

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

CWMW
August 1, 2017

Ana Maria Saenz
Environmental Scientist
State Water Resources Control Board

Today's Presentation

Fundamentals of the Procedures:

- Background
- Main Elements and Significant Changes
- Related Program Improvements
- Next Steps in Public Process
- Questions?

Background

Water Board Response

- 2001 & 2006 – U.S. Supreme Court decisions created a “gap” between State and federal jurisdiction
- 2003 – State Water Board submitted Workplan to the Legislature to address wetlands no longer subject to CWA jurisdiction
- 2008 – Water Board directed staff to develop Statewide Policy
- 2008-2016 – CEQA scoping, Technical Advisory Team, Interagency Review Team, stakeholder process
- 2016 Draft Procedures out for Public Comment

Key Elements of Procedures

- Wetland definition, and jurisdictional framework
- Wetland delineation procedures
- Application submittal, review, and approval
- Exclusions
- State Supplemental Dredge and Fill Guidelines

2016 Public Feedback

- Response to Comments
- Wetland Definition
- Case-by-Case Determinations
 - waters of the state
 - alternatives analysis
- Overlap with Corps Process
- Supplemental Requirements

Response to Comments Received During the July 7-August 18, 2016 Public Comment Period

- [Public Notice](#)
- The Responses to Comments to the Draft of the Procedures for Discharges of Dredged or Fill Material is viewable [here](#)

To accommodate the breadth of comments received and limit redundancy in staff responses, the comments and their associated responses have been organized topically. Each comment is associated with a representative comment and its respective response. The complete list of responses (found in the link above), includes all responses organized by topic. The table below includes each letter, with comments parsed out and identified with a number, and a table that shows where to find the response in the complete list. Use the index and the numeric identifiers for the representative comment shown in the table to find the response in the complete list of Responses to Comments posted above.

Commenter(s)
1. San Diego County Water Authority
2. Delta Stewardship Council
3. Santa Clara Water District
4. Heal the Bay
5. Los Angeles Department of Water and Power
6. B & I Joint Venture
7. Central Valley Joint Venture
8. Coachella Valley Water District
9. California Waterfowl
10. Sanitation Districts of Los Angeles County
11. Los Angeles County Department of Public Works
12. Department of Water Resources
13. California Construction and Industrial Materials Association
14. California High-Speed Rail Authority

Definition

“An area is a wetland if, under normal circumstances,

- 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 is either dominated by hydrophytic vegetation or lacks vegetation.”



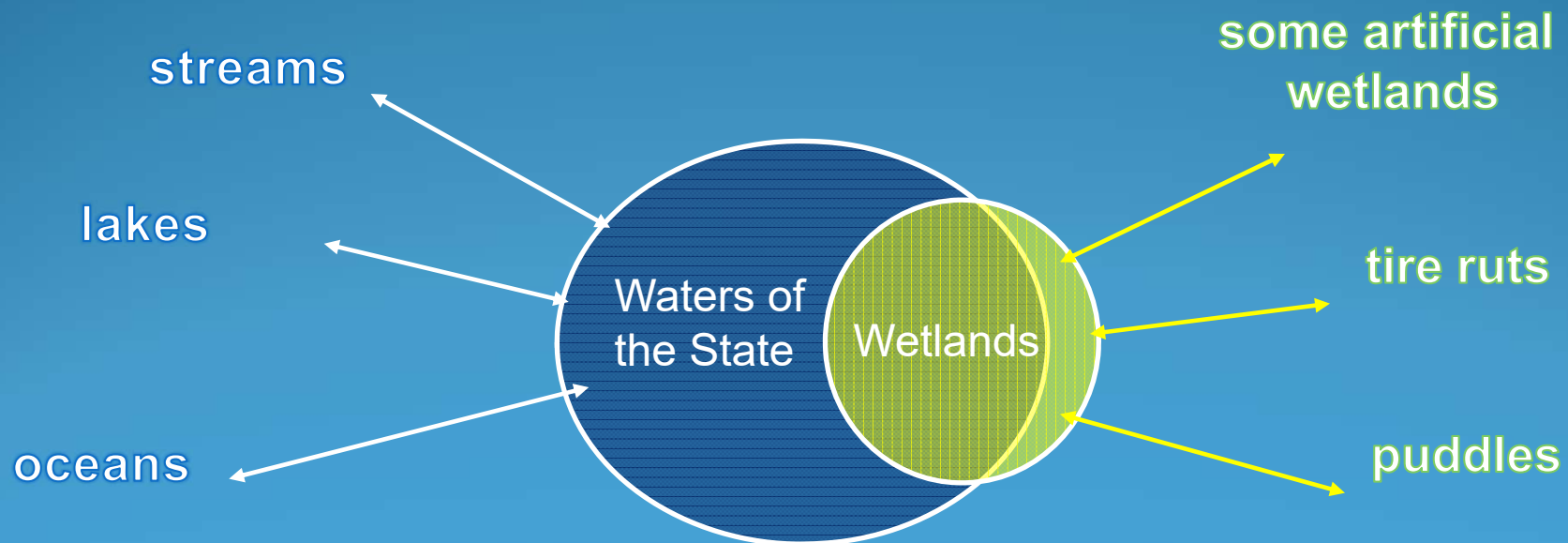
Delineation

- Use Corps' methods to identify whether a feature meets the proposed definition and determine the extent of any wetlands
- If federal waters are involved, applicants may submit the same delineation report to both the Corps and the Water Boards
- If non-federal waters are involved, the applicant will submit a delineation report to the Water Boards



Jurisdictional Framework *New!*

- Clarifying jurisdictional determination
- How to separate a generalized technical definition into a regulatory framework
- Remember, the framework only applies to wetlands...



Alternatives Analysis *New!*

- Exemptions
- Deferrals
- Managed Level of effort



Compensatory Mitigation

- State Supplemental Dredged or Fill Guidelines
- Mitigation Banks, ILF Programs, and Permittee Responsible mitigation
- Mitigation Ratio
- Watershed Profile
- Watershed Plans



Other Changes

- Clarification of what is required when restoring temporary impacts
- Clarification of exclusions
- Clarification to definitions, esp.
 - Watershed Plan
 - Watershed Profile



Related Program Improvements



- Uniform Application Form and electronic submittal/tracking
- Increased use of general orders
- Statewide 401 certification and WDR template
- Business Process Review and Improvement
- Performance Measures

Status and Next Steps

Action	Date
Comment Period	July 21 - September 7, 2017
Public Workshops (during comment period)	August 4 - Sacramento August 10 - San Diego
State Water Board Hearing (during comment period)	September 6, 2017
Written Comments Due	September 7, 2017
State Water Board Consideration of Adoption	Fall/Winter 2017

Questions?

