

## California State and Regional Boards Office

### North Coast Region (1)

5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403  
(707) 576-2220 tel  
(707) 523-0135 fax  
[www.swrcb.ca.gov/rwqcb1/](http://www.swrcb.ca.gov/rwqcb1/)

### Redding Branch Office

415 Knollcrest Drive  
Redding, CA 96002  
(530) 224-4845 tel  
(530) 224-4857 fax  
[www.swrcb.ca.gov/rwqcb5/](http://www.swrcb.ca.gov/rwqcb5/)

### San Francisco Bay Region (2)

1515 Clay Street, Suite 1400  
Oakland, CA 94612  
(510) 622-2300 tel  
(510) 622-2460 fax  
[www.swrcb.ca.gov/rwqcb2/](http://www.swrcb.ca.gov/rwqcb2/)

### Lahontan Region (6)

2501 Lake Tahoe Blvd.  
South Lake Tahoe, CA 96150  
(530) 542-5400 tel  
(530) 544-2271 fax  
[www.swrcb.ca.gov/rwqcb6/](http://www.swrcb.ca.gov/rwqcb6/)

### Central Coast Region (3)

895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
(805) 549-3147 tel  
(805) 543-0397 fax  
[www.swrcb.ca.gov/rwqcb3/](http://www.swrcb.ca.gov/rwqcb3/)

### Victorville Branch Office

15428 Civic Drive, Suite 100  
Victorville, CA 92392-2383  
(760) 241-6583 tel  
(760) 241-7308 fax  
[www.swrcb.ca.gov/rwqcb6/](http://www.swrcb.ca.gov/rwqcb6/)

### Los Angeles Region (4)

320 W. Fourth Street, Suite 200  
Los Angeles, CA 90013  
(213) 576-6600 tel  
(213) 576-6640 fax  
[www.swrcb.ca.gov/rwqcb4/](http://www.swrcb.ca.gov/rwqcb4/)

### Colorado River Basin Region (7)

73-720 Fred Waring Drive, Suite 100  
Palm Desert, CA 92260  
(760) 346-7491 tel  
(760) 341-6820 fax  
[www.swrcb.ca.gov/rwqcb7/](http://www.swrcb.ca.gov/rwqcb7/)

### Central Valley Region (5)

3443 Routier Road, Suite A  
Sacramento, CA 95827-3098  
(916) 255-3000 tel  
(916) 255-3015 fax  
[www.swrcb.ca.gov/rwqcb5/](http://www.swrcb.ca.gov/rwqcb5/)

### Santa Ana Region (8)

3737 Main Street, Suite 500  
Riverside, CA 92501-3339  
(909) 782-4130 tel  
(909) 781-6288 fax  
[www.swrcb.ca.gov/rwqcb8/](http://www.swrcb.ca.gov/rwqcb8/)

### Fresno Branch Office

1685 E Street  
Fresno, CA 93706  
(559) 445-5116 tel  
(559) 445-5910 fax  
[www.swrcb.ca.gov/rwqcb5/](http://www.swrcb.ca.gov/rwqcb5/)

### San Diego Region (9)

9174 Skypark Court, Suite 100  
San Diego, CA 92123-1324  
(858) 467-2952 tel  
(858) 571-6972 fax  
[www.swrcb.ca.gov/rwqcb9/](http://www.swrcb.ca.gov/rwqcb9/)

