

BCDC Application Instructions

Complete Instructions for Providing
a Notice of Intent to Proceed with
a Project under an Abbreviated
BCDC Regionwide Permit

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This publication was prepared with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, United States Department of Commerce, under the provisions of the federal Coastal Zone Management Act of 1972, as amended. Pursuant to the specific provisions of section 303(2)(F) of the federal Coastal Zone Management Act, the objective of this publication is to simplify procedures and expedite governmental decision-making. To accomplish this objective, this publication provides guidance for completing the two-part "BCDC Application Form." To explain the purpose of the form's questions and to provide supplementary guidance for completing the form, this publication paraphrases the statutory requirements of federal and state laws, the provisions of the Commission's regulations, and the policies in the Commission's San Francisco Bay Plan and Suisun Marsh Protection Plan. However, this publication does not establish any requirements for completing the application form beyond what are independently required by the Commission's laws, regulations and policies. In the event of any inadvertent inconsistency between the guidance provided in this document and the precise requirements of the referenced laws, regulations and plan policies, the precise requirements shall prevail. This informational publication has not been adopted as a regulation pursuant to the California Administrative Procedures Act.

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Introduction

Using these Instructions

Every effort has been made to provide full and clear instructions for preparing a complete application. However, in some cases an applicant may want to refer directly to the laws, plans and regulations which the Commission administers for further guidance or information. Therefore, where the instructions are based on specific legal requirements, bracketed [] citations are included.

These instructions also use many terms that have precise definitions. When one of these terms is used, it is *italicized* to indicate that the meaning of the term can be found in the **Definitions** section which begins on page 15.

Applicants are encouraged to contact the Commission's staff for assistance in completing an application.

Structure of the Application Form

There are a total of 6 sections in the application form, each section in a numbered box. The boxes are arranged by subject to solicit all the information needed to process an application. Depending on the type of activities that are involved in a proposed project and where the project is to be located, different boxes must be completed. It is not necessary to complete all of the boxes for any particular project. Only the first four boxes must be completed for every project.

If additional space is needed for any information required to complete the application form, provide the information in an attachment identified according to the box and section number on the form.

Completing an Application

In addition to the information that must be provided in response to the questions in the application form, other material must be included in a complete application. This material is summarized in the **Application Checklist** that appears inside the cover of the application form. Each item is described in detail in one of the **Special Instructions** that are found throughout the following general instructions.

Federal Projects

These instructions and the accompanying application form can be used to apply for Commission approval under the "federal consistency" requirements of the federal Coastal Zone Management Act. To provide the Commission with the information needed to determine whether a federal project is consistent with the *Coastal Management Program for San Francisco Bay*, a federal agency can either complete the application form or submit a separate document that contains all of the project details, data and other material required by the application form.

SPECIAL INSTRUCTIONS: Abbreviated Regionwide Permits

The Commission has issued the following three abbreviated regionwide permits to preauthorize certain types of routine maintenance activities:

Abbreviated Regionwide Permit #1

Anywhere in the Bay, in certain waterways, in managed wetlands, and within the 100-foot shoreline band: (1) routine repair and maintenance of existing, currently-used timber, steel, or concrete structural, shoreline protective works, such as bulkheads and seawalls, that do not involve any substantial enlargement or any substantial extension into the Bay; (2) routine repair and maintenance of existing currently-used outfall pipes, service lines, utility cables, pipelines, and similar facilities that do not involve any substantial enlargement or any substantial extension into the Bay; (3) routine repair and maintenance of existing, currently-used pilings, boat docks on pilings, boat slips and other pile-supported structures being used for water-oriented purposes, and wildlife habitat improvement structures such as fish screens and ladders and other waterway devices, that do not involve any substantial enlargement, any substantial extension into the water or wetlands, or any substantial change in use; and (4) removal of structures or improvements so long as the removal will not adversely affect present or possible future public access to the Bay, or will not involve a structure or improvement of historical, archeological, or architectural significance.

Abbreviated Regionwide Permit #2

Anywhere within the Commission's 100-foot shoreline band: the routine repair and maintenance, or removal, of existing one- and two-family residences that comply with all of the following: (1) do not involve any substantial enlargement to or change in use of the structures; (2) do not involve any new fill in the Bay; and (3) that are not otherwise subject to an existing Commission permit.

