

**DETAILED DESCRIPTION OF HYDROLOGY
REGULATORY REQUIREMENTS**

APPENDIX 3.14-A**DETAILED DESCRIPTION OF HYDROLOGY
REGULATORY REQUIREMENTS****FEDERAL REGULATIONS****Clean Water Act (33 U.S.C. 1251-1376)**

The Clean Water Act (CWA) provides guidance for the restoration and maintenance of the chemical, physical, and biological integrity of the nation's waters.

Section 401 of the CWA requires that an applicant for a federal license or permit that allows activities resulting in a discharge to waters of the U.S. obtain a state certification that the discharge complies with other provisions of the CWA. The California Regional Water Quality Control Board (RWQCB) administers the certification program within California.

Section 402 of the CWA establishes a permitting system for the discharge of any pollutant (except dredged or fill materials) into the waters of the U.S., which requires National Pollutant Discharge Elimination System (NPDES) permits.

Section 404 of the CWA establishes a permit program, administered by the U.S. Army Corps of Engineers (USACE), regulating discharge of dredged or fill materials into waters of the U.S., including wetlands. Implementing regulations by the USACE are found at 33 C.F.R. Parts 320–330. Guidelines for implementation are referred to as the Section 404(b)(1) Guidelines that were developed by the U.S. Environmental Protection Agency (EPA) in conjunction with USACE (40 C.F.R. Part 230). The Guidelines allow the discharge of fill materials into the aquatic system only if there is no practicable alternative that would have less adverse impacts.

Executive Order 11988 – Floodplain Management (U.S. DOT Order 5650.2; 23 C.F.R. 650, Subpart A)

Executive Order 11988 directs all federal agencies to seek to avoid to the extent practicable and feasible all short-term and long-term adverse impacts associated with floodplain modification and to avoid direct and indirect support of development within 100-year floodplains whenever there is a reasonable alternative available.

Projects that encroach upon 100-year floodplains must be supported with additional specific information. The U.S. Department of Transportation Order 5650.2, titled "Floodplain Management and Protection," prescribes "policies and procedures for ensuring that proper consideration is given to the avoidance and mitigation of adverse floodplain impacts in agency actions, planning programs and budget requests." The order does not apply to areas with Zone C (areas of minimal flooding as shown on Federal Emergency Management Agency [FEMA] Flood Insurance Rate Maps [FIRM]). Environmental review documents should indicate potential risks and impacts from proposed transportation facilities.

Flood Disaster Protection Act (42 U.S.C. 4001-4128; DOT Order 5650.2, 23 C.F.R. 650 Subpart A; and 23 C.F.R. 771)

The purpose of the Flood Disaster Protection Act is to identify flood-prone areas and provide insurance. The Act requires purchase of insurance for buildings in special flood-hazard areas. The Act is applicable to any federally assisted acquisition or construction project in an area identified as having special flood

hazards. Projects should avoid construction in, or develop a design to be consistent with, FEMA-identified flood-hazard areas.

STATE REGULATIONS

California Department of Fish and Game (Sections 1601-1603 [Streambed Alteration])

Under Sections 1601–1603 of the Fish and Game Code, agencies are required to notify the California Department of Fish and Game (CDFG) prior to implementing any project that would divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake. Preliminary notification and project review generally occurs during the environmental process. When an existing fish or wildlife resource may be substantially adversely affected, the CDFG is required to propose reasonable project changes to protect the resource. These modifications are formalized in a “streambed alteration agreement” which becomes part of the plans, specifications and bid documents for a project.

Porter-Cologne Water Quality Act (Water Code Section 13000 *et seq.*)

The Porter-Cologne Act is the basic water quality control law for California. The act is implemented by the State Water Resources Control Board (SWRCB) and the nine RWQCBs. The boards implement the permit provisions (Section 402) and certain planning provisions (Sections 205, 208, and 303) of the federal CWA. This means that the state issues one discharge permit for purposes of both state and federal law. Under state law, the permit is officially called waste discharge requirement. Under federal law, the permit is officially called an NPDES permit. The Porter-Cologne Act requires that anyone who is discharging waste or proposing to discharge waste that could affect the quality of the state’s water must file a “report of waste discharge” with the appropriate RWQCB.