

STREAM MAINTENANCE AND ENHANCEMENT PROJECTS

BEST MANAGEMENT PRACTICES AND PERMIT REQUIREMENTS

Fact Sheet – March 2015



This Fact Sheet is intended to clarify the types of stream maintenance and enhancement activities that require prior notification to the San Francisco Bay Regional Water Quality Control Board (Water Board) and/or a permit. These types of activities include clearing blocked stream culverts to reduce flood risk, replacing culverts, removing trash, planting trees along stream banks, maintaining trails and crossings, removing invasive vegetation and planting natives, and stabilizing stream banks. The Water Board recognizes and wants to support the efforts of all watershed stewards, such as flood control districts, non-profit organizations, and individual volunteers, as we work together to restore, enhance, and protect our streams and their adjacent riparian zones. We hope that the following information will improve coordination with the Water Board.

STREAM PROTECTION

The Water Board regulates discharges to surface waters via the issuance of discharge permits, conditional waivers, and mitigation requirements. In addition, the Water Board regulates controllable water quality factors to protect the physical, chemical, and biological components of aquatic ecosystems and the associated functions provided by perennial, intermittent, and ephemeral streams, wetlands, and associated riparian areas. Stream maintenance and other activities that may affect vegetation or the physical features of a stream or riparian area are considered controllable water quality factors.

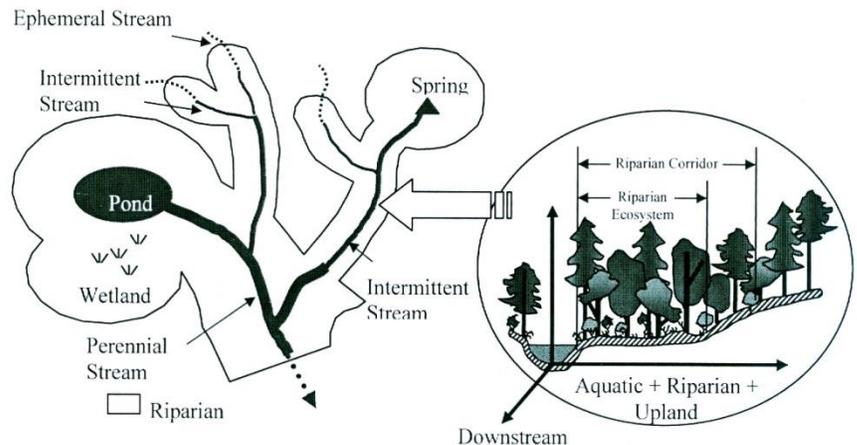


Image from U.S. Forest Service Webpage:
www.fs.usda.gov/detail/hoosier/landmanagement/planning/?cid=fsbdev3_017484

ACTIVITIES REQUIRING WATER BOARD NOTIFICATION AND PERMITTING

Activities conducted in and around streams generally require advance notice to the Water Board and may require a permit from the Water Board and other agencies (Table A).

Not all proposed activities require a formal permit, as indicated in the list below. It is best to confirm with Water Board staff before

embarking on your project as to whether a permit is needed. Failure to do so may result in enforcement.

Prior to initiating any of the activities that require a permit, an applicant must submit an application for water quality certification and/or a report of waste discharge (see our website link on page 4). This application is required pursuant to California Water Code section 13260 or Water Code section 13376 for proposed discharges to waters of the U.S.

ACTIVITIES REQUIRING WATER BOARD NOTIFICATION AND PERMITTING (cont'd)

The following types of activities require a permit from and/or notification to the Water Board:

- Altering the physical features of any stream channel, floodplain, or riparian area. This includes any activities that may change the slope or cross-sectional shape of a channel or its water or sediment carrying capacity.
- Obstructing, filling, or placing fill into waters of the State.
- Removing sediment from streams or any in-channel basins or ponds.
- Mowing or removing vegetation with power or hand tools, prescribed burning, herbicide use, and/or bio-controls (e.g., livestock or natural predator insects).
- Altering shade cover or ecosystem functions by thinning or pruning vegetation in or adjacent to a stream or riparian area.
- Removing existing or fallen trees from streams or moving large woody debris.
- Modifying or stabilizing a stream bank.
- Installing, maintaining, or removing infrastructure in or near a stream or riparian area, including working on roads, staging areas, parking lots, trails, bridges, culverts, utility lines, and water supply facilities.

Note: Streams that provide habitat for protected species require a more intensive agency review and approval.



FAILURE TO REPORT A DISCHARGE

The Water Board may impose a monetary penalty for not receiving notification of the types of activities listed above. Not reporting a discharge or a proposed discharge to waters of the State is subject to administrative civil liability of up to \$1,000 per day pursuant to Water Code sections 13260 and 13261(a) and (b)(1).

The Water Board may also impose a monetary penalty for the discharge itself. Discharges to waters of the State are subject to administrative civil liability of up to \$5,000 per day (Water Code section 13261(d)(1)) and discharges to waters of the U.S. are subject to administrative civil liability of up to \$10,000 per day and \$10 per gallon (Water Code sections 13385(a)(1) and (c)(1 and 2)).