Abbreviated Regionwide Permit #3

Anywhere within the Commission's 100-foot shoreline band: the placement, installation or construction, use, and ultimate removal of new, temporary facilities or improvements that comply with all of the following: (1) do not involve any substantial enlargement to or long-term change in use of any structure; (2) do not involve any new fill in the Bay, in certain waterways, in salt ponds, and in managed wetlands; (3) are in place for no longer than 180 days; (4) do not adversely affect existing and future maximum feasible public access to the Bay and shoreline; and (5) have no adverse impact on Bay-related resources.

IMPORTANT: Work on a routine maintenance project cannot be started until you have been notified by the Commission's staff that the project described in the "Notice of Intent to Proceed" has been pre-authorized by one of the Commission's abbreviated regionwide permits.

Notice of Intent

Box 1: Applicant Information

Section (a) seeks information about the owner of the property on which the project will be located. To assure that the property owner agrees to the representations in the application and agrees to be bound by the commitments of the applicant, the property owner must be a co-applicant. If there is more than one owner, the information indicated in **section (b)** must be provided for each legal or equity interest holder in the property.

Section (c), provide information about the project applicant (the individual, corporation, government agency, or other legal entity to whom the approval is to be issued). Indicate whether the applicant is an individual, legal entity (corporation, partnership, etc.) government agency or a non-profit organization. **Special Instructions: Applicants that are Legal Entities** are found on this page. If the applicant owns the project site, simply check "Same as owner".

It is necessary for the applicant or the land owner to have adequate legal interest in the underlying property to carry out the project and comply with any conditions that may be a part of the Commission's approval. This legal interest must be one of the following:

- A **fee interest** that allows the proposed activity.
- A sufficient **easement** that allows the proposed activity.
- A **leasehold** whose remaining period of occupancy is long enough to provide a reasonable amortization period for the proposed project and whose terms allow construction and use of the proposed project.
- An enforceable **option** if the property owner is a co-applicant.
- The authority and commitment to acquire the property by **eminent domain**.

The **Special Instructions: Proof of Legal Interest** on page 3 describe in detail the title documents that must be submitted as part of an application.

If there are any co-applicants other than the property owner, information about them needs to be pro-

vided in **section (e)**. If there are no other co-applicants, check "None." Sometimes there is more than one co-applicant. If more space is needed, provide the information in an attachment labeled Box 1(e).

SPECIAL INSTRUCTIONS:

Applicants that are Legal Entities

If the applicant is a public agency, corporation, partnership or other legal entity, evidence must be provided to ensure that the person who signs the application is empowered to represent and make commitments on behalf of the organization submitting the application. To accomplish this, such applications must include either a resolution authorizing the person who signs the application to represent and bind the applicant or bylaws that establish that the person who signs the application holds a position that is empowered to act on behalf of the legal entity. Corporate resolutions must be from the corporation's board of directors. Public agency resolutions must be from the city council, board of supervisors or similar highest policy body which governs the organization.

Box 1: Representative Information

Sometimes an applicant, owner or co-applicant is represented by another person who handles the details of securing Commission approval of a project. If this is the case, also provide information about these representatives in **Box 1**. Under "Affiliation to..." indicate the representative's role in a project, such as architect, engineer, consultant, applicant's employee, city manager, attorney, etc.

Box 1: Representative's Authorization

If the applicant, property owner or co-applicant is represented by someone else, **Box 1** must so indicate and be signed to provide the representative with legal authorization.

Box 2: Certification of Accuracy of Information

This box, which certifies the accuracy of the information provided in the application form, must be signed by every applicant, co-applicant or repre-

SPECIAL INSTRUCTIONS: Proof of Legal Interest

To establish that the applicant or co-applicant has adequate legal interest in the property on which the project is to be built, it is necessary for the application to include a **property map** and either a recently issued **title report**, a copy of a **grant deed** (both of which must include a map and a metes and bounds description) or other information of similar accuracy and reliability to show that either the applicant or co-applicant holds the interest in the project site. An applicant for a project that involves the placement of fill in San

Francisco Bay for purposes other than shoreline protection or the repair of existing structures must provide a title report or other acceptable documentation that is no more than two years old.

