

## Dredge or Fill Procedures

The State Water Resources Control Board (State Water Board) is considering adopting a Statewide Wetland Definition and Procedures for Discharges of Dredged or Fill Material. The proposal consists of: 1) a wetland definition; 2) a jurisdictional framework for determining if a feature that meets the wetland definition is a water of the state; 3) wetland delineation procedures; and 4) procedures for application submittal, and the review and approval of dredge or fill activities. A draft text of the proposed procedures is available here:

[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/official\\_Doc\\_timeline/procedures\\_clean.pdf](http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/official_Doc_timeline/procedures_clean.pdf)

## Why are the Procedures Needed?

- To provide the same robust protections to federal and non-federal waters of the state
- To establish a wetland definition for all Water Board programs that would capture the rich diversity of wetland types throughout the state and improve consistency in wetland regulation and management
- To strengthen regulatory effectiveness, especially with regard to performance of compensatory mitigation, to strive for no overall net loss and a long-term net gain in the quantity, quality, and diversity of waters of the state, including wetlands

## What Will the Procedures Do?

- Advance statewide efforts to ensure no overall net loss and a long-term net gain in the quantity, quality and sustainability of wetlands in California in a manner that fosters creativity, stewardship, and respect for private property (Executive Order W-59-93-California's "No Net Loss" Policy)
- Support the Water Boards' environmental priorities for protecting and enhancing California's vital wetland areas through watershed-based regulatory and monitoring strategies
- Establish a uniform regulatory approach consistent with the federal Clean Water Act section 404 program for the discharge of dredged or fill material into all waters of the state, including wetland areas that qualify as waters of the state
- Enhance the Water Boards' capabilities to support efforts of other agencies and groups in the conservation planning of watersheds, wetlands, and other aquatic resources (e.g., watershed plans such as habitat conservation plans and national community conservation plans)
- Strengthen regulatory effectiveness and improve consistency across all Water Boards
- Streamline the dredge/fill permitting process
- Establish procedures for regulation of dredged or fill discharges to all waters of the state, including those outside of federal jurisdiction

## **Definition of a Wetland**

As defined in the State Water Board's procedures, an area is a wetland if: (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area's vegetation is dominated by hydrophytes or the area lacks vegetation. The procedures also provide the same methods that are used by the Army Corps of Engineers to identify if the listed parameters are present.

## **The Federal Definition and the Water Board Definition**

The federal definition requires a prevalence of wetland vegetation under normal circumstances. The Water Boards definition does not require the occurrence of vegetation to call an aquatic resource a wetland. If vegetation is present, however, the Water Boards definition requires that the vegetation be wetland vegetation.

## **Jurisdictional Framework**

The procedures also include a jurisdictional framework that applies to aquatic features that meet the wetland definition provided above. The jurisdictional framework will guide applicants and staff as to whether an area will be regulated if that area meets the parameters listed in the wetland definition. The jurisdictional framework is intended to exclude artificially-created, temporary features, such as tire ruts or other transient depressions caused by human activity, from regulation, while still capturing small, naturally-occurring features, such as seasonal wetlands and small vernal pools that may be outside of federal jurisdiction. This framework will not expand the Water Boards' jurisdiction beyond areas already under Water Boards' jurisdiction.

## **Timeline**

The State Water Board staff will hold public workshops on August 4 in Sacramento and August 10 in San Diego. At the workshops, staff will provide a brief presentation and answer questions from the public on the proposed procedures. A public hearing to receive comments will take place on September 6 in Sacramento. Times, places and details for accessing documents and submitting comments are available here:

[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/notice\\_statewide\\_dredge.pdf](http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/notice_statewide_dredge.pdf)

The State Water Board is expected to consider the procedures in December 2017.

## **Additional Information**

Additional information regarding the proposal is available on the project website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.shtml)