

Santa Clara Valley Habitat Plan Regional General Permit #18 – Common Q&A

Overview

1. **Why is the RGP better?** The RGP is expected to reduce the amount of time needed to obtain a permit from the U.S. Army Corps of Engineers (Corps) from 18 months to less than 2 months.
2. **How does it differ from the NWP process?** Applications are expected to contain information that is similar to the nationwide permitting process. However, the Habitat Agency will pre-screen the applications for completeness and accuracy and package the applications for Corps review. This is expected to streamline the process over the current project-by-project permitting process, and ultimately integrate waters mitigation with the Habitat Plan.
3. **Can we do individual nationwide permits instead of going through the RGP?** Yes, but we recommend using the RGP. This process has been designed to streamline review by the Corps and integrate with the Habitat Plan. However, if applicants want to pursue individual nationwide permits they can. Over time, the Corps may direct applicants back to the RGP.

Process

1. **What is the lead time for submitting RGP applications?** Allow a minimum of 60 days to receive an RGP. The time could take longer if information is missing or additional agency consultation is needed. It is best to submit complete applications.
2. **How long is the review process?** The length of time to review and process an application under the RGP will depend on the complexity of the project and completeness of the information provided. The Habitat Agency is intending to process and facilitate approval of applications within 60 days (this 15 days for the Habitat Agency to review and submit them to the Corps, Corps review for completeness review within 15 days, and permit issuance 30 days after that).
3. **Will processing time vary with project complexity?** Possibly, but complete applications will make the processing of applications more efficient. Applications with exceptions will take longer as will projects that require a Biological Opinion (BO) because of potential impacts on anadromous fish.
4. **How will applications be reviewed and vetted?** Co-permittees can help by making sure the applications are complete. Then the Habitat Agency will review the applications for completeness and identify any issues that the Corps might raise. The Corps will then review the application, and if there are effects to listed fish habitat or cultural resources, then National Marine Fisheries Service (NMFS) or State Historic Preservation Officer (SHPO) review may be needed.
5. **Does the Habitat Plan application/reporting package need to be included?** Yes. The Habitat Plan application package allows the Corps to see that the endangered species obligations have been achieved.

Cost

1. **Will it cost more?** Yes, slightly more because there two components: 1. Administrative charge to review the application, and 2. Possible mitigation fee to cover additional costs associated with wetland monitoring. The RGP has additional obligations for mitigation monitoring that go beyond the requirements of the Habitat Plan because of different federal requirements for wetland mitigation monitoring. Therefore, these will likely be additional costs associated with projects using the RGP *but there are also cost-savings expected from more efficient permit processing.*

2. **What are the additional costs?** The amount of the additional costs is still being determined. These costs will be established in the next 6 months.

Mitigation

1. **How is mitigation addressed?** The Habitat Agency's goal in the next year is to integrate mitigation developed under the Habitat Plan with the RGP mitigation requirements. However, until the first mitigation site is developed and approved for use under the RGP, applicants will need to bring their own permittee-responsible mitigation as they would under the nationwide program.
2. **Will projects be double mitigating?** One goal of the program is to avoid double mitigation (i.e., mitigating for wetland impacts and mitigating for species impacts). The Habitat Agency is working with the Corps and Regional Board to try to avoid this. The Habitat Agency is also working on an In-Lieu Fee Program based on the Habitat Plan to try to avoid this.
3. **When do we expect to have mitigation "in the bank"?** The Habitat Agency expects to have mitigation "in the bank" by the end of 2016 and is currently working on the restoration of the Calero Pond. The Habitat Agency is also pursuing an in-lieu fee (ILF) program to further integrate and streamline mitigation requirements between the HCP and RGP.
4. **Does the mitigation have to be like for like?** Yes, mitigation will have to be like for like. Emergent marsh will have to be mitigated with emergent marsh; pond with pond; etc.

Fish

1. **Are projects on streams with listed fish covered?** Yes, but they may take more time if they do not meet the Not Likely to Adversely Affect (NLAA) criteria. Projects impacting waters with listed fish can be covered under the RGP, but they will need a Biological Assessment (BA) describing the projects effects on listed fish. The BA will require additional review by both Corps and NMFS and will lengthen the time before a permit can be issued.

Other Questions

1. **What about water quality certification?** The Habitat Agency is currently working with the San Francisco Regional Water Quality Control Board and Central Coast Regional Water Quality Control Board to determine if a regional water quality certification can be provided for some of the RGP activities. In general, we recommend you continue to pursue a water quality certification from the Regional Board concurrent with an RGP submittal.
2. **How are other RGP/HCPs implemented and their permits integrated?** This is a new and evolving process for the Corps. There two other RGPs in California including one in Contra Costa County and one in southern California. There processes are quite similar though different District offices have slightly different procedures.