style-type: none"> • Notice of Intention and Application for Certification • Certificate of Public Convenience and Necessity

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DEVELOPMENT ACTIVITY OR IMPACT	AGENCY	PERMIT
Stream, lake, channel, wetlands, work or crossings affecting the fish, wildlife or their habitats	<ul style="list-style-type: none"> • Department of Fish and Game • US Army Corps of Engineers 	<ul style="list-style-type: none"> • Streambed Alteration Agreements 1601, 1603 • Section 404 Permit
State Highways- Encroachment on or across State highway	California Department of Transportation	<ul style="list-style-type: none"> • Encroachment Permit
Timber harvesting	California Department of Forestry	<ul style="list-style-type: none"> • Timber Harvesting Plan • Timber Operators License • Timberland Conversion Permit
Water storage or use- surface water	State Water Resources Control Board- Department of Water Resources	<ul style="list-style-type: none"> • Water Right Permit to Appropriate Surface Water
Water system development (drinking)	Office of Drinking Water- Department of Health Services	<ul style="list-style-type: none"> • Permit to Operate a Public Water System
Watershed or water body discharges impacting surface water or ground water quality- grading, mining, soil disturbance, industrial/commercial/ agricultural discharges	Regional Water Quality Control Board	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System Permit/ Stormwater Permit • Waste Discharge requirements
Wetlands development	Refer to stream and lake activities	

CALIFORNIA COASTAL COMMISSION

STATE AND FEDERAL PERMITTING

COASTAL DEVELOPMENT PERMITS⁴

I. Who needs a Coastal Development Permit?

Any person or public agency proposing development within the coastal zone must obtain a Coastal Development permit from either the Coastal Commission or the city or county having authority to issue coastal development permits. In general, the coastal zone extends from the State's three-mile seaward limit to an average of approximately 1,000 yards inland from the mean high tide of the sea. In coastal estuaries, watersheds, wildlife habitats, and recreational areas, the coastal zone extend as much as five miles inland. In developed urban areas, the coastal zone may extend inland less than 1,000 yards from the mean high tide of the sea.

A development is broadly defined and includes, for example, such things as subdivisions and other changes in the density or intensity of use of land or water. The activities listed below are generally exempt from the Coastal Commission's permit requirements except for those projects that pose a risk of substantial adverse environmental impact:

- A. Improvements to existing single-family residences;;
- B. Repair or maintenance of less than 100,000 cubic yards in existing navigational channels;
- C. Repair or maintenance that will not enlarge an existing structure;
- D. Installation, testing, or replacement of necessary utility connections for developments by the Commission;
- E. Construction of development projects in categories that the Commission has determined will not limit coastal resources or public access to the coast;
- F. The replacement of any structure (except public works facilities) which is destroyed by a disaster;
- G. The conversion of an existing multiple-unit residential structure to time-share project; and,
- H. Any project that has obtained an acknowledgment of vested rights under the California Coastal Zone Conservation Act of 1972 or the California Coastal Act of 1976. This exemption applies only if the developer-applicant has not substantially changed the project.

II. How does an applicant apply for a Coastal Development Permit for development in Mendocino County?

In Mendocino County, most development in the Coastal Zone requires a coastal development permit. The types of projects range from General Plan (Coastal Plan) amendments and rezoning, to subdivisions, use permits, boundary lines adjustments, variances, and permitted uses in most locations (such as single family dwellings, major vegetation removal, grading, construction of a driveway). General Plan and zoning amendments are processed by the County and then submitted by the County to the Coastal Commission for final approval and certification. Applications for Coastal Development Permits for most other types of projects outside the Coastal Commission "area of jurisdiction" are made to and processed by the Mendocino County Planning & Building Services Department. Planning & Building Services staff will assist the applicant in identifying the projects which may require a Coastal Development Permit, and the process to be used. More information is also contained in the Planning & Building Services Department section of this Binder.

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CALIFORNIA DEPARTMENT OF FORESTRY - CalFire

STATE AND FEDERAL PERMITTING

FIRE SAFE REGULATION CLEARANCE⁵

I. Who needs a Fire Safe Clearance?

Any person or public agency proposing development within “State Responsibility Areas (SRA)” designated by the California Board of Forestry may be subject to the Fire Safe Regulations adopted by the State Board of Forestry in Title 14 of the California Administrative Code. These regulations govern emergency access standards, signing and addressing, emergency water supply, fuel modification and defensible space. The following activities trigger or initiate the application of specific standards:

- A. Subdivisions: Road, gate, emergency water, fuel modification and defensible space standards
- B. Building permits for new construction: Road, gate, fuel modification, defensible space standards
- C. Activities requiring a use permit: Road, gate, fuel modification, defensible space standards
- D. Siting mobile homes and manufactures homes: Road, gate, fuel modification, defensible space standards
- E. Road construction: (excluding existing roads): Road, gate, fuel modification, defensible space, signing and addressing standards. Roads for agricultural or mining use on one ownership, roads used solely for managing or harvesting wood products, or roads required as a condition of a parcel map approved prior to May 30, 1991 are exempt.

