

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION LAWS AND POLICIES APPLICABLE TO BAY SAND MINING ACTIVITIES

**BRENDA GOEDEN
SEDIMENT PROGRAM MANAGER**

**SAND STUDIES COMMISSIONER WORKING GROUP
OCTOBER 31, 2025**



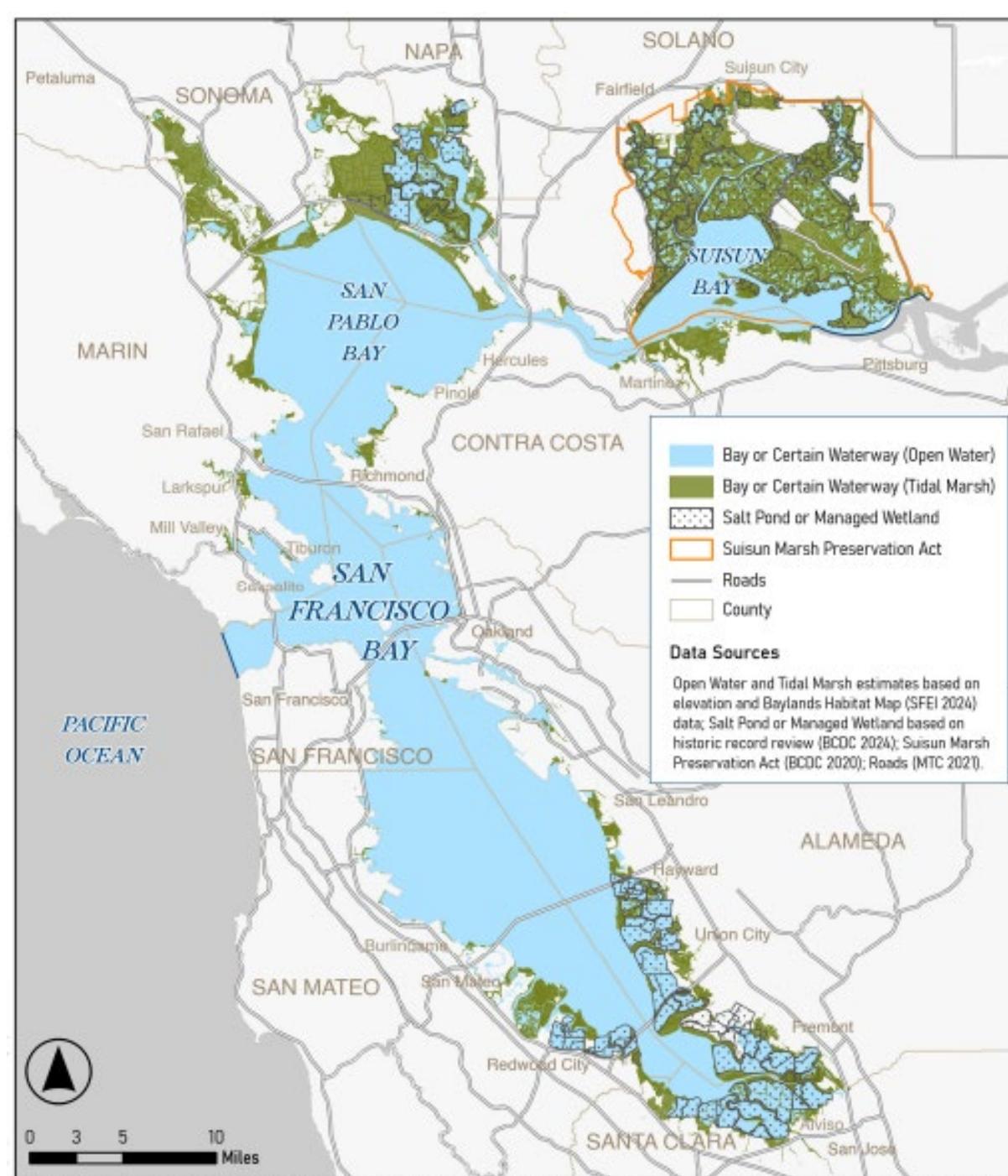
San Francisco Bay Conservation and Development Commission

McAteer Petris Act Jurisdiction (66610)

- Bay – tidal areas
- Certain Waterways – specific tributaries
- Shoreline Band – 100 feet from Bay
- Salt Ponds and Managed Wetlands

CZMA Jurisdiction

- Effects to the San Francisco Bay Coastal Zone



SAND MINING LEASE LOCATIONS





San Francisco Bay Conservation and Development Commission

McAteer-Petris Act

- San Francisco Bay Plan

Suisun Marsh Preservation Act

- Suisun Marsh Protection Plan

Coastal Zone Management Act

- San Francisco Bay Coastal Zone Management Program

MCATEER-PETRIS ACT

66632.

(a) Any person or governmental agency wishing to place fill, **to extract materials**, or to make any substantial change in use of any water, land or structure, within the area of the commission's jurisdiction shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed.

For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks. **For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value...**

SUISUN MARSH PRESERVATION ACT

29008. The Legislature further finds and declares that the Suisun Marsh Protection Plan is a more specific application of the general, regional policies of the San Francisco Bay Plan prepared and administered by the San Francisco Bay Conservation and Development Commission pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, and is an appropriate supplement to those policies because of the unique characteristics of the Suisun Marsh.

Therefore, the Legislature declares that the appropriate policies of both the San Francisco Bay Plan and the Suisun Marsh Protection Plan shall apply within any area that is within the commission's jurisdiction, as defined in Section 66610 of the Government Code, and that is also within the marsh, as defined in Section 29101 of this code, except where the San Francisco Bay Plan and the Suisun Marsh Protection Plan may conflict. If a conflict occurs in a specific instance, the policies of the Suisun Marsh Protection Plan shall control.



