



REGULATIONS TO CONSIDER FOR ROADS

*This guidance document is non-exhaustive and non-comprehensive as there are a multitude of nuances when it comes to regulations. Below you will find standard regulatory measures for two road project categories: 1) Stream Crossings and 2) Earth Shaping/Grading. Keep in mind, depending on the species present, different permits may be necessary (i.e. federal endangered species listing versus state endangered species listing). Furthermore, different permits may be necessary depending on the nature of the work (i.e. restoration actions can go through facilitated routes, noted as * below). When in doubt, contact the Marin RCD Office at (415) 663-1170.*

I. STREAM CROSSINGS: Culverts, Fords, Bridges, Critical Dips, and Armored fills

Local

Marin County

Stream Conservation Area Ordinance (SCA) – expanded SCA under development (approved by BOS 11-Feb. 2020).

<https://www.marincounty.org/depts/cd/divisions/planning/stream-conservation-area-ordinance>

- Community Development Agency (Contact: Jack Liebster at CDA jliebster@marincounty.org (415) 473-4331)

Creek Permit <https://www.marincounty.org/depts/pw/divisions/projects/land-use/permits>

- Carried out by Land Development within Department of Public Works (Contact: Berenice Davidson at DPW BDavidson@marincounty.org (415) 473-3770)

State

CA Department of Fish and Wildlife (CDFW) — Jurisdictional features include creek bed, creek bank, and/or creek channel (including perennial, ephemeral, and intermittent). Language states a notification is required if the proposed actions may cause substantially adverse impacts or changes to the creek bed, bank, and/or channel.

- 1602 Lake & Streambed Alteration Agreement Application [Lake and Streambed Alteration Program](#)
- * 1652/1653 [Habitat Restoration and Enhancement Act Approvals](#)
- Due to COVID, all applications are to be submitting via this online portal: [Environmental Permit Information Management System \(EPIMS\)](#)
- Fees: [Lake and Streambed Alteration Agreements and Fees](#)
- Marin Contact: Mandy (Amanda) Culpepper- amanda.culpepper@wildlife.ca.gov (707) 428-2075

SF Regional Water Quality Control Board (RWQCB) — Jurisdictional features include creek bed, creek bank, and/or creek channel (including perennial, ephemeral, and intermittent) but they do not typically regulate as large of a stream area as CDFW regulates. RWQCB typically regulates from the dripline from the furthest riparian tree's outside edge to the entire creek channel and creek bed.

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/permits.html

- 401 Certification- issued per Clean Water Act when there is a federal nexus with Army Corps of Engineers
- Notice of Intent (NOI) - a Notice of Applicability (NOA) is issued per Clean Water Act when there is NOT a federal nexus with Army Corps of Engineers
 - NOI- Waste Discharge Requirement (WDR) is issued if the project is not a restoration project
 - * NOI- Small Habitat Restoration is applied for and NOA issued if the project is a small habitat restoration project that fits under limitations listed under [CEQA Exemption 15333 Small Habitat Restoration](#)
- Marin Contact: Nicole Fairley Nicole.Fairley@Waterboards.ca.gov (510) 622-2424

Federal- NO FEES

- *Army Corps of Engineers (ACOE)*—Jurisdiction includes activities that include work below the Ordinary High Water Mark (OHWM). There are exceptions under their Nationwide Permits.

<https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>

- 404 Permit is issued per Clean Water Act
- Marin Contact: Roberta Morganstern Roberta.a.morganstern@usace.army.mil (415) 503-6782

NOAA National Marine Fisheries Service (NMFS)—This agency is usually engaged through its nexus with ACOE and ACOE is pulled into the project when the activities occur below the OHWM. There are exceptions.

<https://www.fisheries.noaa.gov/topic/consultations#endangered-species-act-consultations>

- Marin Contact: Jodi Charrier jodi.charrier@noaa.gov (707) 575-6069

US Fish & Wildlife Service-- Federal agency in charge of federal Endangered Species Act for species that are non-fish.

- Marin Contact: John Klochak john_klochak@fws.gov (650) 763-6595

What is the Joint Aquatic Resource Permit Application (JARPA)

This is an application package that bundles four agencies; CDFW, RWQCB, ACOE, and BCDC (Bay Conservation Development Commission- regulates SF Bay only, so east Marin's watersheds along the San Pablo and Richardson Bay as they're part of the greater San Francisco Bay). Some applicants prefer this method to reduce all of the various individual permit applications and there are others who prefer to apply to the agencies individually. Associated fees per agency are still required.

<https://www.bcdc.ca.gov/forms/forms.html>

Keep in Mind!

CDFW and RWQCB both require revegetation plans and monitoring plans. There are also monitoring requirements that include set targets that must be met for the amount of years assigned in the permit they issue (anywhere from 3 to 10 years depending on the project and vegetation planted). Depending on the project, the agencies may require additional mitigation and those actions would be included in the monitoring plan to make sure they are carried out effectively. Also, depending on the project, the permit(s) may (and usually DO) require biological assessments (i.e. bird surveys, CA red legged and yellow legged frog surveys, fish relocation) as well as at times, hydrological and/or fluvial geomorphological studies.

2. EARTH SHAPING AND GRADING: Rolling Dips, Road Shaping, Road Rocking, Parking Areas & Turnouts, and Spoil Piles

Local

Marin County

Prepared by Sarah Phillips

Urban Streams Program

Marin Resource Conservation District

Grading Permit

- Permit required if greater than 250 cubic yards of earth is disturbed in unincorporated Marin County or greater than 50 cubic yards if within 'city-centered corridor' incorporated Marin
- Triggers relating to cut and fill, see image at bottom of this page
- Ag lands are exempt although notification to Land Development is still required prior to activities
- Permit required if **any grading** is to take place within 100' of top of creek bank for unincorporated and 50' for 'city-centered corridor' incorporated Marin
- Code Information: [HERE](#)
- Permit Exemptions: [HERE](#)
- Grading Permit Application: [APPLY](#)
- Carried out by Land Development within Department of Public Works (Contact: Berenice Davidson BDavidson@marincounty.org (415) 473-3770)

Erosion and Sediment Control Plan (ESCP)

- Automatically required when a Grading Permit is triggered
- Phase II MS4 (stormwater permit) applies to ANY earth disturbing activity. MCSTOPPP interprets that requirement to projects that trigger a Grading Permit **or** any project that has a significant potential for erosion (slope, instability of soils, etc...) or any impacts to a creek. Ultimately up to Land Development's discretion
- Code Information: [HERE](#)
- Erosion and Sediment Control Plan Application: [HERE](#)
- Carried out by Land Development within Department of Public Works (Contact: Berenice Davidson at DPW BDavidson@marincounty.org (415) 473-3770)