Adapted from Homeowners Summary of Fire Prevention and Loss Reduction Laws, CalFire.

II. How does an applicant apply for the Fire Safe Regulations clearances for development in Mendocino County?

CalFire or Planning & Building Services staff can advise the applicant whether a Fire Safe Regulations application is required for a project. CalFire applications (State Fire Safe Regulations Application Form) are available from the CalFire office or the Planning & Building Services Department. There is no fee associated with this application. The completed Fire Safe Regulations application is submitted to CalFire for Preliminary Clearance. The CalFire Preliminary Clearance is then submitted to the County with the application for development. For more information, review the California Department of Forestry section in this Binder, or refer to the State and Federal Agency Contact List.

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REGIONAL WATER QUALITY CONTROL BOARD⁶

STATE AND FEDERAL PERMITTING

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)/STORM WATER PERMIT

I. Who needs a National Pollutant Discharge Elimination System (NPDES) or Storm Water Permit?

The owner or operator of any facility that is currently discharging, or proposing to discharge, waste into any surface waters of the state must obtain waste discharge requirements. For discharges to surface waters, the requirements become a federal National Pollutant Discharge Elimination System (NPDES) Permit from the Regional Water Quality Control Board (RWQCB) in the project area.

The RWQCBs issue NPDES permits to protect the waters of the state for the use and enjoyment of the people of California. The SWRCB (State Water Resources Control Board) and the RWQCBs seek to attain the highest water quality reasonably attainable in the state.

Examples of activities that may discharge waste into waters of the state include:

- A. Paper, textile, and grain mills;
- B. Meat, dairy, vegetable, sugar, and seafood production and processing facilities;
- C. Cement, chemical, detergent, fertilizer, steel, glass, rubber, timber, leather manufacturing and processing facilities;
- D. Petroleum refining operations;
- E. Feedlots for cattle, swine, sheep, goats, horses, turkeys, chickens, and ducks;
- F. Sewage treatment plants;
- G. Storm water runoff discharges (municipal, industrial, and construction);
- H. Dredge spoils discharges;
- I. Mining activities; and,
- J. Groundwater discharge operations.

Most owners or operators of facilities that discharge waste into a municipal sanitary sewer system need not obtain an NPDES permit. The United States Environmental Protection Agency (USEPA), the SWRCB, and the respective RWQCB or the local wastewater management agency may require some industries to treat industrial hazardous wastes before such wastes are discharged to a municipal sanitary sewer system. The local wastewater management agency advises industries of those requirements.

Storm Water

Industrial - Persons whose discharges are composed entirely of industrial storm water runoff may be eligible to be regulated under a General Industrial Storm Water Permit issued by the SWRCB rather than an individual NPDES permit issued by the appropriate RWQCB. The General Industrial Storm Water Permit regulates storm water runoff from eligible industrial activities including:

⁶ Reprinted by permission from the 1996/97 California Permit Handbook.

- A. Facilities subject to storm water effluent guidelines (as specified in subchapter N of Title 40 of the Code of Federal Regulations);
- B. Manufacturing facilities;
- C. Mining and oil and gas facilities;
- D. Hazardous waste treatment, storage, or disposal facilities;
- E. Landfills, land application sites, and open dumps that receive industrial waste;
- F. Recycling facilities such as metal scrap, battery reclaimers, salvage yards, automobile yards;
- G. Steam electric generating facilities;
- H. Transportation facilities;
- I. Sewage treatment plants; and,
- J. Certain facilities if materials are exposed to storm water.

Additional information about eligible industrial activities and the permit application provisions may be obtained from the SWRCB's General Industrial Storm Water Permit Information Line at (916) 657-1110.

General Construction Activities - The SWRCB has also adopted a General Construction Activity Storm Water Permit for storm water discharges associated with any construction *activity* including clearing, grading, excavation reconstruction, and dredge and fill activities that results in the disturbance of at least one acre of total land area. Additional information about that permit can be obtained by contacting the SWRCB's Construction Activity Storm Water Permit Information Line at (916) 657-1146.

