



Wetland and Riparian Area Protection Policy Overview

Phase 1: Wetlands and Dredge and Fill

Interest Groups and Tribal
Government Representatives
Meetings

June 21st, June 30th and July 7th, 2010



To ensure that we have enough time to hear all of your comments we will be skipping the following slides:

3, 10, 13, 14, 21, 22, and 23



OVERVIEW:

Purpose

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Purpose:

Implementation of this policy will help reverse historic trends in wetland loss, mitigate future risks to aquatic resources, and produce measureable improvement in the abundance, diversity and health of the state's wetland and riparian resource.

OVERVIEW:

Goals



- ~ Achieve a long-term net gain in, the quantity, quality and diversity of wetlands and riparian areas.
- ~ Administer regulation.
- ~ Streamline regulatory procedures.
- ~ Provide a common framework for wetland and riparian area monitoring and assessment.
- ~ Respect the values held by our state's diverse social, ethnic and cultural groups towards wetlands, riparian areas and other aquatic resources, and seek their participation in the protection and enhancement of these vital resources.



OVERVIEW:

Authority

- ~ Clean Water Act
- ~ Porter-Cologne Water Quality Control Act



OVERVIEW:

Jurisdiction

The State and Federal governments have concurrent regulatory responsibility for wetlands that are designated as Waters of the U.S. by a federal agency or by actions addressing federal court decisions. Otherwise, the State has sole jurisdiction, when not on tribal lands.



OVERVIEW:

Implementation

Phase 1:

- ~ Wetland definition
- ~ Wetland area delineation
- ~ Regulations for permitting dredged and fill material
- ~ Regulations for wetland monitoring and assessment framework

Phase 2:

- ~ Wetland beneficial use definitions
- ~ Water quality objectives
- ~ Implementation program

Phase 3:

- ~ Protection of riparian area water quality related functions
- ~ Beneficial use definitions, water quality objectives
- ~ Implementation program



POLICY SUMMARY:

Definition

An area is wetland if, under normal circumstances, it (1) is saturated by ground water or inundated by shallow surface water for a duration sufficient to cause anaerobic conditions within the upper substrate; (2) exhibits hydric substrate conditions indicative of such hydrology; and (3) either lacks vegetation or the vegetation is dominated by hydrophytes.



POLICY SUMMARY:

Delineation

For consistency between State and Federal programs, the Water Boards shall delineate the boundaries of wetlands based on the methods described in the three federal documents listed below:

- ~USACOE Wetland Delineation Manual, 1987
- ~USACOE Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, 2008
- ~USACOE Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region, 2008



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Issue Regulations:

- ~ Policy: Issue regulations governing the review and approval of applications for the discharge of dredged and fill materials to waters of the State.
- ~ Policy: Issue regulations governing wetland monitoring and assessment.



REGs SUMMARY:

Dredge & Fill

Purpose:

To establish the procedures and criteria for the application, processing and review of state water quality certifications required by the provisions of the federal water pollution control act and the Water Code.



REGs SUMMARY: *Dredge & Fill*

Exclusions from Dredge & Fill Regulations:

- ~ Prior converted cropland
- ~ Activities described in CWA section 404(f)(1)(A)-(F)
- ~ Constructed wetlands

Note: *Even though these activities are excluded from these regulations, and a separate dredge and fill permit would not be required, Regional Boards may regulate them under other WDRs or waivers (e.g., existing Timber Harvest Waiver – RBs 1, 5, 6, & 9)*



REGs SUMMARY:

Dredge & Fill

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Existing CCRs

The following regulation sections are based on existing CA regulations:

- ~Types of Water Quality Certifications / Waste Discharge Permits
- ~Filing an application
- ~Contents of an Application (#'s 1-8)
- ~Complete, Incomplete and Valid Applications
- ~Public Notice and Hearings for Applications
- ~Action on an Application
- ~Timing and Content of Decision



REGs SUMMARY:

Dredge & Fill

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What's Left?