The **property map** (or maps) must either be a copy of an official parcel map obtained from a county assessor's office annotated as follows or a specially prepared map showing the following:

- Metes and bounds descriptions for all property lines and easement lines.

- All property lines, easement lines, and current assessor parcel numbers for the property on which the project will occur.
- A north arrow, graphic scale, project name, the shoreline, an identification of the exhibit as a property map, the date of the plan's preparation, and the name, address, and telephone of the person who prepared or annotated the map.

[California Code of Regulations, sections 10310(c) and 10313]

representative who has been legally authorized to act on behalf of the applicant or co-applicant in Box 3. If the property is held in joint ownership, all parties having an interest in the property must sign. Both spouses must sign an application for a project they own jointly. If additional space is needed for the signatures of all of the co-applicants, provide these signatures in an attachment identified as Box 4.

Plans and Maps

Several of the following boxes solicit information about the project and the project site. Because forms do not lend themselves to portraying the details of projects, the most important source of this information is the plans and maps which must be included to complete an application. The **Special Instructions: Plans and Maps** on page 4 describe the graphic material that must be submitted to complete an application.

Box 3: Project Information

Box 3 must be completed by all applicants. Indicate the name of the project (if any) in **section (a)**. In **section (b)** provide a one-sentence description of the project which indicates the major purposes that the project would serve (e.g., commercial, flood control, marina berths, residence, etc.)

In **section (c)**, based on an estimate of how long it will take to get all the necessary approvals, secure

financing, and undertake other preliminary work, indicate when the work to be authorized can begin. In addition, based on a realistic construction schedule, indicate when the work will be completed.

In **section (d) and (e)** determines which other boxes must be completed. Both of the questions need a "Yes" or "No" answer. There may be "Yes" answers to more than one of the questions. Depending on the answers to the questions, some boxes must be completed and others can be skipped. In addition to determining what other information must be provided, the answers to the questions in these sections are used by the Commission's staff in evaluating an application. Therefore, it is important that each question be answered.

In **section (f)**, indicate the *total project cost*.

Box 4: Site Information

This box must be completed by all applicants. The statistical information provided in this box must be consistent with the graphic information provided on the project site plan. The information provided applies to the current conditions on the site prior to any of the work that is described in the application.

SPECIAL INSTRUCTIONS: Processing Fees

Fees are charged to cover a small portion of the cost of processing an application. The fee for a Notice of Intent to Proceed under an Abbreviated Regionwide Permit is \$100. Fees for applications arising from enforcement investigations are double the cost of normal fees. [California Code of Regulations, section 10337]

None of the fees can be waived for any reason. Refunds of a portion of a permit fee can be made if an application is withdrawn. The amount of the refund depends on the type of authorization applied for and when the application is withdrawn. [California Code of Regulations, section 10335]

If there is any question about the amount of the fee that must be paid to process an application, this matter should be discussed with the Commission's staff before submitting the application. An application cannot be officially filed until the proper processing fee is received by the Commission.

In **sections (a)** and **(b)**, provide the address of the project site. If the project is in a rural area and has no street address, provide a description of the project location by indicating the name of the community or other general area, where the project will be located as well as its relationship to the nearest road, slough, island, bay or other feature.

In **section (c)**, list the assessor's parcel number(s) for the property or properties on which the project will be located. If there is no assessor's parcel number, check "None" and provide brief legal description of the property.

In **section (d)**, if any BCDC permits have previously been issued to authorize work on the project site, even if the permits have expired or the work was never carried out, provide the permit numbers. Check "None" if no such permits have been issued.

Section (e) is self-explanatory.

Box 5: Bay Fill Information

This box needs to be completed by those applicants who are proposing to place any type of *fill* within *San Francisco Bay*, the *primary management area* of the *Suisun Marsh*, a *salt pond*, a *managed wetland* or a *certain waterway*. This box does not apply to *fill* that would be placed in the *shoreline band*.

In **section (a)**, indicate the basic purpose of the new fill (for example, accommodating part of a building, a port terminal, a marina, etc.) **Sections (b) through (o)** require information about the project as it would appear after any requested fill is in place. The statistical information provided must be consistent with the graphic information provided on the project site plan. Provide a figure in each blank

space. If one of the sections does not apply to the project, enter "-0-". Be certain that the figure in **section (b)** is entered in cubic yards and the figures in **sections (c)** through **(h)** are in square feet. The figure in **section (h)** must equal the total of **sections (b)** through **(g)**.