Municipal Urban (Areawide) Storm Water Discharges - A municipal separate storm sewer system, as defined by the USEPA (in Part 122 of Title 40 of the Code of Federal Regulations) must obtain an NPDES permit by a certain date according to the population served by the system. Municipal separate storm sewer system officials must submit an NPDES application and supporting information to the respective RWQCB.

WASTE DISCHARGE REQUIREMENTS PERMIT (WDRS)

I. Who needs a Waste Discharge Requirements Permit?

The owner or operator of any facility or activity that discharges, or proposes to discharge, waste that may affect groundwater quality or from which waste may be discharged in a diffused manner (e.g., erosion from soil disturbance) must first obtain waste discharge requirements permit (WDRs) from the appropriate Regional Water Quality Control Board (RWQCB). If a facility or activity will discharge waste (including storm water run off for certain industrial or construction activities) to surface water (for example, from a pipe or confined channel), the owner or operator must obtain a National Pollutant Discharge Elimination System (NPDES) permit rather than waste discharge requirements (WDRs). Activities that do not pose a threat or nuisance to water quality may be allowed a waiver of WDRs.

The RWQCBs adopt waste discharge requirements (WDRs) to protect the waters of the state for the use and enjoyment of the people of California. The State Water Resources Control Board (SWRCB) and RWQCBs seek to attain the highest possible water quality in the state.

Examples of the types of wastes that may require waste discharge requirements (WDRs) include:

- A. Drainage from agricultural operations;
- B. Drainage from waste materials in landfills;

- C. Flow or seepage containing debris or eroded earth from logging operations;
- D. Drainage from inoperative and abandoned mines;
- E. Feedlots for cattle, swine, sheep, goats, horses, turkeys, chickens, and ducks;
- F. Waste from construction or dredging operations;
- G. Food production and processing wastes;
- H. Waste from manufacturing and refining operations;
- I. Municipal and industrial wastes, if percolation or injection to groundwater are the disposal methods; and
- J. Residual waste and effluent from cleanup of sites.

The discharge of waste into a municipal sanitary sewer system is not subject to waste discharge requirements (WDRs). The United States Environmental Protection Agency (USEPA), the SWRCB, the RWQCBs, and the local wastewater management agency may require some industries to pretreat industrial or hazardous wastes prior to discharge to the municipal sanitary sewer system. The local wastewater management agency will notify the industry of the requirements.

Waste disposal by injection well may also be subject to a Federal Underground Injection Control Program permit issued by the USEPA or to a permit issued by the Department of Conservation, Division of Oil and Gas for injection of oilfield wastes.

Certain waste management units (landfills, surface impoundments, waste piles, land treatment facilities, confined animal waste facilities, and mining waste facilities) may be subject to the construction and/or closure requirements established in *California Code of Regulations*, Title 23, Division 3, Chapter 15.

Reprinted by permission from the 1996/97 California Permit Handbook, pages 48-49, 58.

II. How does an applicant apply for a NPDES/Storm Water or Waste Discharge Requirement Permit for development in Mendocino County?

County Environmental Health Division staff will assist the applicant in identifying projects which may require a NPDES/Storm Water or Waste Discharge Requirement Permit. For more information, the applicant may review the expanded information in the California Permit Handbook, or contact the office referred to on the State and Federal Agency Contact List to determine which Caltrans office will process the application.

CALIFORNIA DEPARTMENT OF TRANSPORTATION

STATE AND FEDERAL PERMITTING

ENCROACHMENT PERMIT⁷

I. Who needs an Encroachment Permit?

The California Department of Transportation (Caltrans) issues permits to encroach on land within the jurisdiction of the Department to:

- A. Ensure that the proposed encroachment is compatible with the primary uses of the State Highway System;
- B. Ensure the safety of both the permittee and the highway users; and,
- C. Protect the State's investment in the highway facility.

Therefore, all proposed activity unless conducted under the auspices of Caltrans or Caltrans contract forces within contract limits involving the placement of encroachments within, under, or over the State highway right-of-way must be covered by an encroachment permit. This requirement applies to persons, corporations, cities, counties, utilities, and other governmental agencies. Examples of activities within the right-of-way that require an encroachment permit include:

- A. Opening or excavating a state highway for any purpose;
- B. Placing, changing, or renewing an encroachment;
- C. Placing any advertising sign or device;
- D. Planting or tampering with vegetation growing along any state highway;
- E. Installing or removing tire chains for compensation;
- F. Constructing and maintaining road approaches or connections to or grading within right-of-way on any state highway; and
- G. Any activity or special event affecting the use of the highway.

