



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Quality
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Arnold Schwarzenegger
Governor

NOTICE OF ADOPTION HEARING

MODIFICATIONS TO ORDER NO. 2009-0009-DWQ [NPDES NO. CAS000002] GENERAL PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (CONSTRUCTION GENERAL PERMIT)

NOTICE IS HEREBY GIVEN THAT, pursuant to Title 40, sections 124.5 and 122.62(a)(2) of the Code of Federal Regulations (C.F.R), the State Water Resources Control Board (State Water Board) is reopening the Construction General Permit for the narrow, limited purpose of modifying the definitions of "Legally Responsible Person" and "Approved Signatory." When a permit is modified under 40 C.F.R. section 124.5, only those conditions to be modified are reopened, and all other aspects of the existing permit remain in effect for the duration of the permit. (See 40 C.F.R. § 124.5(c)(2).) The State Water Board will hold a public hearing to consider adoption of the proposed modifications at the location and time provided below.

November 16, 2010 at 9:00 a.m.
Joe Serna Jr./Cal/EPA Headquarters Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

BACKGROUND

On September 2, 2009, the State Water Board adopted the Construction General Permit for regulation of storm water discharges associated with construction and land disturbance activities. Under the Construction General Permit, the Legally Responsible Person (LRP) is required to, among other requirements electronically sign the Notice of Intent in order to obtain permit coverage for a project. For non-linear construction projects, the LRP is defined as the person who possesses title of the land or the leasehold interest of a mineral estate upon which the construction or land disturbance activities will occur. For linear construction projects, the LRP is defined as the person in charge of the utility company, municipality, or other public or private company or agency that owns or operates the linear project. When the Construction General Permit became effective on July 1, 2010, State Water Board staff received, and has continued to receive, numerous complaints that the definition of LRP for non-linear construction projects is unduly burdensome and threatens to stall many important construction and

other land disturbance projects in the state. When it adopted the Construction General Permit, the State Water Board neither intended nor anticipated the extent of problems the LRP definition would present to both landowners and dischargers. As a result, State Water Board staff is using this new information to propose a modified definition of LRP that applies to both non-linear and linear projects, which allows persons and entities with various real property interests to be the LRP. To make the process of obtaining permit coverage even easier to follow and implement, State Water Board staff is also proposing to clarify the definition of "Approved Signatory," as well as a few formatting changes.

DOCUMENT AVAILABILITY

The affected sections of [Order No. 2009-0009-DWQ](#) that contain State Water Board staff's proposed modifications appear in red strikeout and blue underline in the document entitled "Proposed LRP Modifications" located on the Construction Storm Water website:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/constpermits/mods_order2009_0009dwq.pdf.

SUBMISSION OF WRITTEN COMMENTS

The State Water Board will accept only those written comment letters that are limited to the proposed LRP modifications. Each comment should clearly identify the proposed modification by the applicable section number of the Construction General Permit. Written comment letters that address any other aspect, section, or requirement of the Construction General Permit, other than the proposed LRP modifications, are outside the scope of this Public Notice and will not be reviewed or considered by the State Water Board. (40 C.F.R. § 124.5(c)(2).)

Written comments must be received by **12:00 noon on November 5, 2010** and addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Comment letters may be submitted to the Clerk to the Board via email at commentletters@waterboards.ca.gov (if less than 15 megabytes in total size) or by fax at (916) 341-5620. Please indicate in the subject line: "**Comment Letter – CGP Reopener**". Couriers delivering comment letters must check in with lobby security personnel, who can contact Jeanine Townsend at (916) 341-5600.

PROCEDURAL MATTERS

At the adoption hearing on November 16, 2010, participants will be given an opportunity to summarize and supplement their written materials with oral presentations *that are only limited to the proposed LRP modifications*. Comments that address any other aspect, section, or requirement of the Construction General Permit will not be allowed or considered. (40 C.F.R. § 124.5(c)(2).) To ensure a productive and efficient hearing, oral presentations may be time-limited.

PARKING AND ACCESSIBILITY

For directions to the Joe Serna, Jr./ Cal/EPA Building and public parking information, please refer to the map on the State Water Board website:
<http://www.calepa.ca.gov/EPABldg/location.htm>.

The Joe Serna Jr./Cal/EPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to call (916) 341-5880 at least 5 working days prior to the hearing. TDD users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922. An audio broadcast of the hearing will be available via the internet and can be accessed at:
<http://www.calepa.ca.gov/broadcast>.

All visitors to the Joe Serna Jr./Cal/EPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main (10th street) entrance. Valid picture identification may be required. Please allow up to 15 minutes for receiving security clearance.

ADDITIONAL INFORMATION

Please direct questions about this Notice to Annalisa Kihara at (916) 324-6786 or AKihara@waterboards.ca.gov.

September 29, 2010

Date

Jeanine Townsend

Jeanine Townsend
Clerk to the Board