

State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State

Draft Implementation Guidance
Staff Workshop



Division of Water Quality, February 28, 2020

Today's Meeting

- Overview
- General Timeframe
- Approach for Guidance Development
- Implementation Guidance Topics
- Discussion
- Next Steps

Overview

- State Wetland Definition and Procedures for the Discharges of Dredged or Fill Material to Waters of the State
 - Adopted April 2, 2019
 - Effective May 28, 2020
- State Water Board Resolution No. 2019-0015
 - Develop implementation guidance for potential applicants, and to solicit informal input from stakeholders prior to finalizing the guidance
 - Work with stakeholders, relevant state agencies, and scientific organizations to develop best practices for conducting a climate change assessment

General Timeframe

- December 2, 2019: Public meeting to solicit input on the development of draft implementation guidance
- February 14, 2020: Draft implementation guidance posted
- February 28, 2020: Staff workshop on the draft guidance
- February/March: Water Board staff training
- March/April: Finalize and distribute public guidance
- April/May: Hold public trainings
- May 28, 2020: Procedures effective

Approach to Guidance Development

- Non-regulatory
- Arranged by topic, reflecting most common requests during public process
 - Does not include guidance for all elements of the Procedures
- Composed of existing material such as:
 - The Procedures
 - Staff Report
 - Response to Comments
- Frequently Asked Questions
- Other resources

Section I – Wetland Definition, Delineation, & Jurisdictional Framework

- Wetland Definition
- Wetland Delineation
- Waters of the State
- Wetland Jurisdictional Framework
 - Artificial Wetlands that Resulted from Historic Human Activity
 - Modification of a Water of the State
- FAQs
 1. Staff verification of delineation reports
 2. Defining or delineating non-wetland waters
 3. Stormwater-related artificial wetlands (section II.3.iii)

Section II – Application Completeness Determinations

- Pre-application Consultations
- Processing Applications
- Taking Action on a Complete Application
- Supplemental Field Data from the Wet Season
- Water Quality Monitoring Plans
- Restoration Plans for Temporary Impacts
- FAQs
 1. Avoiding iterative submittals during the application process
 2. Typical water quality monitoring plans
 3. Additional information after an application is determined complete

Section III - Alternatives Analysis

- Alternatives Analysis Definition and Purpose
- Deferral to the Corps' Alternatives Analysis Determinations
- Exemptions to the Alternatives Analysis Requirement
- Appropriate Level of Effort
- Determining Practicability
- FAQs → Next Slide

Section III – Alternatives Analysis (cont.)

- FAQs:
 - CEQA
 - Levels of effort within tiers
 - Conflicting LEDPAs
 - Alternatives analysis exemptions
 - On-site avoidance and minimization measures for projects that are limited by location
 - Documenting field discussions

Section IV – Compensatory Mitigation

- Compensatory Mitigation Requirements
- Watershed Approach
- Watershed Profile
- Watershed Plan
- Project Evaluation Area
- Mitigation Banks and ILF Programs
- FAQs
 - Type conversion
 - Watershed profile: when is it required, and can applicants use the same watershed profile?
 - California Rapid Assessment Method (CRAM)

Section VI – Other FAQs

1. Can a single discharger with multiple facilities at different locations apply with one application?
2. Difference between general orders and individual orders
3. Documenting exclusions from complying with the Procedures
4. Appeal process?
5. Requesting time extensions
6. Definition of emergency activities

Section V & Attachment A – Climate Change Assessment

- As part of a compensatory mitigation plan, permitting authority may require “an assessment of reasonably foreseeable impacts to the compensatory mitigation associated with climate change, and any measures to avoid or minimize those potential impacts.” (section IV.A.2.b.viii; lines 262-264)
- Applies only to permittee-responsible compensatory mitigation

Section V & Attachment A – Climate Change Assessment

Climate Change Assessment Framework for Aquatic Resource Compensatory Mitigation Plans

- Identify reasonably foreseeable impacts
 - Site-specific and landscape scale factors
 - Regionally based climate factors
 - Overall impact risk level assessment
- Identify management strategies based on impact risk assessment on aquatic resource type to inform compensatory mitigation plan
- Resources and references
- Optional Risk Assessment Worksheet

- Goal: Finalize implementation guidance prior to public trainings
- Comments and feedback requested by March 13th, 2020
- Please send email comments to Ana Maria Saenz at anamaria.saenz@waterboards.ca.gov

Questions?