Private facilities running parallel to and falling in the rights-of-way of conventional highways with franchise rights from local agencies also require approval of the Program Manager, State and Local Project Development (SLPD) in Caltrans. An encroachment which involves work within the right-of-way with a cost of more than \$1,000,000 requires a Highway Improvement Agreement or a Cooperative Agreement in addition to an encroachment permit.

Proposed encroachments requiring permanent access or maintenance in freeway or expressway rights-of-way are extreme cases and are considered only under the following restrictions:

- A. The encroachments must be a public facility or utility dedicated to public use;
- B. Any alternative location for the encroachments would be inordinately difficult or unreasonably costly;
- C. The encroachment must be placed as near as possible to the right-of-way line; and,
- D. The encroachments must be approved by the Program Manager, State and Local Project Development in Caltrans and possibly the Federal Highway Administration.

⁷ Reprinted by permission from the 1996/97 California Permit Handbook.

II. How does an applicant apply for a Encroachment Permit for development in Mendocino County?

County Department of Transportation staff will assist the applicant in identifying projects that may require an Encroachment Permit from Caltrans. For more information, the applicant may review the expanded information in the California Permit Handbook, or contact the office referred to on the State and Federal Agency Contact List to determine which Caltrans office will process the application.

DEPARTMENT OF FISH AND GAME

STATE AND FEDERAL PERMITTING

LAKE OR STREAMBED ALTERATION AGREEMENT⁸

I. Who needs a Lake or Streambed Alteration Agreement?

Any person, governmental agency, or public utility proposing any activity that will divert or obstruct the natural flow or change the bed, channel or bank of any river, stream, or lake, or proposing to use any material from a streambed, must first notify the Department of such proposed activity. Based on the information contained in the notification form and a possible field inspection, the Department may propose reasonable modifications in the proposed construction as would allow for the protection of the fish and wildlife resources. Upon request, the parties may meet to discuss these modifications. If the parties cannot agree and execute a Lake or Streambed Alteration Agreement, then the matter may be referred to arbitration.

Generally speaking, the notification requirement applies to any work undertaken within the annual high-water mark of a wash, stream, or lake which contains or once contained fish and wildlife or supports or once supported riparian vegetation.

Lake or Streambed Alteration Agreements are commonly referred to as “1603” Agreements. These Agreements pertain to a private application. “1601” Agreements pertain to public agency applications, and a “1606” Agreement pertains to timber harvesting.

II. How does an applicant apply for a Streambed Alteration Agreement for development in Mendocino County?

County staff will assist the applicant in identifying projects which may require a Streambed Alteration Agreement. For more information, the applicant may review the expanded information in the California Permit Handbook, or contact the office referred to on the State and Federal Agency Contact List. Applications are submitted to the Department of Fish and Game office. A Streambed Alteration Agreement may be required in conjunction with a discretionary permit, a ministerial permit such as a building permit, or not in conjunction with any County permit, such as in the construction of a driveway that proposes to cross a stream.

⁸ Reprinted by permission from the 1996/97 California Permit Handbook.

UNITED STATES ARMY CORPS OF ENGINEERS

STATE AND FEDERAL PERMITTING

SECTION “404” PERMIT⁹

I. Who needs a “404” Permit?

Any person or public agency proposing to locate a structure, excavate, or discharge dredged or fill material into waters of the United States or to transport dredged material for the purpose of dumping it into ocean waters must obtain a Corps’ permit. Typical activities requiring permits include artificial canals, artificial islands, beach nourishment, boat ramps, breakwaters, bulkheads, dams, dikes, development behind dikes in coastal waters, weirs, discharging sand, gravel, dirt, clay, and stone, and activities that affect dolphins, dredging, filling, groins and jetties, intake pipes, levees, mooring buoys, ocean dumping, outfall pipes, overhead power crossings, pipes and cables, piers and wharves, riprap, road fills, signs, and tunnels.

The Army Corps permit authority derives from the Federal Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection, Research, & Sanctuaries Act. These Acts give the Army Corps jurisdiction over all water of the United States which include, but are not limited to, the following: perennial and intermittent streams, lakes, ponds, as well as wetlands in marshes, wet meadows, and side hill seeps.

II. How does an applicant apply for an Army Corps of Engineers Section “404” for development in Mendocino County?

County Planning and Building Services staff will assist the applicant in identifying projects which may require a Section “404” Permit. For more information, the applicant may review the expanded information in the California Permit Handbook, or contact the office referred to on the State and Federal Agency Contact.

⁹ Reprinted by permission from the 1996/97 California Permit Handbook.