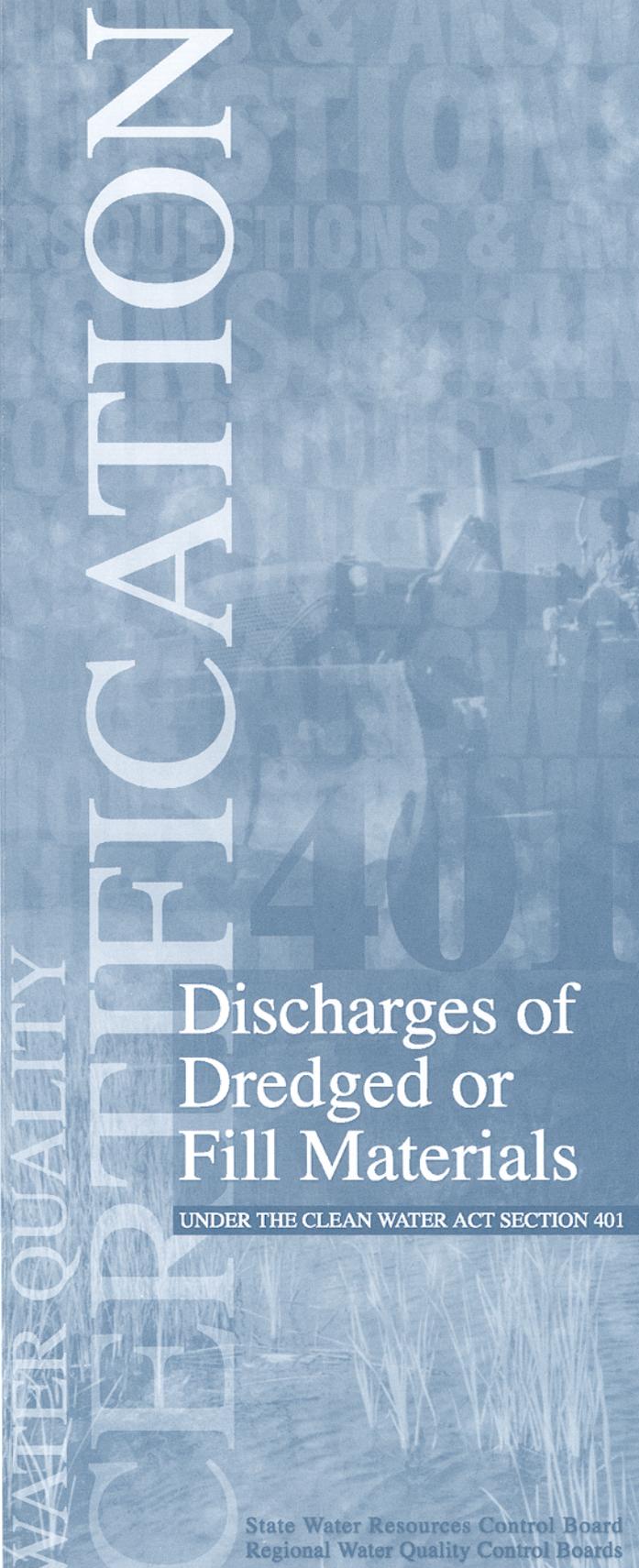
## State Water Resources Control Board Offices

### Division of Water Rights

1001 I Street, 14th Floor  
Sacramento, CA 95814  
(916) 341-5300 tel  
(916) 341-5400 fax  
[www.dwrweb.swrcb.ca.gov](http://www.dwrweb.swrcb.ca.gov)

### Division of Water Quality

1001 I Street, 15th Floor  
Sacramento, CA 95814  
(916) 341-5455 tel  
(916) 341-5463 fax  
[www.swrcb.dwq.ca.gov](http://www.swrcb.dwq.ca.gov)



# Discharges of Dredged or Fill Materials

UNDER THE CLEAN WATER ACT SECTION 401

# QUESTIONS & ANSWERS

## What is § 401 Water Quality Certification?

Under Federal Clean Water Act (CWA) section 401, every applicant for a federal permit or license for any activity which may result in a discharge to a water body must obtain State Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards. Most Certifications are issued in connection with U.S. Army Corps of Engineers (Corps) CWA section 404 permits for dredge and fill discharges.

## What Are Water Quality Standards?

Water quality standards include:

1. **Beneficial Uses** - uses of water for drinking, agriculture, navigation, recreation, and fish and wildlife habitat;
  2. **Objectives** - numeric and narrative limits on water characteristics or bans on substances, which affect water quality; and
  3. **Anti-Degradation Policy**- which requires that existing high-quality waters be protected and maintained.
- Regional Water Quality Control Boards (Regional Boards) maintain Water Quality Control Plans (Basin Plans) for each major hydrologic basin in California. The Basin Plans list the water bodies in each region and describe the applicable water quality standards.

## Do I Need Certification?

Most projects requiring Certification fall into two categories:

1. Projects involving discharges of dredged or fill material to waters of the United States including wetlands and other water bodies. Such discharges may result from

navigational dredging, flood control channelization, levee construction, channel clearing, fill of wetlands for development, or other activities. These projects involve the removal or placement of soil, sediment, and other materials in or near water bodies and require Corps permits under CWA Section 404.

*This pamphlet concerns this category of activities.*

2. Projects involving construction of hydroelectric facilities such as dams, diversions, and power plants requiring Federal Energy Regulatory Commission (FERC) licenses and projects which must secure a State water rights permit. These projects are reviewed for certification by the State Board. For more information on certification of projects seeking FERC licenses and water rights permits, contact:

Division of Water Rights  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000  
(916) 341-5300 (information)  
(916) 341-5308 (certification team leader)

*This pamphlet may not apply to this second category of activities.*

## How Do I Get Certification?

Certification applications for single-Region, non-hydroelectric, non-water rights projects should be made to the appropriate Regional Board. The Regional Board reviews the application and takes the appropriate certification action (certification or denial).

Applications for multi-region projects (e.g., pipelines or roads crossing regional boundaries); for projects involving hydroelectric licensing or relicensing; and for projects seeking a State water rights license should be sent to the Executive Director of the State Water Resources Control Board (State Board). State Board staff will coordinate with the appropriate Regional Board(s) and prepare the certification action.