- ~ Review of an Application: based on 404(b)(1) guidelines and new mitigation rule



REGs SUMMARY:

Dredge & Fill

Agreement

Application review requirements that **are** in agreement with the 404(b)(1) guidelines

(a) Review criteria: BUs not degraded by discharge

- (1) no practicable alternative
- (2) avoid and minimize
- (3) no degradation of groundwater or surface waters
- (4) no cumulative impacts
- (5) on-site stormwater control measures
- (6) compensatory mitigation
- (7) basin plan requirements

(b) Alternatives analysis: to determine the least environmentally-damaging practicable alternative.



REGs SUMMARY:

Dredge & Fill

Agreement

Application review requirements that **are** in agreement with the 404(b)(1) guidelines Continued...

(c) Consider all environmental effects for life of project using watershed approach

(d) Mitigation requirements:

- (1) Coordinate with other agencies
- (2) Implement in advance of or concurrent with
- (3) Additional mitigation to offset temporal losses
- (4) Methods: restoration, establishment, enhancement, and preservation
- (7) Monitoring plans required
- (8) Buffers: mitigation credit to be awarded
- (9) Amount: case-by-case; may be greater than one-to-one
- (11) Compensatory mitigation required: required elements



REGs SUMMARY:

Dredge & Fill

Differences

Application review requirements that **are not** in agreement with the 404(b)(1) guidelines

(b) Alternatives analysis

- Presumptions: practicable alternatives that do not involve a discharge to waters of the State are presumed to be available and to have less impact on water quality.
- Practicable alternatives definition: based on basic project purpose instead of overall project purpose.

(d) Mitigation requirements

- (5) Mitigation preference: preference for restoration or establishment of ecological communities of similar type to those being impacted.
- (6) Mitigation banks/in-lieu fee: may be used where on-site mitigation is unavailable, not appropriate ecologically, or insufficient; and where project impacts are located within the service area and credits are available for the type of resource impacted.



REGs SUMMARY:

Dredge & Fill

Differences

Application review requirements that **are not** in agreement with the 404(b)(1) guidelines

- (10) Site selection: mitigation will complement the “aquatic landscape profile” of the watershed of impacted site and will be consistent with any established watershed plan.
 - (A) Mitigation shall be decided after evaluating resource information from watershed plans and or assessments. Higher ratios required when information not available. Lower ratios required when information is available. Rationale: certainty increases with information.
 - (B) Sequential preference
 - (i) “Onsite”
 - (ii) Mitigation bank/in-lieu fee site located: same watershed or service area
 - (iii) “Offsite” within the watershed
 - (iv) “Offsite” at other ecologically suitable areas in an area near impacted site



REGs SUMMARY:

Assessment Framework

General provisions

~Wetland monitoring and assessment framework

- Implementation: implemented through the State Wetland and Riparian Area Monitoring Program (WRAMP) as directed by CWMW and the California Water Quality Monitoring Council.
- Reporting effectiveness of regulatory measures and wetland condition.
- Assessment design guidance: regulatory assessment standards to guide the application of assessment information to various regulatory decisions using watershed approach.



REGs SUMMARY:

Assessment Framework

Objectives

- ~ Determining acceptability of waste discharges, and compensatory mitigation requirements.
- ~ Reporting effectiveness of permitting requirements.
- ~ Reporting the status of wetlands and associated riparian areas.
- ~ Making determinations about wetlands and associated riparian areas.
- ~ Meeting federal Clean Water Act and public reporting requirements.



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Methods and requirements

- ~ Methodology: three-level assessment and monitoring system
 - Level 1: Wetland and Riparian Area Inventory
 - Level 2: Rapid Assessment: Use of California Rapid Wetland Assessment Method (CRAM)
 - Level 3: Intensive Site Assessment



REGs SUMMARY:

Assessment Framework

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Additional Elements

- ~ Quality Assurance/Quality Control
- ~ Coordinate with the SWAMP Regional Data Centers (RDCs) for data management services
- ~ Wetland Tracker support



REGs SUMMARY:

Assessment Framework

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General support and funding

- ~ Funding: assessment framework initially will be provided through existing programs.
- ~ 5-year operational plan.