

A Quick Guide to Restoration Permitting with Cutting the Green Tape¹



**Cutting the
Green Tape**

Part 1 – CEQA for Restoration Projects

Step 1: Does my restoration project need to comply with the California Environmental Quality Act (CEQA)?

“Discretionary” projects carried out, supervised, funded, or permitted by any nonfederal public agency will generally need CEQA compliance.

- Note that although public agencies are responsible for CEQA compliance, they often need the assistance of the project proponent.

More Resources: Read Sustainable Conservation’s [CEQA Primer!](#)

Step 2: Determining a CEQA Lead Agency for my restoration project.

The CEQA Lead Agency is the nonfederal public agency directly carrying out the project, or having the greatest responsibility for supervising, funding, or approving the project.

A Responsible Agency is a nonfederal public agency, other than the Lead Agency, which also has responsibility for carrying out, supervising, funding, or approving a project following Lead Agency approval. A Responsible Agency generally uses the Lead Agency’s CEQA platform when making its approval. Involved public agencies may need to discuss their CEQA roles for your project prior to determining which agency serves as Lead Agency.

More Resources: Read Sustainable Conservation’s [CEQA Primer!](#)

Step 3: CEQA Lead Agency Chooses a preferred CEQA Platform.

There are several efficient CEQA options for restoration projects depending on project type and size. Governor Newsom signed Senate Bill (SB) 155, on September 23, 2021, adding Section 21080.56 to California Public Resources Code. This section provides a [California Environmental Quality Act \(CEQA\)](#) statutory exemption for restoration projects ([SERP](#))

¹ This guide is intended only for CDFW permitting of restoration projects and does not include guidance for FRGP or non-restoration projects. This is for general information only and is not intended as legal advice. We recommend visiting [Accelerating Restoration](#) to learn more about restoration permitting outside of CDFW.

that meet certain requirements. [**CDFW's Cutting the Green Tape \(CGT\) Program**](#) is responsible for administering SERP, which includes coordinating with lead agencies seeking SERP concurrence.

Project Types that have used SERP:	Other CEQA Platforms to Consider
Aquatic restoration work	SRGO PEIR
Terrestrial vegetation restoration/wildfire resiliency	CalVTP PEIR
Both aquatic restoration work and vegetation restoration/wildfire resiliency	SRGO PEIR
Aquatic or terrestrial invasive species control	SRGO PEIR (typically for projects focusing on aquatic resources)
Smaller or lower impact projects	Class 4 or Class 33 categorical exemptions

Eligibility for SERP:

- Projects that qualify for SERP must be “exclusively” restoration. An eligible project may have incidental public benefits, such as public access and recreation. Construction activities must be solely related to habitat restoration.
- Projects must also result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery, and include procedures and ongoing management for the protection of the environment.
- More complex multi-benefit projects may consider [**SRGO PEIR**](#) for aquatic projects or [**CalVTP**](#) for terrestrial vegetation resiliency projects.
- A project-specific negative declaration, a mitigated negative declaration, or environmental impact report may be utilized instead of SERP or the SRGO PEIR.

More Resources:

- ❖ [**SERP Story Map**](#)
- ❖ [**SERP Example Projects**](#)
- ❖ [**SERP Concurrences**](#)
- ❖ [**SERP Process**](#)
- ❖ Read Sustainable Conservation's [**CEQA Primer!**](#)

Part 2 – CDFW Permitting Needs and Strategies for Restoration Projects

Step 1: Determine if CDFW Permits Are Needed for your Restoration Project.

CDFW permits are generally required for the following two broad categories:

a. Protected Species Take (hunt, pursue, catch, capture, or kill).

The Fish and Game Code protects most fish and wildlife and certain plants via the California Endangered Species Act (CESA), the Fully Protected Species (FPS) Statutes, the Native Plant Protection Act, and other statutes in Fish and Game Code such as section 2000 and statutes protecting birds, eggs or nests (for example, see sections 3503, 3503.5, and 3513). Many restoration projects may result in capture/relocation of protected species, or in some cases, mortality.

b. Impacts to Rivers, Streams, or Lakes.

[Section 1602](#) requires notification for certain activities affecting rivers, streams and lakes, and a CDFW permit may be required.

Remember that some restoration projects may not need any permits from CDFW. Confirm this by checking with your local [CDFW Region](#).

Step 2: If CDFW permits are needed, determine your CDFW restoration permitting strategy.

Permit Type	Description
<u>Restoration Management Permit (RMP)</u>	The <u>RMP</u> is an “umbrella” permit that can authorize both species take and impacts to rivers, streams, or lakes for qualifying restoration projects . To qualify for the RMP, a restoration project must meet all qualifying restoration project eligibility criteria set forth in Fish and Game Code section 1671, including “primary purpose”; “management” and/or “propagation”; and “substantial net benefit above baseline conditions” that “shall assist with recovery.” The RMP can be used for both voluntary and non-voluntary projects, such as restoration projects originating because of a mitigation requirement or to settle a regulatory violation. Non-voluntary projects must include an additional benefit to native fish, wildlife, plants or habitat above any previously required restoration activities. Issuance of an RMP is subject to CEQA . Also see <u>RMP FAQs</u> .

Permit Type	Description
<u>Restoration</u> <u>Consistency</u> <u>Determination</u> <u>(Restoration CD)</u>	A Restoration CD can substitute for a CDFW CESA take authorization for certain restoration projects that only need take authorization for species listed under both the federal Endangered Species Act and CESA, and do not need additional CDFW authorizations. If a restoration project needs additional CDFW authorizations, the RMP is likely to be a better fit. Issuance of a Restoration CD is not subject to CEQA .
<u>Habitat Restoration and Enhancement Act (HREA)</u>	HREA is a limited “umbrella” permit for small-scale voluntary restoration projects under five acres and below 500 cumulative linear feet of impact to streams or shorelines. In contrast with the RMP, HREA approvals cannot be used for mitigation projects or to settle any regulatory violations. HREA approvals can cover impacts to rivers, streams, and lakes and CESA take. Projects that require authorization for take of fully protected species should consider applying for the RMP. Qualifying HREA projects are also eligible to use the Class 33 CEQA exemption. Note that HREA is administered by CDFW’s <u>Habitat Conservation Planning Branch</u> .

More Resources:

- ❖ [RMP Info](#)
- ❖ [Restoration CD Info](#)
- ❖ [HREA Info](#)

Remember to get in touch early in your project planning process!

- SERP, RMP, Restoration CD: [CGT Contacts](#)
- HREA: [Habitat Restoration and Enhancement Act Approvals](#)
- General CDFW permitting advice, including non-restoration projects: [CDFW Regions](#)
- For assistance with overall permitting and environmental strategies across federal and state agencies: [Contact Accelerating Restoration](#)