

Proposed Procedures for Discharges of Dredged or Fill Material to Waters of the State

The State Water Resources Control Board (State Water Board) is considering amendments to the Water Quality Control Plans for Ocean Waters and for Inland Surface Waters and Enclosed Bays and Estuaries to establish procedures to address discharges of dredged or fill material to all waters of the state.

Elements of the Proposed Procedures

- Non-jurisdictional Wetland Definition
- Wetland Delineation Procedures
- Procedures for Review and Approval of Applications to Discharge Dredged or Fill Material to Waters of the State
- Areas and Activities that Are Exempt from the Application Procedures

Regulatory Goals

- Address state goals for wetland protection, including no net loss
- Protect waters of the state from discharges of dredged or fill materials
- Provide procedures to delineate wetlands
- Align Water Boards' dredge and fill permitting procedures with federal Army Corps of Engineers' procedures to the extent feasible

What the Proposed Procedures are Intended to Accomplish

- Improve regulatory consistency across the Water Boards
- Strengthen regulatory effectiveness
- Streamline the application process

Definition of a Wetland

As defined in the proposed procedures, an area is a wetland if, under normal circumstances:

- The area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both;
- The duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and

- The area is either dominated by hydrophytic vegetation or lacks vegetation.

The wetland definition is based on the identification criteria used by the United States Army Corps of Engineers delineation manual and Corps supplements applicable to California.

The wetland definition does not define waters of the state; it is not “jurisdictional.” For instance, some roadside ditches, puddles and ornamental ponds may fit in the definition of a wetland but not be considered waters of the state. The Water Boards will continue to determine whether aquatic features that meet the wetland definition are waters of the state on a case-by-case basis.

Proposed Procedures for Discharges of Dredged or Fill Material to Waters of the State Include:

- Align state requirements with federal requirements and promote consistency between all Water Boards.
- With some exceptions, apply procedures for discharges of dredged or fill materials to all waters of the state, including discharges that impact non-federal waters (waters that are not “waters of the U.S.”).
- Adopt, for the most part, federal requirements for alternatives analysis and compensatory mitigation, and apply those requirements to waters of the state on a case-by-case basis.
- Ensure that applicants first avoid, then minimize, and finally compensate for impacts from discharges of dredged or fill material to waters of the state.

What the Proposed Procedures Will Do – and Not Do

The proposed procedures will help to align state and Federal requirements.

The proposed procedures will establish a uniform regulatory approach between the State Water Board and the nine Regional Water Quality Control Boards.

The proposed procedures will provide clear guidance for permit applicants regarding definition of wetlands and the requirements for obtaining permits (Clean Water Act section 401 certifications and/or waste discharge requirements) for discharges of dredged or fill materials to waters of the state.

The proposed procedures will NOT expand the Water Boards’ jurisdiction beyond areas already under Water Boards’ jurisdiction.

Timeline:

The proposed procedures have been released for public comment. They can be viewed [here](#).



Fact Sheet

There will be a public hearing on July 19 in the Coastal Room in Sacramento. The public comment period will end July 28.