Box 6: Shoreline Band Information

This box needs to be completed by applicants who propose to undertake work within the *shoreline band* that extends 100 feet inland from the *shoreline* of *San Francisco Bay*. The statistical information provided in this box must be consistent with the graphic information provided on the project site plan.

In **section (a)**, describe the basic nature of the proposed project (for example, building a residence, subdividing a lot, paving a parking lot, etc.)

In **section (b)**, indicate whether the project would be located within a *priority use area* designated by the Commission. If so, indicate which of the following priority uses the area is reserved for: port, water-related industry, airport, wildlife area or waterfront park or beach.

Section (c) is self-explanatory.

Posting the Application Notice

After it is determined that an application is complete and is ready to be filed, the Commission's staff will send a pending application notice to the applicant who must post the notice at the project site. The applicant must return a form to the Commission to indicate that the notice has been posted before the application can be filed.

SPECIAL INSTRUCTIONS: Plans and Maps

Every application must include a **vicinity map** and a **project site plan**.

The **vicinity map** must be either an 8½"x11" portion of a United States Geological Survey topographical map (7.5 minute series) or a similar 8½"x11" map which shows the project site in relation to the shoreline, major roadways, and other landmarks.

The **project site plan** must be at a scale which allows the details of the proposed project to be adequately illustrated. The plan (or set of plans if all the information cannot be shown on one drawing) must show exactly the nature, scope and location of the proposed work and clearly distinguish between existing and proposed conditions. The plan must include **all** of the following specific elements:

- The shoreline.

- A line 100 feet inland from the shoreline.
- Property lines.
- Any salt ponds, managed wetlands, marshes or mudflats on the project property.
- A north arrow, graphic scale, project name, an identification of the exhibit as a project site plan, the date of the plan's preparation, and the name, address and telephone number of the person who prepared the plan.
- Location and names of nearby roads, streets or highways.
- Existing control points, important geographic, topographic or physical features, and all major fixed objects and structures on the project site.
- Existing and proposed building elevations.

- Existing and proposed topography, including especially the existing and proposed top and toe of the bank if solid fill, excavation or dredging is proposed in the application.
- Existing and proposed improvements.
- All major utilities.

Existing and proposed public access areas, including any areas that will be reserved for public access as part of the project development and any improvements that are proposed to be made in the public access area, such as parking, landscaping, pathways, benches, etc.

[California Code of Regulations, section 10310(c)]

Definitions

Bay

See *San Francisco Bay*.

Certain Waterways

Plummer Creek in Alameda County, to the eastern limit of the salt ponds; Coyote Creek and its branches in Alameda and Santa Clara Counties, to the easternmost point of Newby Island; Redwood Creek in San Mateo County, to its confluence with Smith Slough; Tolay Creek in Sonoma County, the northerly line of Highway 37; Petaluma River in Marin and Sonoma Counties, to its confluence with Adobe Creek, and San Antonio Creek to the easterly line of the Northwestern Pacific Railroad right-of-way; Napa River, to the northernmost point of Bull Island; Sonoma Creek, to its confluence with Second Napa Slough; and Corte Madera Creek in Marin County to the downstream end of the concrete flood control channel. [Government Code section 66610(e)]

Coastal Management Program for San Francisco Bay

The coastal management program documents for the San Francisco Bay segment of the California coastal zone approved by the federal government under the provisions of the federal Coastal Zone Management Act of 1972, as amended. The management program includes a narrative portion that describes the Bay segment of the California Coastal Management Program and BCDC compliance with the requirements established by section 306 of the Coastal Zone Management Act. It also includes all relevant statutes, plans, and regulations. [California Code of Regulations, section 10124]

Development (within the Bay or Shoreline Band)

Most work, including placing *fill*, extracting or grading material, making repairs and making a *substantial change in use* of any water, land or structure. [Government Code section 66632]

Development (within the Suisun Marsh)