SUISUN MARSH PRESERVATION ACT

- **29114. (a) "Development" means on land, or in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, ...**



San Francisco Bay Plan Structure

Part I – Summary

Major Conclusions and Policies

Part II - Objectives

1. Protect the Bay as a great natural resource
2. Develop the Bay and shoreline to its highest potential with minimum filling

Part III – The Bay as a Resource

Part IV –Development of the Bay and Shoreline

Part V - Bay Plan Maps



The Bay as a Resource

Fish, Other Aquatic Organisms, and Wildlife

- 1. To assure the benefits of fish, other aquatic organisms and wildlife for future generations, to the greatest extent feasible, the Bay's tidal marshes, tidal flats, and subtidal habitat should be conserved, restored and increased.**
- 2. Native species, including candidate, threatened, and endangered species;** species that the California Department of Fish and Wildlife, the National Marine Fisheries Service, and/or the U.S. Fish and Wildlife Service have listed under the California or Federal Endangered Species Act; **and any species that provides substantial public benefits, as well as specific habitats that are needed to conserve, increase, or prevent the extinction of these species, should be protected,** whether in the Bay or behind dikes. Protection of fish, other aquatic organisms, and wildlife and their habitats may entail placement of fill to enhance the Bay's ecological function in the near-term and to ensure that they persist into the future with sea level rise.

Fish, Other Aquatic Organisms, and Wildlife

4. The Commission should:

- (a) **Consult** with the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, **whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species;**
- (b) **Not authorize projects that would result in the "taking"** of any plant, fish, other aquatic organism or wildlife species listed as endangered or threatened pursuant to the state or federal Endangered Species Acts, or the federal Marine Mammal Protection Act, or species that are candidates for listing under these acts, **unless the project applicant has obtained the appropriate "take" authorization** from the U.S. Fish and Wildlife Service, National Marine Fisheries Service or the California Department of Fish and Wildlife; and
- (c) **Give appropriate consideration to the recommendations** of the California Department of Fish and Wildlife, the National Marine Fisheries Service or the U.S. Fish and Wildlife Service **in order to avoid possible adverse effects of a proposed project on fish, other aquatic organisms and wildlife habitat.**

Water Quality

- 1. Bay water pollution should be prevented to the greatest extent feasible.** The Bay's tidal marshes, tidal flats, and water surface area and volume should be conserved and, whenever possible, restored and increased to protect and improve water quality. Fresh water inflow into the Bay should be maintained at a level adequate to protect Bay resources and beneficial uses.
- 2. Water quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay** as identified in the San Francisco Bay Regional Water Quality Control Board's *Water Quality Control Plan, San Francisco Bay Basin* and should be protected from all harmful or potentially harmful pollutants. The policies, recommendations, decisions, advice and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission's water quality responsibilities.

Subtidal Areas

1. **Any proposed filling or dredging project in a subtidal area should be thoroughly evaluated** to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. **Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.**
2. **Subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife** (e.g., eelgrass beds, sandy deep water or underwater pinnacles) **should be conserved.** Filling, changes in use, and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits.

Subtidal Areas

10. **The Commission should continue to support and encourage expansion of scientific information on the Bay's subtidal areas, including:** (a) inventory and description of the Bay's subtidal areas; **(b) the relationship between the Bay's physical regime and biological populations;** (c) **sediment dynamics, including sand transport, and wind and wave effects on sediment movement;** (d) oyster shell transport; **(e) areas of the Bay used for spawning, birthing, nesting, resting, feeding, migration, among others, by fish, other aquatic organisms and wildlife;** (f) where and how habitat restoration, enhancement, and creation should occur considering species/habitat needs and suitable project sites; and (g) if, where, and what type of habitat type conversion may be acceptable.

Development of the Bay and Shoreline

Environmental Justice and Social Equity

- 3. Equitable, culturally-relevant community outreach and engagement should be conducted** by local governments and **project applicants to meaningfully involve potentially impacted communities** for major projects and appropriate minor projects in underrepresented and/or identified vulnerable and/or disadvantaged communities, and such outreach and engagement should continue throughout the Commission review and permitting processes. Evidence of how community concerns were addressed should be provided. If such previous outreach and engagement did not occur, further outreach and engagement should be conducted prior to Commission action.

Dredging

2. **Dredging should be authorized when the Commission can find: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose**, such as navigational safety; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (c) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; **(d) the siting and design of the project will result in the minimum dredging volume necessary for the project;** and (e) the materials would be disposed of in accordance with Policy 3.

Mitigation

- 1. Projects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required.** Mitigation is not a substitute for meeting the other requirements of the McAteer-Petris Act.
- 2. Individual compensatory mitigation projects should be sited and designed within a Baywide ecological context, as close to the impact site as practicable, to: (1) compensate for the adverse impacts; (2) ensure a high likelihood of long-term ecological success; and (3) support the improved health of the Bay ecological system.** Determination of the suitability of proposed mitigation locations should be guided in part by the information provided in the Baylands Ecosystem Habitat Goals report.

Mitigation

- 5. The amount and type of compensatory mitigation should be determined for each mitigation project based on a clearly identified rationale** that includes an analysis of: the probability of success of the mitigation project; the expected time delay between the impact and the functioning of the mitigation site; and the type and quality of the ecological functions of the proposed mitigation site as compared to the impacted site.
- 7. Mitigation should, to the extent practicable, be provided prior to, or concurrently with those parts of the project causing adverse impacts.**

Public Trust

1. When the Commission takes any action affecting lands subject to the public trust, it should **assure that the action is consistent with the public trust needs for the area** and, in case of lands subject to legislative grants, should also assure that the terms of the grant are satisfied and the project is in furtherance of statewide purposes.