*State and Regional Board mail and Web site addresses are at the end of this document.*

## How Do I Apply?

A complete application for 401 certification must include an application fee deposit of \$500 and all information required by State law. Regional Boards can provide application forms for their jurisdictions. You can also see the requirements for an application in California Code of Regulations, Title 23, section 3856.

## What Will It Cost?

Fees range upward from \$500, depending on whether technical certification conditions must be developed and the size of the proposed impact. The fee schedule for technically conditioned projects can be found in California Code of Regulations, Title 23, section 2200.

## What are the State Options for Certification?

When an application for certification is received, the State or Regional Board must take one of the two following actions within the time allowed by State and federal law.

1. Certification - Certification is issued if the proposed project will comply with water quality standards. Certification conditions may be imposed to mitigate potential impacts to beneficial uses and other standards. By Federal law (33 USC §1341(d)), such conditions must be included in the Corps' section 404 permit.
2. Denial - The State must deny certification if the project will not comply with water quality standards or with procedural requirements. Denial due to failure to meet procedural requirements is called "denial without prejudice" -- once the procedural deficiency is addressed, the application for water quality certification may be reconsidered. If certification is denied, the federal permit or license cannot be issued.

## **Does Certification Protect Habitat?**

By federal and State law the water quality agencies must be concerned with maintaining the quality of water needed to maintain natural habitats dependent on water bodies.

## **Is a Permit Required for "Isolated" Waters?**

Yes, you need a permit from the Regional Board. If you discharge to an "isolated" waterbody without a State permit you are subject to fines or criminal action, and you may have to restore the waterbody to its original condition.

"Isolated" waters were determined by the U.S. Supreme Court (in the "SWANCC decision") to not need federal permits, so you will not receive a Corps section 404 permit or a 401 certification. But the required State permit will protect uses in the same way. Make sure the Corps agrees that the waterbody is "isolated." Otherwise you might be subject to federal penalties for violation of the CWA.

## **Are Other Permits Needed?**

For dredge or fill projects, a California Department of Fish and Game (CDFG) Stream and Lakebed Alteration Agreement is frequently required. Contact the local CDFG Regional Office (listed in the "Government" pages of the phone book).

For modifications to coastal water bodies, permits may be required from the California Coastal Commission or, in the San Francisco Bay area, the Bay Conservation and Development Commission (BCDC).

In addition, county or municipal (e.g., grading) permits may be required for various activities.

## What About Corps Nationwide Permits?

Most projects receiving a Corps "Nationwide Permit" need individual 401 certification. The State Board has "pre-certified" the activities authorized by some of the Nationwide Permits, if those activities are conducted in compliance with conditions specified in the certification. In some cases a notification to the State and regional Board is still required before the discharge can occur and there is a (\$60) fee to review the notification for the pre-certified activity. Check the State Board Web site to find out if individual certification is required, or check with the Regional Board.

## What About "Non-Notifying" Nationwide Permits?

Projects which qualify for Non-Notifying Nationwide Permits don't need prior notification to the Corps before discharging. Most still need individual State certification but, as with other Nationwide Permits, some have been pre-certified. They are subject to the same requirements as described above. Check the State Board Web site or call the Regional Board about the specifics for your project.

## Are there CEQA Requirements?

State law requires that a final environmental document developed under the California Environmental Quality Act (CEQA) must be reviewed before certification can be issued. If the project is exempt from CEQA, the application should explain why and provide appropriate documentation. An application may be submitted before a draft or final CEQA document is available, and in that case the draft and final documents must be submitted as soon as possible. If the CEQA document will not be finalized for some time, the State or Regional Board may deny the project without prejudice to comply with mandated timeframe's to act on a complete application. Usually a city, county, or other State agency prepares the CEQA document, but when there is no other CEQA lead agency, the State or Regional Board may do so.

## How Can I Get Approved Fastest?

1. Avoid impacts to water resources, especially wetland and riparian areas and headwater streams. Minimize impacts which cannot be avoided. If impacts cannot be avoided or minimized, plan to compensate for all resources temporarily or permanently lost.
2. Consult with the appropriate Regional Board (or State Board for multi-Region projects) in planning the project. Water quality concerns are best dealt with early.
3. Before applying, contact the Regional Board (or State Board for multi-Region projects) for the latest information on the application procedure.
4. Supply all information and the \$500 deposit when applying. The lack of necessary information is the single biggest impediment to speedy certification.
5. If another local or State agency must satisfy CEQA requirements, be sure that environmental documentation is finalized before the certification application is submitted. If the Regional (or State) Board will be the CEQA Lead Agency, contact that agency well before submitting the application.

## Where can I get more information?

The addresses, phone numbers, and Web addresses for the Regional Boards and State Board are listed on the back of this brochure (and are available in the "State Government" section of your local phone book).

*Note: This information may not apply to hydroelectric projects seeking Federal Energy Regulatory Commission licenses or license amendments or to projects needing a State water rights permit.*