

1.0 Introduction

Section 7.0 of the Conservation Strategy describes regional permitting efforts that are being developed by the California Department of Water Resources (DWR) in various stages of implementation. This appendix provides a more thorough description of the State and federal regulatory approvals that will be required for implementation of the Central Valley Flood Protection Plan (CVFPP), including the Conservation Strategy. The descriptions below are general, because CVFPP implementation will involve diverse activities, and the specific regulatory requirements of each activity cannot be described in this volume.

2.0 Federal Authorities

The National Environmental Policy Act (NEPA) requires that federal agencies review their proposed actions through a process that evaluates the potential environmental effects of the proposed action and of reasonable and prudent alternatives that would avoid or minimize significant effects. The requirements for NEPA compliance are identified by NEPA, the guidelines of the Council on Environmental Quality, and the federal agency undertaking the action. NEPA grants considerable discretion to federal agencies regarding the procedures for NEPA review. Consequently, the timeline and requirements for NEPA compliance vary considerably among federal agencies and the various actions they undertake.

Federal agencies conduct NEPA reviews for their respective federal authorizations by preparing exemptions, categorical exclusions, or environmental assessments (EAs) as part of the agencies' internal authorization process. If an EA concludes with a finding of no significant impact, no further NEPA documentation is required. If the EA determines that the project may result in significant environmental effects, or if significant effects are presumed initially, preparation of an environmental impact statement (EIS) is required for NEPA compliance. In general, the significance of an action's effects is determined in terms of the actions context and intensity, but the federal agency's NEPA guidance may provide additional direction regarding significance determinations. An EIS evaluates the potential effects of both the proposed action and reasonable alternatives to the action; an EIS also discusses means to mitigate adverse effects. NEPA compliance with an EIS is completed with a record of decision regarding the proposed action.

2.1 U.S. Army Corps of Engineers

2.1.1 Section 404 of the Clean Water Act

The U.S. Army Corps of Engineers (USACE), through the Regulatory Program, administers and enforces Section 404 of the Clean Water Act. Under Section 404, a permit is required for the discharge of dredged or fill material into waters of the United States.