On land or under water, the placement of *fill* or the erection of any solid material or structure; the discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste; grading, removing, dredging, mining, or extracting any materials; change in the density or intensity of use of land, including subdivision pursuant to the Subdivision Map Act and any other division of land including lot splits; change in the intensity of use of water or in access thereto; construction, demolition, or alteration of the size or dimension of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation for other than for agricultural purposes. [Public Resources Code sections 29114, 29500, 29501, and 29508]

Dredging

Any excavation or extraction by hydraulic or mechanical means of material located (1) underwater, (2) in an area subject to tidal action, (3) in a *salt pond*, or (4) in a *managed wetland*. [Government Code section 66632]

Emergency

A situation that poses an immediate danger to life, health, or property. [California Code of Regulations, section 10120]

Fill

Dirt, sand, dredge spoils, debris, garbage, refuse, or any other substance or material, including pilings; any water coverage whether on pilings or by cantilever; any material, including structures, paving, and landscaping placed on land. Additionally, *house-boats*, floating docks, and any other structures moored for extended periods are also considered *fill*. [Government Code section 66632]

Managed Wetland

Any area adjacent to the *Bay* which was diked off from the *Bay* as of November 10, 1966, and used for a duck hunting preserve, game refuge or agriculture. [Government Code section 66610(d)]

Primary Management Area

The portion of the *Suisun Marsh*, including Suisun and Grizzly Bays, sloughs and waterways, managed wetlands, tidal marshes and lowland grassland located below the ten-foot contour line. [Public Resources Code sections 29101, 29102, and 29103] The *primary management area* is shown on the map "Boundaries of the Suisun Marsh" which is available at the Commission's office and at the Solano County Planning Department.

Priority Use Area

An area along the *shoreline* of *San Francisco Bay* whose boundaries have been established by resolution and which is illustrated in the San Francisco Bay Plan as being reserved for port, water-related industry, airport, wildlife refuge or water-related recreation use. [California Government Code Sections 66602 and 66611]

Salt Pond

Any area adjacent to the *Bay* which was diked off from the *Bay* as of November 10, 1966, and used for the solar evaporation of *Bay* water in the course of salt production. [Government Code section 66610(c)]

San Francisco Bay

All areas, except *certain waterways*, subject to tidal action at the highest tides lying between the western end of the Golden Gate at Point Bonita and Point Lobos and the entrance to the Sacramento-San Joaquin Delta near Chipps Island and Collinsville. The Bay also includes marshlands, sloughs, and portions of the following rivers, creeks, and other tributaries: Alameda Creek Flood Control Channel, Castro Creek, Gallinas Creek, Islais Creek, Mt. Eden Creek, Novato Creek, San Francisquito Creek, and Spoonbill Creek. Permits are not required for work in other tributaries that flow into the Bay. [Government Code sections 66610(a) and (e) and California Code of Regulations, sections 10121, 10122, and 10125]

Secondary Management Area

The upland grasslands and agricultural lands above the ten-foot contour line within the *Suisun Marsh*. [Public Resources Code sections 29101, 29102, and 29103] The *secondary management area* is shown on the map "Boundaries of the Suisun Marsh" which is available at the Commission's office and at the Solano County Planning Department.

Shoreline

In open water areas, the mean high tide line (often called the mean high water line), and in marshes, the higher of the mean high tide line or a line five feet above mean sea level. [Littoral Development Company v. San Francisco Bay Conservation and Development Commission (1994) 24 CA4th 1050, 29 CR2d 518]

Shoreline Band

All of the shoreline area, including piers which existed in 1969, located within 100 feet of the *Bay* (measured inland from the *shoreline*). [Government Code section 66610(b)]

Substantial Change in Use

(1) Any construction or other activity costing more than \$250,000; (2) any change in general category of use (for example, from agriculture to residential); (3) any activity that adversely affects existing or future public access to the Bay; (4) many land subdivisions; or (5) the abandonment or non-routine draining of a *salt pond* or *managed wetland*. [California Code of Regulations, section 10125]

Suisun Marsh

The composite of the *primary management area* and the *secondary management area* of the *Suisun Marsh* as identified on a map entitled "Boundaries of the Suisun Marsh" available at the Commission's office or at the Solano County Planning Department. [Public Resources Code sections 29101, 29102, and 29103]