ACTIVITIES NOT REQUIRING A REPORT OF DISCHARGE

Some activities generally do not pose a threat to waters of the State and therefore do not require prior notice to the Water Board:

- Collecting and removing trash, as long as the trash is not embedded in stream beds or banks. If a stream is not flowing, removing embedded trash is acceptable if disturbed areas are stabilized; otherwise, removing the trash disturbs soil/sediment that may discharge to surface waters.
- Mowing grass, if the clippings are removed and disposed of offsite. Prior to mowing, check for existing projects (see [Look Up Projects](#) on Page 4) in the area because recently planted vegetation may not be established.
- Removing properly identified non-native invasive plants by hand without the use of any machinery or power saws.
- Planting appropriate native vegetation by hand with minimal soil disturbance.
- Fencing of riparian corridors to protect stream banks from livestock damage.
- Removing graffiti, as long as the cleaning agent is non-toxic and efforts are made to keep the cleaning products from discharging to surface water.

TABLE A. LIST OF AGENCIES AND PERMITS THAT MAY BE REQUIRED

Based on the type of activity and the size of the project area, other agencies may require a permit. The following table lists some of the State and federal permits that may be needed. **Be sure to check with your county and municipality for other permits that may be required.**

AGENCY	PERMIT	DESCRIPTION
Regional Water Quality Control Board	Federal Clean Water Act Section 401 Water Quality Certification or Waste Discharge Requirements	Issued to ensure that project activities will not result in adverse effects to waters of the State. Applications must demonstrate that impacts to waters will be avoided or minimized.
Regional Water Quality Control Board	National Pollutant Discharge Elimination System (NPDES) Permits	Issued as coverage under the State's Construction Stormwater General Permit for sites that disturb 1 acre or more of land or as NPDES permits for other discharges to waters of the U.S.
California Department of Fish and Wildlife	Streambed Alteration Agreement Permit (Section 1602)	Issued for projects that would affect the bed, channel, or banks of a stream, river, or lake. Applications must consider adverse effects to all existing fish and wildlife species and propose measures to minimize impacts.
California Department of Fish and Wildlife	California Endangered Species Act Take Authorization (Section 2081)	Issued for potential adverse effects to State-listed plant and wildlife species.
U.S. Army Corps of Engineers	Federal Clean Water Act Section 404 Permit	Issued for the placement of dredged or fill material, including structures, into waters of the United States, including streams below the Ordinary High Water Mark (OHWM) and some wetlands.
U.S. Army Corps of Engineers	Federal Rivers and Harbors Act Section 10 Permit (Authorization for Structures in a Navigable Waterbody)	Issued for work (including placement of dredged or other fill material) in or below tidal waters.
U.S. Fish and Wildlife Service / National Marine Fisheries Service	Federal Endangered Species Act Take Authorization Section 7 "Biological Opinion" or Section 10(a) "Take Permit"	Issued for potential adverse effects to federally-listed plant and wildlife species.
San Francisco Bay Conservation and Development Commission	SF Bay Permit (i.e., Regionwide, Administrative, or Major) or Suisun Marsh Development Permit (i.e., Administrative or Major)	Issued for projects (e.g., improving existing structures, new development, earth moving activities) performed in San Francisco Bay and along the nine-county shoreline of the Bay.

Source: Adapted from Sacramento River Watershed Program, Permit Type Website: <http://www.sacriver.org/aboutwatershed/permitguide/permittype>

WATER BOARD CONTACTS

If you are uncertain about whether an activity requires a permit, contact the staff listed below for the county in which the project is located.

County	Contact
Alameda/Santa Clara	Brian Wines - (510) 622-5680 brian.wines@waterboards.ca.gov
Contra Costa	Kathryn Hart - (510) 622-2356 kathryn.hart@waterboards.ca.gov
San Mateo	Dale Bowyer - (510) 622-2323 dale.bowyer@waterboards.ca.gov
Marin/Sonoma/San Francisco	Xavier Fernandez - (510) 622-5685 xavier.fernandez@waterboards.ca.gov
Napa/Solano	Agnes Farres - (510) 622-2401 agnes.farres@waterboards.ca.gov

ADDITIONAL GUIDANCE

For additional information on the stream protection program, visit the Water Board website:

www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_and_wetland_protection.shtml

The Marin County website has additional resources for creeks and watersheds:
<http://www.marincounty.org/depts/pw/divisions/mcstoppp/general-public/creeks-and-watersheds>

“Rapid Permit Checklist for Streams and Floodplains”:
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_wetland/RPA_Users_Guide.pdf

“A Primer on Stream and River Protection”:
http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stream_wetland/stream_protectioncircular.pdf

“Guidelines for Protecting Aquatic Habitat and Salmon Fisheries for County Road Maintenance”:
<http://www.marinwatersheds.org/documents/RoadsManual.pdf>

“The Practical Streambank Engineering Guide”:
http://www.nrcs.usda.gov/Internet/FSE_PLAN_MATERIALS/publications/idpmcpu116.pdf

LOOK UP PROJECTS

EcoAtlas is a tool to help locate stream projects to ensure planned work will not impact any current efforts.

These steps will help with EcoAtlas:

1. Access EcoAtlas at the Web site:
<http://www.ecoatlas.org/>
2. Select **Map**
3. Select **Layers**
4. Check the box next to ‘**Wetland Projects**’
5. Select **Tools** 
6. Enter a place or address and select **Go!**
7. The info boxes on top of the map can be moved or closed.
8. For navigation use the toolbar on the upper left corner of the map.

*Note that not all projects are listed in EcoAtlas.